

NARROWS HOLDINGS LLC
AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT

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AGREEMENT OF LIMITED LIABILITY COMPANY**

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AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT
OF
NARROWS HOLDING LLC

AMENDED AND RESTATED LIMITED LIABILITY COMPANY

AGREEMENT made as of this _____ day of _____, 2014, by and among the Persons or entities identified on Schedule A as Members of Narrows Holdings LLC (hereinafter referred to collectively as the “Members” and each individually, a “Member”).

WHEREAS, Narrows Holdings LLC, a New York limited liability company (the “Company”), was formed by articles of organization duly filed with the State of New York Department of State on August 9, 1996, and such articles remain in full force and effect;

WHEREAS, the Members of the Company entered into a Limited Liability Company Agreement dated as of November 22, 1996 (the “Original Agreement”), which sets forth the agreements and understandings of the Members in respect of the Company;

WHEREAS, under Section 417 of the New York Limited Liability Company Law, as amended from time to time (the “Act”), the Original Agreement may be amended by the Members; and

WHEREAS, in accordance with Section 417 of the Act, the Members desire to amend and restate the Original Agreement to establish the operating rules by which the Company is to be governed.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Original Agreement is hereby amended and restated in its entirety, as follows:

ARTICLE I

ESTABLISHMENT OF THE COMPANY

1.1 Formation. The Company was formed as a limited liability company pursuant to the provisions of the Act. This Agreement sets forth fully the agreements and understandings of the Members in respect of the Company.

1.2 Name. The name of the Company is NARROWS HOLDINGS LLC.

1.3 Purpose and Business of the Company. The purpose of the Company is to pool certain of the funds of the Members so as to permit the Members to share in various investments (including investments in works of art). The Company is designed to ease the administrative burdens of managing assets, facilitate diversification, broaden access to investment opportunities and reduce transaction costs for the Members. The Company further may simplify the transfer of assets otherwise not readily divisible into small units, such as real property, works of art, partnership interests, interests in hedge funds, private equity funds and unincorporated business interests. The Company further may engage in any act or activity for which limited liability companies may be organized under the Act, in accordance with this Agreement. The Company is not being formed solely for the purpose of acquiring securities in connection with any particular investment.

1.4 Powers. The Company shall have the power to do all things necessary or desirable in the conduct of its business to the fullest possible extent.

1.5 Term. The term of the Company shall commence upon its formation pursuant to the Act and shall have perpetual existence unless terminated in accordance with the provisions of this Agreement.

1.6 Registered Office; Agent for Service of Process. The address of the Company's registered office in the State of New York is c/o Corporation Service Company, 80 State Street,

Albany, New York. The name and address of the registered agent for service of process in the State of New York is c/o Corporation Service Company, 80 State Street, Albany, New York. The Managers may, from time to time change the registered office or the registered agent of the Company.

1.7 Principal Office. The principal office of the Company shall be c/o Elysium Management LLC, 445 Park Avenue, Suite 1401, New York, New York 10022, or such other locations as the Managers may determine.

ARTICLE II

DEFINITIONS

2.1 Definitions. The following defined terms used in this Agreement shall have the respective meanings specified below.

“Accounting Period” means the period of the Company beginning on the date hereof, the first day of a Fiscal Year or any other day reasonably selected by the Class A Managing Member (an “adjustment date”) and ending on the earlier of the next succeeding adjustment date or the last day of a Fiscal Year.

“Class A Managing Member” means each Managing Member designated on Schedule A as a Class A Managing Member and each Person appointed as an additional or successor Class A Managing Member in accordance with Section 8.4. The Class A Managing Members shall have the exclusive authority to manage the business of the Company and to carry out the purposes of the Company in accordance with Section 1.3; provided, however, that no Class A Managing Member shall participate in decisions regarding (i) the timing or amount of distributions to the Members (whether in cash or in kind); (ii) the timing or amount of additional

capital contributions required of the Members under Section 3.2; (iii) use of the Company property by the Members; or (iv) dissolution of the Company. The Class A Managing Members shall have no other powers or authority to act except as specifically authorized under this Agreement.

“Class A Managing Membership Interest” means the Membership Interest (as hereinafter defined) of a Class A Managing Member.

“Class B Managing Member” means each Managing Member designated as a Class B Managing Member on Schedule A and each Person appointed as an additional or successor Class B Managing Member in accordance with Section 8.4. The Class B Managing Members shall have full and exclusive authority to make all decisions regarding (i) the timing and amount of distributions to the Members, (ii) the timing or amount of additional capital contributions required of the Members under Section 3.2; (iii) use of the Company property by the Members; (iv) dissolution of the Company under Section 7.1; and (v) such other acts specifically provided in this Agreement.

“Class B Managing Membership Interest” means the Membership Interest (as hereinafter defined) of a Class B Managing Member.

“Code” means the Internal Revenue Code of 1986, as amended, or the corresponding provisions of any successor statute.

“Eligible Person” means (i) any Person who is then a Member of the Company; (ii) Leon D. Black (“LDB”); (iii) a descendant of LDB (“LDB Descendant”); (iv) the spouse (including a same sex spouse) of any Member, LDB or LDB Descendant; (v) a descendant of any Member; (vi) the estate of any Member; (vii) trusts for the primary benefit of any one or

more Members, LDB or LDB Descendants, Qualified Charitable Organizations, the spouse (including a same sex spouse) of any Member, LDB or LDB Descendant and/or any one or more of the descendants of any Member; (viii) a beneficiary of any trust which is a Member; (ix) any custodian for the benefit of any of the foregoing individuals under any state's Uniform Transfers to Minors Act or comparable law in any other jurisdiction; and (x) any entity all the beneficial owners of which are Persons previously described in this paragraph.

"Fiscal Year" means each fiscal year of the Company (or portion thereof), which shall end on December 31; provided, however, that upon termination of the Company, "Fiscal Year" shall mean the period from the January 1 immediately preceding such termination to the date of such termination.

"Manager" unless otherwise specified, means any Managing Member (as hereinafter defined) and any non-Member Manager of the Company.

