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January 11, 2013

VIA FEDERAL EXPRESS

Christine P. Yates, Esq.
Tripp Scott
110 Southeast Sixth Street
Fifteenth Floor
Fort Lauderdale, FL 33301

Re: Estates of Shirley Bernstein and Simon L. Bernstein

Dear Ms. Yates:

In response to the items in your letter dated December 21, 2013, we are enclosing the following documents and responses:

1. Simon L. Bernstein Amended and Restated Trust Agreement dated July 25, 2012. We do not have an accounting for the trust at this time.
2. Shirley Bernstein Trust Agreement dated May 20, 2008 together with a copy of the First Amendment to Shirley Bernstein Trust Agreement dated November 18, 2008. We do not have an accounting for the trust at this time, however, it's primary assets are the two homes.
3. Operating Agreement for Bernstein Family Realty, LLC dated June 30, 2008.
4. Agreement of Limited Partnership of Bernstein Family Investments, LLLP dated May 20, 2008 and the Operating Agreement of Bernstein Holdings, LLC dated May 20, 2008.
5. We have not yet filed any objections to any claims filed in the Estate, but will be able to provide copies when we get to this point in the probate procedure.
6. There is no Exempt Property Petition filed in the Estate.
7. We are not in possession of personal property inventories for either Simon or Shirley.
8. As discussed previously.
9. The Limited Power of Appointment was exercised under Si's Will, a copy of which you already have.
10. A copy of the Inventory for the Estate of Shirley Bernstein.
11. We will provide you with a copy of the Inventory for the Estate of Simon Bernstein once it is complete.
12. We are not in possession of any documents related to LIC Holdings.
13. A copy of the recorded Second Mortgage for Eliot Bernstein's home, together with the Promissory Note in the amount of \$365,000.00. Please note that Walter Sahm holds a

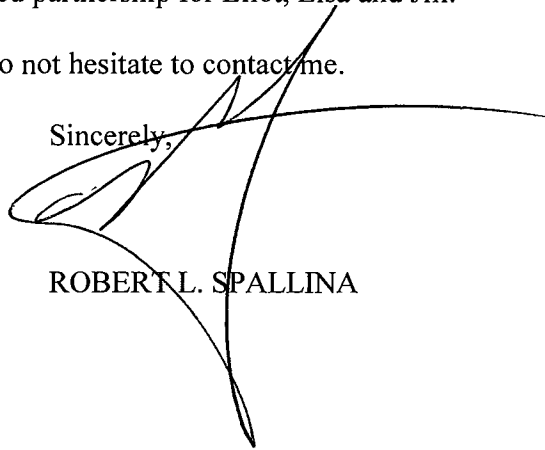
Christine P. Yates, Esq.
January 11, 2013
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first position mortgage on the property, a copy of which we do not have, and is anxious about getting paid as a result of Si's death. Please call me to discuss this.

14. The children's trusts were never funded, other than the one (1%) percent interest in the general partner of the limited partnership for Eliot, Lisa and Jill.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Spallina", is written over the word "Sincerely," and extends down across the printed name "ROBERT L. SPALLINA".

ROBERT L. SPALLINA

Enclosures

SIMON L. BERNSTEIN
AMENDED AND RESTATED TRUST AGREEMENT

Prepared by:

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LAW OFFICES
TESCHER & SPALLINA, P.A.

SIMON L. BERNSTEIN

AMENDED AND RESTATED TRUST AGREEMENT

This Amended and Restated Trust Agreement is dated this 26 day of July, 2012, and is between SIMON L. BERNSTEIN, of Palm Beach County, Florida referred to in the first person, as settlor, and SIMON L. BERNSTEIN, of Palm Beach County, Florida and SIMON L. BERNSTEIN's successors, as trustee (referred to as the "**Trustee**," which term more particularly refers to all individuals and entities serving as trustee of a trust created hereunder during the time of such service, whether alone or as co-trustees, and whether originally serving or as a successor trustee).

WHEREAS, on May 20, 2008, I created and funded the SIMON L. BERNSTEIN TRUST AGREEMENT (the "**Trust Agreement**," which reference includes any subsequent amendments of said trust agreement);

WHEREAS, Paragraph A. of Article I. of said Trust Agreement provides, inter alia, that during my lifetime I shall have the right at any time and from time to time by an instrument, in writing, delivered to the Trustee to amend or revoke said Trust Agreement, in whole or in part.

NOW, THEREFORE, I hereby amend and restate the Trust Agreement in its entirety and the Trustee accepts and agrees to perform its duties and obligations in accordance with the following amended provisions. Notwithstanding any deficiencies in execution or other issues in regard to whether any prior version of this Trust Agreement was a valid and binding agreement or otherwise created an effective trust, this amended and restated agreement shall constitute a valid, binding and effective trust agreement and shall amend and succeed all prior versions described above or otherwise predating this amended and restated Trust Agreement.