"Managing Members" unless otherwise specified, means the Class A and Class B Managing Members and any future Class A or Class B Managing Members of the Company from time to time.

"Membership Interest" means the ownership interest of a Member (whether a Managing Member or a non-Managing Member) in the Company at the relevant time, and the right of such Member to any and all benefits to which a Member may be entitled under this Agreement and the Act, together with all obligations of such Member to comply with the terms and provisions of this Agreement.

“Member” means each Person set forth on Schedule A holding an interest in the Company (whether as a Managing Member or a non-Managing Member) and such other Persons admitted as Members of the Company in accordance with Article IX.

“Net Profit” and “Net Loss” mean the Company’s net profits or net losses, as the case may be, determined on the accrual basis of accounting in accordance with generally accepted accounting principles consistently applied and in accordance with the following: (i) Net Profits and Net Losses shall include realized and unrealized profits and losses with respect to all property or positions held by the Company. Realized or unrealized profit and loss with respect to any property or position held during any Fiscal Year includes the realized or unrealized appreciation or depreciation with respect to such property or position determined by comparing the net proceeds from the sale of such property or the closing of such position, as the case may be, or the market value of such property or position at the end of such Fiscal Year with either the cost of such property or position, if established during such Fiscal Year, or the market value of such property or position at the end of the preceding Fiscal Year, if such property was sold or such position established during a prior Fiscal Year, and (ii) there shall be deducted in computing Net Profits and Net Losses expenses if any, in respect of the particular Fiscal Year (whether performed therein or to be performed thereafter), and such reserves for contingent liabilities of the Company, including estimated expenses, if any, in connection therewith, as the Class A Managing Members shall determine.

“Non-Managing Member” means any Member who is not a Class A or Class B Managing Member.

“Non-Managing Membership Interest” means the Membership Interest of a Non-Managing Member.

“Non-Member Manager” means such Manager or Managers as are elected in accordance with Sections 8.3.1 or 8.3.2.

“Percentage Interest” means, with respect to each Member, the ratio of the Capital Account balance of such Member (and in the case of an assignee, such Member’s assignor) and the aggregate Capital Account balances of all the Members (and their assignors) as of the date in question. The Percentage Interests of the Members, as of the date of the Agreement, are set forth on Schedule A.

“Person” means any individual, corporation, association, partnership (general or limited), joint venture, trust, estate, limited liability company, or other legal entity or organization.

“Qualified Charitable Organization” means a corporation, organization or other entity, transfers to which are deductible for Federal income, gift and estate tax purposes under Section 170(c), Section 2522(a) and Section 2055(a) of the Code.

“Schedule A” means Schedule A annexed to this Agreement as amended and in effect from time to time. The Class A Managing Members shall amend Schedule A from time to time to reflect any change in ownership of Membership Interests or in a Member’s Percentage Interest. Any amendment or revision to Schedule A in accordance with this Agreement shall not be deemed an amendment to this Agreement.

“Treasury Regulations” shall mean the Income Tax Regulations promulgated under the Code, as amended from time to time.

ARTICLE III

CAPITAL CONTRIBUTIONS AND CAPITAL ACCOUNTS

3.1 Capital Accounts.

3.1.1 A separate capital account (a "Capital Account") shall be maintained for each Member. Each Member's Capital Account shall be credited with (i) the amount of such Member's aggregate capital contributions made in cash and the fair market value of all property contributed by such Member (net of liabilities that are secured by such contributed property), (ii) such Member's allocated share of Net Profit and other items of income and gain of the Company, and (iii) the amount of any Company liabilities assumed by such Member. Each Member's Capital Account shall be reduced by (i) the amount of any cash distributions to such Member and the fair market value of all property distributed in kind to such Member (net of liabilities that are secured by such distributed property), (ii) such Member's allocated share of Net Loss and other items of deduction and loss of the Company, and (iii) the amount of any liabilities of such Member assumed by the Company.

3.1.2 The foregoing provisions and other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulations §1.704-1(b)(2)(iv), and shall be interpreted consistently therewith. The Class A Managing Members shall be authorized to make appropriate amendments to the allocation of items to the Capital Accounts if necessary to comply with such Treasury Regulation.

3.1.3 In the event of a transfer of any Membership Interest in the Company, the transferee shall succeed, as of the date of such transfer, to that portion of the transferor's Capital Account that relates to such transferred Membership Interest.

3.2 Additional Contributions.

3.2.1 Members shall be required to make additional capital contributions as provided in this Agreement.

3.2.2 Each Member shall make such additional capital contributions as are demanded by the Class B Managing Member, within forty-five (45) days of the Class B Managing Member's demand (the "Closing Date"). If a Member fails to make such additional capital contribution by the Closing Date (the "Defaulting Member"), the amount of the Defaulting Member's unpaid additional capital contribution shall be treated (i) as a loan to the Defaulting Member from the Company; or (ii) as a loan to the Defaulting Member from such other Members, if any, who have paid the Defaulting Member's additional capital contribution on the Defaulting Member's behalf. In such event, the Defaulting Member shall pay to the Company interest, or to such other Members, their pro rata portion of the interest, on the unpaid additional capital contribution at the rate of five percent (5%) per annum until the Defaulting Member has paid the outstanding additional capital contribution in full. Interest shall accrue commencing with the Closing Date, and shall be due and payable on each anniversary of the Closing Date.

3.2.3 Any Member may make additional contributions of capital, in cash or in property, in amounts and at times agreed to by the Class B Managing Member. In the event that a contribution of capital is made at a time other than the end or beginning of a calendar year, the Class B Managing Member may treat such contribution (or, in the case of contributed property, the fair market value of such property) as a loan until the end of the then-current accounting period, bearing interest at a rate that is determined by the Class B Managing Member to be a fair and reasonable interest rate, taking into account the interests of all Members.

3.2.4 The Class B Managing Member shall update the Company's books and records to reflect any additional capital contribution.

3.3 Loans. Any Member may, but shall not be required to, make loans to the Company and, in respect of such loans, shall be treated as a creditor of the Company. Such loans shall be repaid as and when the Company has funds available therefor, and such loans and interest thereon (at rates to be agreed upon by the lending Member and the Company) shall constitute obligations of the Company. Any such loan shall not increase such Member's Capital Account, entitle such Member to any increase in such Member's share of the profits of the Company or subject such Member to any greater proportion of losses which the Company may sustain.

ARTICLE IV

ALLOCATION OF PROFIT AND LOSS

4.1 Allocation of Profits and Losses.

4.1.1 The Company's Net Profit and Net Loss for any Accounting Period shall be allocated among the Members in proportion to their Percentage Interests.

4.1.2 The Company's items of income, gain, loss and deduction shall be allocated for Federal, state and local income tax purposes among the Members proportionately to the allocation of Net Profit and Net Loss among the Members. Notwithstanding the foregoing, solely for Federal, state and local income tax purposes, in accordance with Sections 704(b) and 704(c) of the Code and the Treasury Regulations promulgated thereunder, income, gain, loss and deduction with respect to property contributed to the Company by a Member shall be allocated among the Members in accordance with Section 704(c) of the Code and the Treasury

Regulations promulgated thereunder so as to take account of any difference between the tax basis of such property to the Company for Federal income tax purposes and its book basis.

4.1.3 If any Membership Interest is transferred or any Percentage Interest is changed pursuant to the terms of the Agreement during a Fiscal Year, the amount of Net Profit and Net Loss to be allocated to the Members for such entire Fiscal Year in accordance with their respective Percentage Interests shall be allocated to the portion of such Fiscal Year which precedes the date of such transfer or change (and if there shall have been a prior transfer or change in such Fiscal Year, which commences on the date of such prior transfer or change) and to the portion of such Fiscal Year which occurs on and after the date of such transfer or change (and if there shall be a subsequent transfer or change in such Fiscal Year, which precedes the date of such subsequent transfer or change), in proportion to the number of days in each such portion (or, in the case of a transfer, in accordance with an interim closing of the books at the election and the expense of the parties to the transfer), and the amounts of the items so allocated to each such portion shall be credited or charged to the Members in proportion to their respective Percentage Interests during each such portion of the Fiscal Year in question. Such allocation shall be made without regard to the date, amount or receipt of any distributions that may have been made with respect to the transferred Membership Interest. As of the date of such transfer, the transferee Member shall succeed to the Capital Account of the transferor Member with respect to the transferred Membership Interest.

4.2 Regulatory Allocations.

4.2.1 Section 704 of the Code and the Treasury Regulations issued thereunder, including but not limited to the provisions of such Treasury Regulations addressing qualified income offset provisions, minimum gain chargeback requirements and allocations of deductions

attributable to nonrecourse debt and partner nonrecourse debt, are hereby incorporated by reference. If, as a result of the provisions of Section 704 of the Code and such Treasury Regulations, items of Net Profit or Net Loss are allocated to the Members in a manner that is inconsistent with the manner in which the Members intend to divide Company distributions as reflected in Section 4.1, to the extent permitted under such Treasury Regulations, items of future profit and loss shall be allocated among the Members so as to prevent such allocations from distorting the manner in which Company distributions will be divided among the Members pursuant to this Agreement.

4.2.2 Notwithstanding any other provision of this Article IV, no Member shall be allocated in any Fiscal Year of the Company any Net Loss to the extent such allocation would cause or increase a deficit balance in such Member's Capital Account, determined after taking into account all other allocations to be made for such year pursuant to this Article IV and after adjusting such Capital Account for the reasonably expected adjustments, allocations and distributions described in Treasury Regulations §1.704-1(b)(2)(ii)(d). In the event that one but not all of the Members would have a deficit balance in his Capital Account, the limitation set forth in this Section 4.2.2 shall be applied so as to allocate the maximum permissible Net Loss to such Member under Treasury Regulations §1.704-1(b)(2)(ii)(d). Any such Net Loss in excess of the limitation set forth in this Section 4.2.2 that would be allocated to a Member shall be allocated to the other Member or Members. In the event any Member has a deficit balance in his Capital Account at the end of any Fiscal Year, such Member shall be specially allocated items of Company income and gain in the amount of such excess as quickly as possible, provided that an allocation pursuant to this Section 4.2.2 shall be made only if and to the extent that a Member would have a deficit balance in his, her or its Capital Account in excess of such sum after all

other allocations provided for in this Article IV have been tentatively made as if this Section 4.2.2 were not in this Agreement. This Section 4.2.2 is intended to comply with the qualified income offset requirement of Treasury Regulations §1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

ARTICLE V

DISTRIBUTIONS

5.1 Distributions Other Than Upon Winding-Up. Distributions shall be made to the Members at the times and in the aggregate amounts determined in the sole discretion of the Class B Managing Members. Such distributions shall be allocated among the Members in proportion to their Percentage Interests. The Class B Managing Members shall have authority to make any such distributions on behalf of any Member (i) directly to the United States Treasury and any state or local taxing authority of such amounts as may be necessary to discharge such Member's income tax liability (including but not limited to Federal, State, local or otherwise) and (ii) if such Member is under the age of majority, to a custodian on behalf of such Member.

5.2 Distributions Upon Winding Up. Upon the dissolution and winding-up of the Company, distributions shall be made as provided in Section 7.3.

ARTICLE VI

TRANSFERS AND WITHDRAWALS

6.1 Right of First Refusal. Except as permitted by Section 6.2, but in all events subject to Section 9.1 hereof, no Member or any assignee thereof shall have the right to sell, assign, or otherwise transfer all or any part of such Member's Membership Interest (the "Offered Interests") unless such Member or assignee (the "Seller") first offers to sell the Offered Interests pursuant to the terms of this Section 6.1.

6.1.1 No transfer may be made under this Section 6.1 unless the Seller has received a bona fide written offer (the “Purchase Offer”) from the prospective transferee (the “Purchaser”) to purchase the Offered Interests for a purchase price (the “Offer Price”) denominated and payable in United States dollars at closing or according to specified terms, with or without interest, which offer shall be in writing signed by the Purchaser and shall be irrevocable for a period ending no sooner than the day following the end of the Offer Period, as hereinafter defined.