ARTICLE I. DURING MY LIFE AND UPON MY DEATH

A. Rights Reserved. I reserve the right (a) to add property to this trust during my life or on my death, by my Will or otherwise; (b) to withdraw property held hereunder; and (c) by separate written instrument delivered to the Trustee, to revoke this Agreement in whole or in part and otherwise modify or amend this Agreement.

B. Payments During My Life. If income producing property is held in the trust during my life, the Trustee shall pay the net income of the trust to me or as I may direct. However, during any periods while I am Disabled, the Trustee shall pay to me or on my behalf such amounts of the net income and principal of the trust as is proper for my Welfare. Any income not so paid shall be added to principal.

SIMON L. BERNSTEIN
AMENDED AND RESTATED TRUST AGREEMENT

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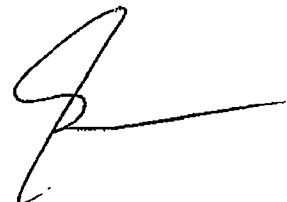
C. **Upon My Death.** Upon my death the Trustee shall collect and add to the trust all amounts due to the trust under any insurance policy on my life or under any death benefit plan and all property added to the trust by my Will or otherwise. After paying or providing for the payment from the augmented trust of all current charges and any amounts payable under the later paragraph captioned "Death Costs," the Trustee shall hold the trust according to the following provisions.

ARTICLE II. AFTER MY DEATH

A. **Disposition of Tangible Personal Property.** If any non-business tangible personal property other than cash (including, but not limited to, my personal effects, jewelry, collections, household furnishings, and equipment, and automobiles) is held in the trust at the time of my death, such items shall be promptly distributed by the Trustee of the trust to such person or persons, including my estate, as to the item or items or proportion specified, as I may appoint, and to the extent that any such items are not disposed of by such appointment, such items shall be disposed of by the Trustee of the trust in exactly the same manner as such items would have been disposed of under the terms and provisions of my Will (including any Codicil thereto, or what the Trustee in good faith believes to be such Will and Codicil) had such items been included in my probate estate. Any such items which are not effectively disposed of pursuant to the preceding sentence shall pass with the other trust assets.

B. **Disposition of Trust Upon My Death.** Upon my death, the remaining assets in this trust shall be divided among and held in separate Trusts for my then living grandchildren. Each of my grandchildren for whom a separate trust is held hereunder shall hereinafter be referred to as a "*beneficiary*" with the separate Trusts to be administered as provided in Subparagraph II.C.

C. **Trusts for Beneficiaries.** The Trustee shall pay to the beneficiary and the beneficiary's children, such amounts of the net income and principal of such beneficiary's trust as is proper for the Welfare of such individuals. Any income not so paid shall be added to principal each year. After a beneficiary has reached any one or more of the following birthdays, the beneficiary may withdraw the principal of his or her separate trust at any time or times, not to exceed in the aggregate 1/3 in value after the beneficiary's 25th birthday, 1/2 in value (after deducting any amount previously subject to withdrawal but not actually withdrawn) after the beneficiary's 30th birthday, and the balance after the beneficiary's 35th birthday, provided that the withdrawal powers described in this sentence shall not apply to any grandchild of mine as beneficiary of a separate trust. The value of each trust shall be its value as of the first exercise of each withdrawal right, plus the value of any subsequent addition as of the date of addition. The right of withdrawal shall be a privilege which may be exercised only voluntarily and shall not include an involuntary exercise. If a beneficiary dies with assets remaining in his or her separate trust, upon the beneficiary's death the beneficiary may appoint his or her trust to or for the benefit of one or more of any of my lineal descendants (excluding from said class, however, such beneficiary and such beneficiary's creditors, estate, and creditors of such beneficiary's estate). Any part of his or her trust such beneficiary does not effectively appoint shall upon his or her death be divided among and held in separate Trusts for the following persons:



1. for his or her lineal descendants then living, *per stirpes*; or
2. if he or she leaves no lineal descendant then living, *per stirpes* for the lineal descendants then living of his or her nearest ancestor (among me and my lineal descendants) with a lineal descendant then living.

A trust for a lineal descendant of mine shall be held under this paragraph, or if a trust is then so held, shall be added to such trust.

D. Termination of Small Trust. If at any time after my death in the opinion of the Trustee a separate trust holds assets of a value of less than \$50,000.00 and is too small to justify the expense of its retention, and termination of such trust is in the best interests of its current income beneficiary, the Trustee in its discretion may terminate such trust and pay it to said beneficiary.

E. Contingent Gift. If at any time property of these Trusts is not disposed of under the other provisions of this Agreement, it shall be paid, as a gift made hereunder, to such persons and in such shares as such property would be distributed if I had then owned such property and had then died solvent, unmarried and intestate domiciled in the State of Florida, according to the laws of inheritance of the State of Florida then in effect.