6.1.2 Prior to making any transfer that is subject to the terms of this Section 6.1, the Seller shall give to each Member, written notice (the “Offer Notice”) which shall include the following: (1) the identity of the Purchaser; (2) a copy of the Purchase Offer; (3) a statement signed by the Purchaser to the effect that, upon purchase of the Offered Interests, the Purchaser agrees to become a Member, to be bound by all of the terms and conditions of this Agreement as a Member with respect to the Offered Interests, and to execute such documents and instruments as the other Members deem necessary or appropriate to confirm such agreements; and (4) an offer (the “Firm Offer”) to sell the Offered Interests to the other Members (the “Offerees”) for the Offer Price, payable according to the same terms as (or more favorable terms than) those contained in the Purchase Offer, provided that the Firm Offer shall be made without regard to the requirement of any earnest money or similar deposit required of the Purchaser prior to closing, and without regard to any security (other than the Offered Interests) to be provided by the Purchaser for any deferred portion of the Offer Price.

6.1.3 The Firm Offer shall be irrevocable for a period (the “Offer Period”) ending at 5:00 P.M., local time, at the Company’s principal place of business, on the ninetieth (90th) day following the day of the Offer Notice.

6.1.4 At any time during the Offer Period, any Offeree may accept the Firm Offer as to all or any portion of the Offered Interests by giving written notice of such acceptance to the Seller and each other Offeree (an “Acceptance”) which notice shall indicate the maximum portion of the Offered Interests that such Offeree is willing to purchase. In the event that Offerees (“Accepting Offerees”), in the aggregate, accept the Firm Offer with respect to all, or more than all, of the Offered Interests during the Offer Period, the Firm Offer shall be deemed to be accepted. In the event that Accepting Offerees accept the Firm Offer with respect to more than all of the Offered Interests, each Accepting Offeree shall be deemed to have accepted the Firm Offer with respect to that portion of the Offered Interests that corresponds to the ratio of the Offered Interests that such Accepting Offeree indicated a willingness to purchase to the aggregate Offered Interests all Accepting Offerees indicated a willingness to purchase. If Offerees do not accept the Firm Offer as to all, or more than all, of the Offered Interests during the Offer Period, the Firm Offer shall be deemed to be rejected in its entirety.

6.1.5 In the event the Firm Offer is accepted, the closing of the sale of the Offered Interests shall take place within thirty (30) days after the Firm Offer is accepted or, if later, the date of closing set forth in the Purchase Offer. The Seller and all Accepting Offerees shall execute such documents and instruments as may be necessary or appropriate to effect the sale of the Offered Interests pursuant to the terms of the Firm Offer and this Section 6.1 and such sale shall be subject to the provisions of Section 9.1.

6.1.6 If the Firm Offer is not accepted in the manner hereinabove provided, the Seller may sell the Offered Interests to the Purchaser at any time within sixty (60) days after the last day of the Offer Period, provided that such sale shall be made on terms no more favorable to the Purchaser than the terms contained in the Purchase Offer and provided further that such sale

complies with the other terms, conditions, and restrictions of this Agreement that are applicable to sales of Membership Interests and are not expressly made inapplicable to sales occurring under this Section 6.1. In the event that the Offered Interest is not sold in accordance with the terms of the preceding sentence, the Offered Interest shall again become subject to all of the conditions and restrictions of this Section 6.1.

6.2 Permitted Transfers. Notwithstanding Section 6.1, but in all events subject to Sections 9.1 and 9.2 hereof, a Member may sell, assign, pledge or otherwise transfer all or any part of such Member's Membership Interest without an offer first having been made pursuant to Section 6.1 if, and only if, such transferee or pledgee is an Eligible Person. In addition, notwithstanding Section 6.1, any interest as a Member which is held by a custodian for a minor under a Uniform Gifts to Minors Act, Uniform Transfers to Minors Act or a similar act shall be fully transferable and assignable to the minor when the minor reaches the age of termination of such custodianship under the applicable statute.

6.3 Certain Prohibited Transfers. Notwithstanding Sections 6.1 and 6.2 hereof, no Member shall have the right to sell, assign, or otherwise transfer any portion or all of such Member's Membership Interest if such sale, assignment or other transfer would cause (i) the Company to be classified as a publicly traded partnership or otherwise as a corporation for United States federal income tax purposes or (ii) unless the Company determines it to be immaterial, a termination of the Company pursuant to Section 708 of the Code.

6.4 Other Purported Transfers. No Member shall have the right to sell, assign, mortgage, pledge, or otherwise voluntarily transfer or encumber any portion or all of such Member's Membership Interest, except as provided in Sections 6.1 and 6.2 hereof. A transferee who acquires a Membership Interest by any purported sale, assignment, mortgage, pledge,

hypothecation or other voluntary transfer or encumbrance by a Member of any or all of such Member's Membership Interest, in violation of this Article, shall be entitled only to share in such profits and losses, to receive such distribution or distributions, and to receive such allocation of income, gain, loss, deduction, or credit or similar item to which the assignor was entitled, to the extent assigned. Such transferee shall have no right to an accounting of the affairs of the Company and shall not have any rights of a Member under the Act or this Agreement, except as to allocations and distributions with respect to such transferred interests.

6.5 No Right to Withdraw.

6.5.1 No Member may withdraw from the Company or reduce such Member's Capital Account without the unanimous consent of the Class B Managing Members. No Member shall be entitled to receive or be credited with any interest on the balance in such Member's Capital Account at any time. A Member who withdraws or purports to withdraw as a Member of the Company in violation of this Agreement shall be liable to the Company for any damages suffered by the Company on account of the breach and shall not be entitled to receive any payment of his, her or its interest in the Company or a return of his, her or its capital contribution until the time otherwise provided herein for distribution to Members, but shall nevertheless be entitled to distributions in accordance with Section 5.1 hereof.

6.5.2 Notwithstanding the foregoing provisions of this Section 6.5: At the request of a Member who shall have received consent to withdraw from the Company pursuant to Section 6.5.1 (the "Withdrawing Member"), the Class B Managing Members may, but are not required to, redeem the Withdrawing Member's Membership Interest, in whole or in part, by distributing assets to such Withdrawing Member, the fair market value of which is to be determined by the Class B Managing Members. If any Member's Membership Interest is not

completely redeemed, such Member's Capital Account is to be adjusted to reflect the decline in his, her or its Capital Account. Nothing herein shall be construed to create a right in a Member to have his or her Membership Interest redeemed.

ARTICLE VII

DISSOLUTION AND WINDING-UP

7.1 Events Occasioning Dissolution. The Company shall dissolve and terminate upon the first to occur of any of the following events:

7.1.1 The unanimous written consent of the Class B Managing Members to dissolve the Company;

7.1.2 The entry of a decree of judicial dissolution under Section 702 of the Act;
and

7.1.3 Except as provided in Section 701(a)(4) of the Act, at any time there are no Members.

7.2 Winding-Up. The Company shall be allowed one year from the date of any event occasioning dissolution for the winding-up of its affairs and shall be allowed such additional time as may be reasonable for the orderly sale of the Company properties.

7.3 Liquidating Distributions. Upon the dissolution and winding-up of the Company, the assets of the Company shall be distributed in the following order of priority:

7.3.1 To the payment of the expenses of winding-up, including the establishment of any reserves against liabilities or obligations of the Company that the Class B Managing Members deem appropriate, such reserves to be charged against the Members' Capital Accounts according to the Percentage Interests of the Members, which reserve, prior to payment

of such liabilities and obligations, shall be placed in the hands of an escrow agent for such period and upon such terms as the Class B Managing Members shall determine; and, then,

7.3.2 To the payment of other debts and liabilities of the Company and, then,

7.3.3 To the Members in proportion to their Percentage Interests.

ARTICLE VIII

MANAGEMENT

8.1 Management by the Managing Members.

8.1.1 Except as otherwise provided in this Agreement (including as provided in Section 2.1 hereof), the business affairs of the Company shall be managed exclusively by the Class A Managing Members in accordance with the provisions of Section 11.1 below. The Class A Managing Members shall have all necessary powers to carry out the purposes and business of the Company, including, but not limited to investment decisions and all other powers not herein reserved to the Class B Managing Members. The Class B Managing Members shall have full and exclusive authority to make all decisions regarding the timing and amount of distributions to the Members, use of the Company property by the Members, the timing and amount of additional capital contributions required of the Members and the dissolution of the Company under Section 7.1 and such other powers specifically provided for in this Agreement and not reserved to the Class A Managing Members. Notwithstanding the foregoing, the Class A Managing Members may appoint officers of the Company or other authorized persons who shall be authorized to perform such actions for and on behalf of the Company as the Class A Managing Members shall determine; provided, however, any appointment by the Class A Managing Members shall be limited to the rights, powers and authority vested in the Class A

Managing Members. The President, Vice President, Secretary and Treasurer of the Company shall be the individuals as may be appointed by the Class A Managing Members from time to time, which individuals shall serve until the earlier of their retirement, removal, death or disability. The Class A Managing Members and/or, to the extent determined by the Class A Managing Members, any officers appointed or authorized persons designated by the Class A Managing Members, shall have all necessary powers to carry out the purposes of the Company (other than those powers expressly reserved to the Class B Managing Members). The Class A Managing Members may remove any officer or authorized person at any time, without cause. In exercising the powers granted by this Agreement and in performing the duties required by this Agreement with respect to the management and operation of the Company, each Class A and Class B Managing Member, pursuant to general principles of law, has a fiduciary duty to act in the best interests of the Company and the Members.

8.1.2 Except with respect to those powers reserved to the Class B Managing Members, the Class A Managing Members shall have full power to do everything in administering the Company that the Class A Managing Members may deem advisable, in addition to those powers granted by law, including the power: To retain so long as the Class A Managing Members may deem advisable and to acquire by purchase or otherwise, any kind of real property or personal property, including (without limitation) common and preferred stocks, interests in investment companies and discretionary common trust funds, hedge funds, private equity funds, partnerships (whether or not as a general partner) and limited liability companies (whether or not as a manager), works of art, undivided interests and secured and unsecured obligations -- all without diversification as to kind or amount and without being limited to investments authorized by law; to sell for cash or on credit (at public or private sale), exchange,

mortgage, lease for any period (either as landlord or tenant and including renewals of the term) and modify, extend or cancel leases, grant options or otherwise dispose of or deal with any real or personal property, all without regard to statutory restrictions, in such manner and upon such terms and conditions as they deem advisable without first obtaining a court order; to erect, renovate or alter buildings or otherwise improve and manage buildings and property; demolish buildings; make ordinary and extraordinary repairs; grant easements and make party wall contracts; dedicate roads; subdivide; adjust boundary lines and partition; to distribute in kind or in money or partly in each, even if shares be composed differently; to hold property in the names of nominees or so that it will pass on delivery, and to leave property in the custody of a firm of stockbrokers and registered in the name of the stockbrokers' nominees; to renew, assign, alter, extend, compromise, abandon or release or arbitrate claims asserted by or against the Company; to engage and rely on brokers and investment counsel, accountants, appraisers and other experts (including art experts) and legal counsel and to compensate them; to employ custodians of the assets and bookkeepers and clerks and other assistants; to borrow money and mortgage and pledge any Company property for any purpose, provided that no Person who makes any nonrecourse loan to the Company shall have or acquire, as a result of making such loan, any direct or indirect interest in the profits, capital or property of the Company, other than as a creditor; and to lend funds to any Person, (including a Member or Manager of the Company, provided that such dealings shall be on terms no less favorable to the Company than terms that would be obtained on an arms-length basis), with or without security and upon such terms and conditions as the Class A Managing Members deem advisable.