F. Protective Provision. No beneficiary of any trust herein created shall have any right or power to anticipate, transfer, pledge, sell, alienate, assign or encumber in any way his or her interest in the income or principal of such trust. Furthermore, no creditor shall have the right to attach, lien, seize or levy upon the interest of a beneficiary in this trust (other than myself) and such interest shall not be liable for or subject to the debts, liabilities or obligations of any such beneficiary or any claims against such beneficiary (whether voluntarily or involuntarily created), and the Trustee shall pay directly to or for the use or benefit of such beneficiary all income and principal to which such beneficiary is entitled, notwithstanding that such beneficiary has executed a pledge, assignment, encumbrance or in any other manner alienated or transferred his or her beneficial interest in the trust to another. This paragraph shall not preclude the effective exercise of any power of appointment granted herein or the exercise of any disclaimer.

G. Maximum Duration. Regardless of anything in this Agreement to the contrary, no trust interest herein created shall continue beyond three hundred sixty (360) years after the date of creation of this Agreement, nor shall any power of appointment be exercised in such manner so as to delay vesting of any trust beyond such period. Immediately prior to the expiration of such period, all such trusts then in existence shall terminate, and the assets thereof shall be distributed outright and in fee to then beneficiaries of the current income and in the proportions in which such persons are the beneficiaries, and if such proportions cannot be ascertained, then equally among such beneficiaries.

ARTICLE III. GENERAL

SIMON L. BERNSTEIN
AMENDED AND RESTATED TRUST AGREEMENT

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A. **Disability**. Subject to the following Subparagraph captioned "Subchapter S Stock," while any beneficiary is Disabled, the Trustee shall pay to him or her only such portion of the income to which he or she is otherwise entitled as is proper for his or her Welfare, and any income not so paid shall be added to the principal from which derived. While any beneficiary is Disabled, income or principal payable to him or her may, in the discretion of the Trustee, be paid directly to him or her, without the intervention of a guardian, directly to his or her creditors or others for his or her sole benefit or to an adult person or an eligible institution (including the Trustee) selected by the Trustee as custodian for a minor beneficiary under the Uniform Transfers to Minors Act or similar law. The receipt of such payee is a complete release to the Trustee.

B. **Timing of Income Distributions**. The Trustee shall make required payments of income at least quarterly.

C. **Substance Abuse**.

1. **In General**. If the Trustee reasonably believes that a beneficiary (other than myself) of any trust:

a. routinely or frequently uses or consumes any illegal substance so as to be physically or psychologically dependent upon that substance, or

b. is clinically dependent upon the use or consumption of alcohol or any other legal drug or chemical substance that is not prescribed by a board certified medical doctor or psychiatrist in a current program of treatment supervised by such doctor or psychiatrist,

and if the Trustee reasonably believes that as a result the beneficiary is unable to care for himself or herself, or is unable to manage his or her financial affairs, all mandatory distributions (including distributions upon termination of the trust) to the beneficiary, all of the beneficiary's withdrawal rights, and all of the beneficiary's rights to participate in decisions concerning the removal and appointment of Trustees will be suspended. In that event, the following provisions of this Subparagraph III.C will apply.

2. **Testing**. The Trustee may request the beneficiary to submit to one or more examinations (including laboratory tests of bodily fluids) determined to be appropriate by a board certified medical doctor and to consent to full disclosure to the Trustee of the results of all such examinations. The Trustee shall maintain strict confidentiality of those results and shall not disclose those results to any person other than the beneficiary without the prior written permission of the beneficiary. The Trustee may totally or partially suspend all distributions otherwise required or permitted to be made to that beneficiary until the beneficiary consents to the examination and disclosure to the Trustee.

3. **Treatment**. If, in the opinion of the examining doctor, the examination indicates current or recent use of a drug or substance as described above, the examining doctor will determine an appropriate method of treatment for the beneficiary (for example, counseling or treatment on an



in-patient basis in a rehabilitation facility) that is acceptable to the Trustee. If the beneficiary consents to the treatment, the Trustee shall pay the costs of treatment directly to the provider of those services from the distributions suspended under this Subparagraph III.C.

4. Resumption of Distributions. The Trustee may resume other distributions to the beneficiary (and the beneficiary's other suspended rights will be restored) when, in the case of use or consumption of an illegal substance, examinations indicate no such use for 12 months and, in all cases, when the Trustee in its discretion determines that the beneficiary is able to care for himself or herself and is able to manage his or her financial affairs.

5. Disposition of Suspended Amounts. When other distributions to the beneficiary are resumed, the remaining balance, if any, of distributions that were suspended may be distributed to the beneficiary at that time. If the beneficiary dies before distribution of those suspended amounts, the Trustee shall distribute the balance of the suspended amounts to the persons who would be the alternate takers of that beneficiary's share (or takers through the exercise of a power of appointment) as otherwise provided in this Trust Agreement.

6. Exoneration. No Trustee (or any doctor retained by the Trustee) will be responsible or liable to anyone for a beneficiary's actions or welfare. The Trustee has no duty to inquire whether a beneficiary uses drugs or other substances as described in this Subparagraph III.C. The Trustee (and any doctor retained by the Trustee) is to be indemnified from the trust estate and held harmless from any liability of any nature in exercising its judgment and authority under this Subparagraph III.C, including any failure to request a beneficiary to submit to medical examination, and including a decision to distribute suspended amounts to a beneficiary.

7. Tax Savings Provision. Despite the provisions of this Subparagraph III.C, the Trustee cannot suspend any mandatory distributions or withdrawal rights that are required for that trust to become or remain a Qualified Subchapter S Trust (unless the Trustee elects for the trust to be an Electing Small Business Trust), or to qualify for any federal transfer tax exemption, deduction, or exclusion allowable with respect to that trust.

D. Income on Death of Beneficiary. Subject to the later paragraph captioned "Subchapter S Stock," and except as otherwise explicitly provided herein, upon the death of any beneficiary, all accrued or undistributed income of such deceased beneficiary's trust shall pass with the principal of his or her trust but shall remain income for trust accounting purposes.

E. Definitions. In this Agreement,

1. Children, Lineal Descendants. The terms "*child*," "*children*," "*grandchild*," "*grandchildren*" and "*lineal descendant*" mean only persons whose relationship to the ancestor designated is created entirely by or through (a) legitimate births occurring during the marriage of the joint biological parents to each other, (b) children born of female lineal descendants, and (c) children and their lineal descendants arising from surrogate births and/or third party donors when (i) the child is



raised from or near the time of birth by a married couple (other than a same sex married couple) through the pendency of such marriage, (ii) one of such couple is the designated ancestor, and (iii) to the best knowledge of the Trustee both members of such couple participated in the decision to have such child. No such child or lineal descendant loses his or her status as such through adoption by another person. Notwithstanding the foregoing, for all purposes of this Trust and the dispositions made hereunder, my children, TED S. BERNSTEIN, PAMELA B. SIMON, ELIOT BERNSTEIN, JILL IANTONI and LISA S. FRIEDSTEIN, shall be deemed to have predeceased me as I have adequately provided for them during my lifetime.

2. Code. "Code" means the Internal Revenue Code of 1986, as amended, and in referring to any particular provision of the Code, includes a reference to any equivalent or successor provision of a successor federal tax law.

3. Disabled. "Disabled" or being under "Disability" means, as to any applicable individual: (1) being under the age of 21 years, (2) having been adjudicated by a court of competent jurisdiction as mentally or physically incompetent or unable to manage his or her own property or personal affairs (or a substantially similar finding under applicable state or national law), or (3) being unable to properly manage his or her personal or financial affairs, or a trust estate hereunder as to a Trustee hereunder, because of a mental or physical impairment (whether temporary or permanent in nature). A written certificate executed by an individual's attending physician or attending psychiatrist confirming that person's impairment will be sufficient evidence of Disability under item (3) above, and all persons may rely conclusively on such a certificate.

4. Education. The term "education" herein means vocational, primary, secondary, preparatory, theological, college and professional education, including post-graduate courses of study, at educational institutions or elsewhere, and expenses relating directly thereto, including tuition, books and supplies, room and board, and travel from and to home during school vacations. It is intended that the Trustee liberally construe and interpret references to "education," so that the beneficiaries entitled to distributions hereunder for education obtain the best possible education commensurate with their abilities and desires.

5. Needs and Welfare Distributions. Payments to be made for a person's "Needs" means payments necessary for such person's health (including lifetime residential or nursing home care), education, maintenance and support. Payments to be made for a person's "Welfare" means discretionary payments by the Trustee, from time to time, for such person's Needs and also for such person's advancement in life (including assistance in the purchase of a home or establishment or development of any business or professional enterprise which the Trustee believes to be reasonably sound), happiness and general well-being. However, the Trustee, based upon information reasonably available to it, shall make such payments for a person's Needs or Welfare only to the extent such person's income, and funds available from others obligated to supply funds for such purposes (including, without limitation, pursuant to child support orders and agreements), are insufficient in its opinion for such purposes, and shall take into account such person's accustomed manner of living, age, health, marital status and any other factor it considers important. Income or principal to be paid for a person's Needs or Welfare may be paid to



such individual or applied by the Trustee directly for the benefit of such person. The Trustee may make a distribution or application authorized for a person's Needs or Welfare even if such distribution or application substantially depletes or exhausts such person's trust, without any duty upon the Trustee to retain it for future use or for other persons who might otherwise benefit from such trust.

6. Per Stirpes. In a division "*per stirpes*" each generation shall be represented and counted whether or not it has a living member.