8.2 Number of Managing Members and Term of Office. There shall always be at least one (1) Class A Managing Member and at least one (1) Class B Managing Member. Each

Managing Member shall hold office until (i) its resignation or removal, if an entity, or (ii) her or his earlier death, incapacity, resignation or removal, if an individual.

8.3 Successor and Additional Managing Members.

8.3.1 The Class A Managing Members, acting unanimously, if more than one is serving, may designate one or more of the then Non-Managing Members to serve as an additional or successor Class A Managing Member, as the case may be, with a portion or all of any such Non-Managing Member's then existing Membership Interests, in the sole discretion of such Class A Managing Members being converted to Class A Managing Membership Interests. As conditions precedent to a designated Non-Managing Member becoming an additional or successor Class A Managing Member, the designation of such Non-Managing Member must be approved by a majority in interest of the Members and such Non-Managing Member must qualify for the position of Class A Managing Member. If a vacancy in the office of Class A Managing Member occurs and a successor Class A Managing Member has not been designated in accordance with this Section, a successor Class A Managing Member shall be designated by an affirmative vote of a majority in interest of the Members and the successor so designated shall serve as successor Class A Managing Member upon qualifying for the position. A successor or additional Class A Managing Member shall qualify under this Section if such Person provides the Members with a statement that it, he or she agrees to become a Class A Managing Member and to be bound by all of the terms and conditions of this Agreement as a Class A Managing Member. In the absence of a Class A Managing Member, a Non-Member Manager may be appointed by an affirmative vote of a majority in interest of the Members to manage the Company and have all of the rights, powers and duties that the Class A Managing Members would otherwise have pursuant to this Agreement.

8.3.2 The Class B Managing Members, acting unanimously, if more than one is serving, may designate one or more of the then Non-Managing Members to serve as an additional or successor Class B Managing Member, as the case may be, with a portion or all of any such Non-Managing Member's then existing Membership Interests, in the sole discretion of such Class B Managing Members being converted to Class B Managing Membership Interests. As conditions precedent to a designated Non-Managing Member becoming an additional or successor Class B Managing Member, the designation of such Non-Managing Member must be approved by a majority in interest of the Members and such Non-Managing Member must qualify for the position of Class B Managing Member. If a vacancy in the office of Class B Managing Member occurs and a successor Class B Managing Member has not been designated in accordance with this Section, a successor Class B Managing Member shall be designated by an affirmative vote of a majority in interest of the Members and the successor so designated shall serve as successor Class B Managing Member upon qualifying for the position. A successor or additional Class B Managing Member shall qualify under this Section if such Person provides the Members with a statement that it, he or she agrees to become a Class B Managing Member and to be bound by all of the terms and conditions of this Agreement as a Class B Managing Member. In the absence of a Class B Managing Member, a Non-Member Manager may be appointed by an affirmative vote of a majority in interest of the Members to manage the Company and have all of the rights, powers and duties that the Class B Managing Members would otherwise have pursuant to this Agreement. Notwithstanding the foregoing provisions of this Section 8.3.2, if LDB consents to or participates in the election or designation of an additional or successor Class B Managing Member as set forth in this Section 8.3.2, such

additional or successor Class B Managing Member must be a Person who is not related or subordinate to LDB within the meaning of Section 672(c) of the Code.

8.4 Resignation and Removal.

8.4.1 A Managing Member may resign at any time. Such resignation shall be made in writing and shall take effect at the time specified therein, or if no time is specified, at the time of its receipt by any other Managing Member holding the same class of interest, or if no other Managing Member of the same class is then serving, by the Members. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

8.4.2 The Members holding at least a two-thirds (2/3) Membership Interest may, by vote or unanimous written consent, remove any acting Manager at any time, without cause. Notwithstanding the foregoing, if LDB participates in the removal of any Manager as set forth in this Section 8.4.2, the successor Manager may not be related or subordinate to LDB within the meaning of Section 672(c) of the Code.

8.4.3 The Managing Membership Interests of a Managing Member who resigns or is removed pursuant to the foregoing provisions of this Section 8.4 automatically shall be converted into Non-Managing Membership Interests.

8.5 Death, Dissolution, Incapacity or Bankruptcy of a Manager.

8.5.1 Upon the dissolution, incapacity, termination, withdrawal, expulsion, or adjudication of bankruptcy or insolvency of any Manager or upon the entry of an order for relief, naming any Manager as the debtor in proceedings under any Chapter of the Bankruptcy Code, such Manager shall cease to act as a Manager of the Company (and if such

Manager is a Managing Member, his, her or its Managing Membership Interests shall be converted to non-Managing Membership Interests). In that case, the remaining or successor Managers of that Class of Membership Interests (if any), shall continue as the Managers of that Class of Membership Interests. If there is no remaining or successor Manager of that Class of Membership Interests, then one or more Persons shall be appointed as Managers of that Class of Membership Interests in accordance with Section 8.3. Upon the death of an individual who is a Class A or Class B Managing Member, his or her interest as a Class A or Class B Managing Member may be transferred to his or her estate and/or to any individual or trust pursuant to the terms of his or her Will or the laws of intestacy, as the case may be. Notwithstanding the foregoing, the provisions of this Section 8.5.1 shall be subject to the conditions set forth in Section 9.2.

8.5.2 A Manager shall be deemed incapacitated when either (i) a court of competent jurisdiction has issued a final order that the Manager is an adjudged incompetent or appoints a guardian, conservator, committee or other similar fiduciary, or (ii) a licensed physician or psychiatrist appointed either by a majority of the other Managers of that Class of Membership Interests or by a majority in interest of the Members (excluding any Membership Interests held by the Manager whose capacity is at issue) certify in writing that, in his or her opinion, such Manager lacks sufficient understanding or capacity to make and communicate decisions about the management and operation of the Company.