7. Related or Subordinate Party. A "*Related or Subordinate Party*" to a trust describes a beneficiary of the subject trust or a related or subordinate party to a beneficiary of the trust as the terms "related or subordinate party" are defined under Code Section 672(c).

8. Spouse. A person's "*spouse*" includes only a spouse then married to and living as husband and wife with him or her, or a spouse who was married to and living as husband and wife with him or her at his or her death. The following rules apply to each person who is a beneficiary or a permissible appointee under this Trust Agreement and who is married to a descendant of mine. Such a person will cease to be a beneficiary and will be excluded from the class of permissible appointees upon:

a. the legal termination of the marriage to my descendant (whether before or after my death), or

b. the death of my descendant if a dissolution of marriage proceeding was pending when he or she died.

The trust will be administered as if that person had died upon the happening of the terminating event described above.

9. Gender, Number. Where appropriate, words of any gender include all genders and the singular and plural are interchangeable.

F. Powers of Appointment. Property subject to a power of appointment shall be paid to, or retained by the Trustee or paid to any trustee under any will or trust agreement for the benefit of, such one or more permissible appointees, in such amounts and proportions, granting such interests, powers and powers of appointment, and upon such conditions including spendthrift provisions as the holder of such power (i) in the case of a power exercisable upon the death of such holder, appoints in his or her will or in a trust agreement revocable by him or her until his or her death, or (ii) in the case of a power exercisable during the life of such holder, appoints in a written instrument signed by such holder, two witnesses and a notary public, but in either case only if such will, trust agreement, or instrument specifically refers to such power.

G. Limitations on Powers of Trustee. Regardless of anything herein to the contrary, no Trustee shall make or participate in making any distribution of income or principal of a trust to or for the benefit of a beneficiary which would directly or indirectly discharge any legal obligation of such



Trustee or a donor of such trust (as an individual, and other than myself as donor) to support such beneficiary; and no Trustee (other than myself) shall make or participate in making any discretionary distribution of income or principal to or for the benefit of himself or herself other than for his or her Needs, including by reason of a determination to terminate a trust described herein. For example, if a Trustee (other than myself) has the power to distribute income or principal to himself or herself for his or her own Welfare, such Trustee (the "restricted Trustee") shall only have the power to make or participate in making a distribution of income or principal to the restricted Trustee for the restricted Trustee's Needs, although any co-Trustee who is not also a restricted Trustee may make or participate in making a distribution of income or principal to the restricted Trustee for such restricted Trustee's Welfare without the participation or consent of said restricted Trustee.

H. Presumption of Survivorship. If any person shall be required to survive another person in order to take any interest under this Agreement, the former person shall be deemed to have predeceased the latter person, if such persons die under circumstances which make it difficult or impracticable to determine which one died first.

I. Governing Law. This Agreement is governed by the law of the State of Florida.

J. Other Beneficiary Designations. Except as otherwise explicitly and with particularity provided herein, (a) no provision of this trust shall revoke or modify any beneficiary designation of mine made by me and not revoked by me prior to my death under any individual retirement account, other retirement plan or account, or annuity or insurance contract, (b) I hereby reaffirm any such beneficiary designation such that any assets held in such account, plan, or contract shall pass in accordance with such designation, and (c) regardless of anything herein to the contrary, any of such assets which would otherwise pass pursuant to this trust due to the beneficiary designation not having met the requirements for a valid testamentary disposition under applicable law or otherwise shall be paid as a gift made hereunder to the persons and in the manner provided in such designation which is incorporated herein by this reference.

K. Release of Medical Information.

1. **Disability of Beneficiary.** Upon the written request of a Trustee (with or without the concurrence of co-Trustees) issued to any current income or principal beneficiary (including discretionary beneficiaries and myself if a beneficiary) for whom a determination of Disability is relevant to the administration of a trust hereunder and for whom a Trustee (with or without the concurrence of co-Trustees) desires to make such a determination, such beneficiary shall issue to all Trustees (who shall be identified thereon both by name to the extent known and by class description) a valid authorization under the Health Insurance Portability and Accountability Act of 1996 and any other applicable or successor law authorizing all health care providers and all medical sources of such requested beneficiary to release protected health information of the requested beneficiary to all Trustees that is relevant to the determination of the Disability of the requested beneficiary as Disability is defined hereunder. The period of each such valid authorization shall be for six months (or the earlier death of the requested



beneficiary). If such beneficiary (or his or her legal representative if such beneficiary is a minor or legally disabled) refuses within thirty days of receipt of the request to provide a valid authorization, or at any time revokes an authorization within its term, the Trustee shall treat such beneficiary as Disabled hereunder until such valid authorization is delivered.

2. Disability of Trustee. Upon the request to a Trustee that is an individual by (a) a co-Trustee, or if none, (b) the person or entity next designated to serve as a successor Trustee not under legal incapacity, or if none, (c) any adult current income or principal beneficiary not under legal incapacity, or in any event and at any time (d) a court of competent jurisdiction, such Trustee shall issue to such person and all persons, courts of competent jurisdiction, and entities (who shall be identified thereon both by name to the extent known and by class description), with authority hereunder to determine such requested Trustee's Disability, a valid authorization under the Health Insurance Portability and Accountability Act of 1996 and any other applicable or successor law authorizing all health care providers and all medical sources of such requested Trustee to release protected health information of the requested Trustee to such persons, courts and entities, that is relevant to the determination of the Disability of the requested Trustee as Disability is defined hereunder. The period of each such valid authorization shall be for six months (or the earlier death or resignation of the requested Trustee). If such requested Trustee refuses within thirty days of receipt of the request to deliver a valid authorization, or at any time revokes an authorization within its term, such requested Trustee shall thereupon be treated as having resigned as Trustee hereunder.

3. Ability to Amend or Revoke. The foregoing provisions of this paragraph shall not constitute a restriction on myself to amend or revoke the terms of this trust instrument under paragraph 1.A hereof, provided I otherwise have legal capacity to do so.

4. Authorization to Issue Certificate. All required authorizations under this paragraph shall include the power of a physician or psychiatrist to issue a written certificate to the appropriate persons or entities as provided in Subparagraph III.E.3 hereof.

ARTICLE IV. FIDUCIARIES

A. Powers of the Trustee. During my life except while I am Disabled, the Trustee shall exercise all powers provided by law and the following powers, other than the power to retain assets, only with my written approval. While I am Disabled and after my death, the Trustee shall exercise said powers without approval, provided that the Trustee shall exercise all powers in a fiduciary capacity.

1. Investments. To sell or exchange at public or private sale and on credit or otherwise, with or without security, and to lease for any term or perpetually, any property, real and personal, at any time forming a part of the trust estate (the "estate"); to grant and exercise options to buy or sell; to invest or reinvest in real or personal property of every kind, description and location; and to receive and retain any such property whether originally a part of any trust herein created or subsequently acquired, even if the Trustee is personally interested in such property, and without liability for any



decline in the value thereof; all without limitation by any statutes or judicial decisions whenever enacted or announced, regulating investments or requiring diversification of investments, it being my intention to give the broadest investment powers and discretion to the Trustee. Any bank, trust company, or other corporate trustee serving hereunder as Trustee is authorized to invest in its own common trust funds.

2. Special Investments. The Trustee is expressly authorized (but not directed) to retain, make, hold, and dispose of investments not regarded as traditional for trusts, including interests or investments in privately held business and investment entities and enterprises, including without limitation stock in closely held corporations, limited partnership interests, joint venture interests, mutual funds, business trust interests, and limited liability company membership interests, notwithstanding (a) any applicable prudent investor rule or variation thereof, (b) common law or statutory diversification requirements (it being my intent that no such duty to diversify shall exist) (c) a lack of current cash flow therefrom, (d) the presence of any risk or speculative elements as compared to other available investments (it being my intent that the Trustee have sole and absolute discretion in determining what constitutes acceptable risk and what constitutes proper investment strategy), (e) lack of a reasonable rate of return, (f) risks to the preservation of principal, (g) violation of a Trustee's duty of impartiality as to different beneficiaries (it being my intent that no such duty exists for this purpose), and (h) similar limitations on investment under this Agreement or under law pertaining to investments that may or should be made by a Trustee (including without limitation the provisions of Fla.Stats. §518.11 and successor provisions thereto that would characterize such investments as forbidden, imprudent, improper or unlawful). The Trustee shall not be responsible to any trust created hereunder or the beneficiaries thereof for any loss resulting from any such authorized investment, including without limitation loss engendered by the higher risk element of that particular entity, investment, or enterprise, the failure to invest in more conservative investments, the failure to diversify trust assets, the prudent investor rule or variant thereof. Notwithstanding any provisions for distributions to beneficiaries hereunder, if the Trustee determines that the future potential investment return from any illiquid or closely held investment asset warrants the retention of that investment asset or that sufficient value could not be obtained from the sale or other disposition of an illiquid or closely held investment asset, the Trustee is authorized to retain that asset and if necessary reduce the distributions to beneficiaries due to lack of sufficient liquid or marketable assets. However, the preceding provisions of this Subparagraph shall not be exercised in a manner as to jeopardize the availability of the estate tax marital deduction for assets passing to or held in the a trust for my surviving spouse or that would otherwise qualify for the estate tax marital deduction but for such provisions, shall not override any express powers hereunder of my surviving spouse to demand conversion of unproductive property to productive property, or reduce any income distributions otherwise required hereunder for a trust held for the benefit of my surviving spouse or a "qualified subchapter S trust" as that term is defined in Code Section 1361(d)(3).

3. Distributions. To make any division or distribution pro rata or non-pro rata, in cash or in kind, and to allocate undivided interests in property and dissimilar property (without regard to its tax basis) to different shares.