8.6 Death, Incapacity or Bankruptcy of a Member.

8.6.1 The death, incapacity, liquidation, dissolution, or entry of an order for relief in a bankruptcy case of a Member (a “former Member”) shall not dissolve the Company. In any such event, the successors, assigns, executors, administrators or personal

representatives of such former Member shall have all the rights of a Member in respect of distributions, allocations and capital, but shall not become a Member unless a majority in interest (excluding Membership Interests held by the former Member) of the remaining Members consent and the provisions of Section 9.1 have been satisfied. The estate of a deceased former Member shall be deemed to be the assignee of such former Member's Membership Interest and such estate shall be bound in all respects by the deceased former Member's obligations to the Company.

8.6.2 A Member shall be deemed incapacitated when either (i) a court of competent jurisdiction has issued a final order that the Member is an adjudged incompetent or appoints a guardian, conservator, committee or other similar fiduciary, or (ii) a licensed physician or psychiatrist appointed either by a majority of the Managing Members or by a majority in interest of the Members (excluding the Membership Interests held by the Member whose capacity is at issue) certify in writing that, in their opinion, such Member lacks sufficient understanding or capacity to make and communicate decisions concerning such Member's Membership Interests in the Company.

8.7 Other Interests. The Members may engage in or possess interests in other business ventures of every nature and description, whether or not competitive with the business of the Company, independently or with others, and neither a Managing Member nor any Member shall, by virtue of this Agreement, have any rights in or to such other ventures or the income or profits derived therefrom.

8.8 Reliance by Third Parties. Any Person not a party to this Agreement dealing with the Company shall be entitled to rely conclusively upon the power and authority of the Class A and Class B Managing Members to bind the Company in all respects to execute agreements,

instruments and other writings on behalf, and in the name, of the Company and to take any and all other action on behalf, and in the name, of the Company.

8.9 Reimbursement of Expenses. The Company will pay all fees and expenses incident to its activities including (but not limited to) compensation to any investment advisor. The Company will pay for research fees, interest on margin accounts, legal and accounting fees, borrowing charges on securities sold short, custodial fees, brokerage commissions, bank services fees, interest on loans and debit balances and any other reasonable expenses related to the purchase, sale or holding of company assets as the Class A Managing Members shall determine in the Class A Managing Members' sole discretion. The Managing Members shall be entitled to reimbursement from the company funds for any reasonable out of pocket costs or expenses incurred by the Managing Members in the conduct of the company business, including without limitation, general overhead expenses, office expenses, secretarial services, computer support, other office support, investment research, attorney's fees, accounting fees and expenses incurred in connection with the administration and establishment of the Company.

8.10 Liability and Indemnity.

8.10.1 Each Manager, Officer and authorized person may act or refrain from acting (consistent with the duties described in Section 8.1 or in the instrument granting authority) without liability to the Company or to any Member for any reasonable error in judgment, mistake of law or fact, or any act or failure to act, so long as such action or inaction was taken in good faith with the reasonable belief that such action or inaction was in the best interests of the Company and the Members. Consistent with the preceding sentence, each Manager, Officer and authorized person may act or refrain from acting without liability to the Company or to any Member in reliance upon any opinion of any consultant or advisor on any matter which such

Manager, Officer or authorized person reasonably believes to be within the consultant or advisor's professional competence.

8.10.2 The Company shall, to the extent of its assets, indemnify and hold harmless each Person who is or was a Manager, Officer or authorized person from any and all liability, loss, damage, cost and expense (including, without limitation, reasonable attorneys' fees and expenses) arising from any act or failure to act by such Manager, Officer or authorized person in the performance of any of the powers, authorities or duties of the Manager, Officer or authorized person under this Agreement or applicable law, if it is determined that such Manager, Officer or authorized person acted in good faith and with reasonable belief that such action or inaction was in the best interests of the Company and the Members.

8.10.3 The right to indemnification conferred hereunder shall include the right to be paid or reimbursed by the Company for the reasonable expenses incurred in advance of the final disposition of any proceeding and without any determination as to the Person's ultimate entitlement to indemnification; provided, however, that the payment of such expenses incurred in advance of the final disposition of a proceeding shall be made only upon delivery to the Company of a written affirmation by such Person of his, her or its good faith belief that such Person has met the standard of conduct necessary for indemnification under this section and a written undertaking, by or on behalf of such Person, to repay all amounts so advanced if it shall ultimately be determined that such Person is not entitled to be indemnified.

8.11 Limited Liability. Notwithstanding any provision of this Agreement, no Member shall be liable for any of the losses, debts or liabilities of the Company in excess of his, her or its respective capital contributions, except as otherwise expressly provided by law.

ARTICLE IX

SUBSTITUTION; ADDITIONAL MEMBERS

9.1 Substituted Members. The transferee of a Membership Interest may not be admitted as a substituted Member unless all of the following conditions have been met:

- (i) The transfer conforms with Section 6.1, Section 6.2 or Section 8.6.1 hereof;
- (ii) In the case of a transfer in accordance with Section 6.1 or Section 6.2, the Class A Managing Members have received a written instrument executed by the transferor, which instrument transfers to the transferee all or part of the transferor's Membership Interest;
- (iii) The transferee has approved and adopted all of the provisions of this Agreement, as the same may have been amended, by written instrument delivered to the Class A Managing Members; and
- (iv) The transferee has paid or agreed to pay all reasonable expenses relating to such admission.

9.2 Transfers of Managing Membership Interests. In addition to the requirements of Sections 6.1 and 6.2 above, the conditions set forth in this Section 9.2 shall apply to the transferee of a Class A or Class B Managing Membership Interest. The transferee of any Managing Membership Interest may not be admitted as a substituted Managing Member without the written consent of a majority in interest of the Members which consent shall be given or withheld in the sole discretion of each Member. In addition, such transferee must satisfy the requirements of paragraphs (ii), (iii) and (iv) of Section 9.1 with respect to a transfer of a Membership Interest; provided, however, that if the requirements of paragraphs (ii), (iii) and (iv) of Section 9.1 are met but a majority in interest of the Members do not consent to admit such

Member as a Managing Member in accordance with this Section, such Managing Membership Interest shall be deemed a Non-Managing Membership Interest in the hands of the transferee, and such transferee shall be admitted only as a substituted Non-Managing Member with respect thereto, and shall not be deemed a Managing Member for any purpose, but provided further, that no such transfer shall be permitted if the Company would have no Managing Membership Interest outstanding after the transfer. Notwithstanding the foregoing provisions of this Section 9.2, if LDB consents to or participates in the election or designation of a substituted Class B Managing Member as set forth in this Section 9.2, such substituted Class B Managing Member must be a Person who is not related or subordinate to LDB within the meaning of Section 672(c) of the Code.