4. Management. To manage, develop, improve, partition or change the character of an asset or interest in property at any time; and to make ordinary and extraordinary repairs, replacements, alterations and improvements, structural or otherwise.

5. Borrowing. To borrow money from anyone on commercially reasonable terms, including entities owned in whole or in part by the trust, a Trustee, beneficiaries and other persons who may have a direct or indirect interest in a Trust; and to mortgage, margin, encumber and pledge real and personal property of a trust as security for the payment thereof, without incurring any personal liability thereon and to do so for a term within or extending beyond the terms of the trust and to renew, modify or extend existing borrowing on similar or different terms and with the same or different security without incurring any personal liability; and such borrowing from a Trustee may be with or without interest, and may be secured with a lien on trust assets.

6. Lending. To extend, modify or waive the terms of any obligation, bond or mortgage at any time forming a part of a trust and to foreclose any such mortgage; accept a conveyance of encumbered property, and take title to the property securing it by deed in lieu of foreclosure or otherwise and to satisfy or not satisfy the indebtedness securing said property; to protect or redeem any such property from forfeiture for nonpayment of taxes or other lien; generally, to exercise as to such bond, obligation or mortgage all powers that an absolute owner might exercise; and to loan funds to beneficiaries at commercially reasonable rates, terms and conditions.

7. Abandonment of Property. To abandon any property or asset when it is valueless or so encumbered or in such condition that it is of no benefit to a trust. To abstain from the payment of taxes, liens, rents, assessments, or repairs on such property and/or permit such property to be lost by tax sale, foreclosure or other proceeding or by conveyance for nominal or no consideration to anyone including a charity or by escheat to a state; all without personal liability incurred therefor.

8. Real Property Matters. To subdivide, develop or partition real estate; to purchase or sell real property and to enter into contracts to do the same; to dedicate the same to public use; to make or obtain the location of any plats; to adjust boundaries; to adjust differences in valuations on exchange or partition by giving or receiving consideration; and, to grant easements with or without consideration as the fiduciaries may determine; and to demolish any building, structures, walls and improvements, or to erect new buildings, structures, walls and improvements and to insure against fire and other risks; and to protect and conserve, or to lease, or to encumber, or otherwise to manage and dispose of real property to the extent such power is not otherwise granted herein or otherwise restricted herein.

9. Claims. To enforce, compromise, adjust, arbitrate, release or otherwise settle or pay any claims or demands by or against a trust.

10. Business Entities. To deal with any business entity or enterprise even if a Trustee is or may be a fiduciary of or own interests in said business entity or enterprise, whether operated in the form of a corporation, partnership, business trust, limited liability company, joint venture, sole



proprietorship, or other form (all of which business entities and enterprises are referred to herein as "**Business Entities**"). I vest the Trustee with the following powers and authority in regard to Business Entities:

a. To retain and continue to operate a Business Entity for such period as the Trustee deems advisable;

b. To control, direct and manage the Business Entities. In this connection, the Trustee, in its sole discretion, shall determine the manner and extent of its active participation in the operation and may delegate all or any part of its power to supervise and operate to such person or persons as the Trustee may select, including any associate, partner, officer or employee of the Business Entity;

c. To hire and discharge officers and employees, fix their compensation and define their duties; and similarly to employ, compensate and discharge agents, attorneys, consultants, accountants, and such other representatives as the Trustee may deem appropriate; including the right to employ any beneficiary or fiduciary in any of the foregoing capacities;

d. To invest funds in the Business Entities, to pledge other assets of a trust as security for loans made to the Business Entities, and to lend funds from a trust to the Business Entities;


e. To organize one or more Business Entities under the laws of this or any other state or country and to transfer thereto all or any part of the Business Entities or other property of a trust, and to receive in exchange such stocks, bonds, partnership and member interests, and such other securities or interests as the Trustee may deem advisable;

f. To treat Business Entities as separate from a trust. In a Trustee's accounting to any beneficiary, the Trustee shall only be required to report the earnings and condition of the Business Entities in accordance with standard business accounting practice;

g. To retain in Business Entities such net earnings for working capital and other purposes of the Business Entities as the Trustee may deem advisable in conformity with sound business practice;

h. To sell or liquidate all or any part of the Business Entities at such time and price and upon such terms and conditions (including credit) as the Trustee may determine. My Trustee is specifically authorized and empowered to make such sale to any person, including any partner, officer, or employee of the Business Entities, a fiduciary, or to any beneficiary; and

i. To guaranty the obligations of the Business Entities, or pledge assets of a trust to secure such a guaranty.



11. Principal and Income. To allocate items of income or expense between income and principal as permitted or provided by the laws of the State of Florida but without limiting the availability of the estate tax marital deduction, provided, unless otherwise provided in this instrument, the Trustee shall establish out of income and credit to principal reasonable reserves for depreciation, obsolescence and depletion, determined to be equitable and fair in accordance with some recognized reasonable and preferably uncomplicated trust accounting principle and; provided, further that the Trustee shall not be required to provide a rate of return on unproductive property unless otherwise provided in this instrument.