9.3 Additional Members. Additional Membership Interests may be issued and sold by the Company to any Person, including but not limited to a natural person, trust, corporation, limited liability company, partnership or other association, for fair market value, as determined by the Class B Managing Members using reasonable business judgment, and under such terms as deemed advisable by the Class B Managing Members, including but not limited to terms relating to the applicability of this Agreement to such additional Membership Interests. Admission of any Member shall not be a cause of dissolution.

ARTICLE X

ACCOUNTING

10.1 Accounting Method.

10.1.1 The Company's assets and liabilities will be determined on the basis of generally accepted accounting principles, consistently applied.

10.1.2 A security listed on a national securities exchange will be valued at its last sale price on the most recent date on or before the end of a Fiscal Year or, if no sale occurred on said date, at the mean between the closing “bid” and “asked” prices.

10.1.3 All other positions and all other assets and liabilities will be assigned a value determined in good faith by the Class A Managing Members. With respect to other investment vehicles in which the Company may invest, the Class A Managing Members may rely on the values reported by such entities in computing the value of the Company’s assets but will carry the investment at the cost basis unless otherwise prudent.

10.2 Books and Records. The Class A Managing Members shall maintain the general accounts of the Company. The books of the Company shall be kept on a basis consistent with the provisions of this Agreement and shall be open to the inspection and examination of all Members, in person or by their duly authorized representatives, at reasonable times. The books of the Company shall be maintained based on generally accepted accounting principles, consistently applied.

10.3 Reports. At the request of any Member of the Company, the Class A Managing Members shall furnish such Member with a copy of the Company’s financial statements for the current or any prior fiscal year, with a statement of such Member’s Capital Account, as reflected on the books of the Company. Each Member also shall be supplied with all information with respect to the Company required in connection with the preparation of such Member’s tax returns. The Class A Managing Members shall provide the Members with such other reports and information as they, from time to time, deem advisable.

10.4 Federal Income Tax Elections. All elections required or permitted to be made by the Company under the Code shall be made by the Class A Managing Members in such manner

as will, in the Class A Managing Members' opinion, be most advantageous to a majority-in-interest of the Members.

10.5 Tax Matters Partner. The Members shall from time to time designate a "tax matters partner" pursuant to Section 6231(a)(7) of the Code.

ARTICLE XI

MISCELLANEOUS

11.1 Decisions by the Managers. Except as otherwise required by law or in this Agreement, whenever an action is to be taken by a Manager (or the Company), such action shall be taken solely by a majority in interest (based on Percentage Interests) of the Class A Managing Members or the Class B Managing Members, as the case may be.

11.2 Amendments. This Agreement may be amended from time to time upon the unanimous written consent of the Members. Notwithstanding the foregoing, the administrative provisions in this Agreement may be amended solely by the Class A Managing Members; provided, however, that such amendments to the administrative provisions shall not include amendments to provisions relating to distributions to the Members, use of the Company property, additional capital contributions required of the Members and dissolution of the Company; and provided further, that such amendments to administrative provisions shall not result in alterations to any Member's economic interest in the Company.

11.3 Notices. All notices to the Class A or Class B Managing Members or to the Company under this Agreement shall be in writing, duly signed by the party giving such notice, and transmitted postage prepaid by first class certified mail, return receipt requested, to such Class A or Class B Managing Members or to the Company care of Elysium Management LLC, 445 Park Avenue, Suite 1401, New York, New York 10022 or to any such other address as may

hereafter be designated by such Managing Members or the Company. All notices to a Member under this Agreement shall be in writing, duly signed by the party giving such notice, and transmitted postage prepaid by first class certified mail, return receipt requested to such Member at the address listed upon Schedule A or to any such other address as may hereafter be designated by such Member upon giving notice thereof to the Company. All notices shall be deemed given when dispatched.

11.4 No Delivery of Certificates. The Company is not required to deliver copies of any Certificate of Formation or amendment or cancellation to the Members.

11.5 Governing Law. This Agreement shall be construed in accordance with and governed by the Act and by the laws of the State of New York applicable in the case of agreements made and to be performed entirely within such State.

11.6 Further Assurances. Each party to this Agreement agrees to execute, acknowledge, deliver, file and record such further certificates, amendments, instruments and documents, and to do all such other acts and things, as may be required by law, or as may, in the reasonable opinion of the Class A Managing Members, be necessary or advisable to carry out the interests and purposes of this Agreement.

11.7 Headings, Gender and Number. The headings in this Agreement are for convenience only and in no way define, limit or otherwise affect the scope or intent hereof. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the Person or Persons may require.

11.8 Benefit. This Agreement shall be binding upon and shall inure to the benefit of the Members, their respective successors, heirs, executors, administrators and assigns.

11.9 Counterparts. This Agreement may be executed in separate counterparts, including by facsimile, each of which when so executed shall be an original and all such counterparts shall together constitute one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have set their hands as of the day and year
first above written.

CLASS A MANAGING MEMBER:

Leon D. Black

CLASS B MANAGING MEMBER:

Leon D. Black

NON-MANAGING MEMBER:

Leon D. Black

Schedule A as of _____

<u>MEMBERS</u>	<u>ADDRESS</u>	<u>MEMBERSHIP INTEREST</u>
Class A Managing Member: Leon D. Black	c/o Elysium Management LLC 445 Park Avenue, Suite 1401 New York, New York 10022	0.5%
Class B Managing Member: Leon D. Black	c/o Elysium Management LLC 445 Park Avenue, Suite 1401 New York, New York 10022	0.5%
Non-Managing Member: Leon D. Black	760 Park Avenue New York, New York 10021	<u>99%</u>
TOTAL		100%