12. Life Insurance. With respect to any life insurance policies constituting an asset of a trust, to pay premiums; to apply dividends in reduction of such premiums; to borrow against the cash values thereof; to convert such policies into other forms of insurance, including paid-up insurance; to exercise any settlement options provided in any such policies; to receive the proceeds of any policy upon its maturity and to administer such proceeds as a part of the principal of the Trust; and in general, to exercise all other options, benefits, rights and privileges under such policies.

13. Continuing Power. To continue to have or exercise, after the termination of a trust, in whole or in part, and until final distribution thereof, all title, power, discretions, rights and duties conferred or imposed upon the Trustee by law or by this Agreement or during the existence of the trust.

14. Exoneration. To provide for the exoneration of the Trustee from any personal liability on account of any arrangement or contract entered into in a fiduciary capacity.

15. Agreements. To comply with, amend, modify or rescind any agreement made during my lifetime, including those regarding the disposition, management or continuation of any closely held unincorporated business, corporation, partnership or joint venture, and including the power to complete contracts to purchase and sell real estate.

16. Voting. To vote and give proxies, with power of substitution to vote, stocks, bonds and other securities, or not to vote a security.

17. Combination of Shares. To hold the several shares of a trust or several Trusts as a common fund, dividing the income proportionately among them, to assign undivided interests to the several shares or Trusts, and to make joint investments of the funds belonging to them. For such purposes and insofar as may be practicable, the Trustee, to the extent that division of the trust estate is directed hereby, may administer the trust estate physically undivided until actual division thereof becomes necessary to make distributions. The Trustee may hold, manage, invest and account for whole or fractional trust shares as a single estate, making the division thereof by appropriate entries in the books of account only, and may allocate to each whole or fractional trust share its proportionate part of all receipts and expenses; provided, however, this carrying of several Trusts as a single estate shall not defer the vesting in possession of any whole or fractional share of a trust for the beneficiaries thereof at the times specified herein.



18. Reimbursement. To reimburse itself from a trust for reasonable expenses incurred in the administration thereof.

19. Reliance Upon Communication. To rely, in acting under a trust, upon any letter, notice, certificate, report, statement, document or other paper, or upon any telephone, telegraph, cable, wireless or radio message, if believed by the Trustee to be genuine, and to be signed, sealed, acknowledged, presented, sent, delivered or given by or on behalf of the proper person, firm or corporation, without incurring liability for any action or inaction based thereon.

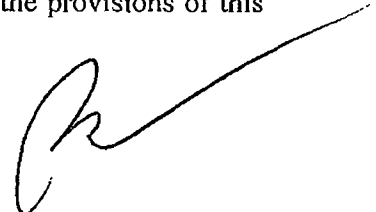
20. Assumptions. To assume, in the absence of written notice to the contrary from the person or persons concerned, that a fact or an event, by reason of which an interest or estate under a trust shall commence or terminate, does not exist or has not occurred, without incurring liability for any action or inaction based upon such assumption.

21. Service as Custodian. To serve as successor custodian for any beneficiary of any gifts that I may have made under any Transfer to Minors Act, if at the time of my death no custodian is named in the instrument creating the gift.

22. Removal of Assets. The Trustee may remove from the domiciliary state during the entire duration of a trust or for such lesser period as it may deem advisable, any cash, securities or other property at any time in its hands whether principal or not, and to take and keep the same outside the domiciliary state and at such place or places within or outside the borders of the United States as it may determine, without in any event being chargeable for any loss or depreciation to the trust which may result therefrom.

23. Change of Situs. The situs and/or applicable law of any trust created hereunder may be transferred to such other place as the Trustee may deem to be for the best interests of the trust estate. In so doing, the Trustee may resign and appoint a successor Trustee, but may remove such successor Trustee so appointed and appoint others. Each successor Trustee may delegate any and all fiduciary powers, discretionary and ministerial, to the appointing Trustee as its agent.

24. Fiduciary Outside Domiciliary State. In the event the Trustee shall not be able and willing to act as Trustee with respect to any property located outside the domiciliary state, the Trustee, without order of court, may appoint another individual or corporation (including any employee or agent of any appointing Trustee) to act as Trustee with respect to such property. Such appointed Trustee shall have all of the powers and discretions with respect to such property as are herein given to the appointing Trustee with respect to the remaining trust assets. The appointing Trustee may remove such appointed Trustee and appoint another upon ten (10) days notice in writing. All income from such property, and if such property is sold, exchanged or otherwise disposed of, the proceeds thereof, shall be remitted to the appointing Trustee, to be held and administered by it as Trustee hereunder. Such appointed Trustee may employ the appointing Trustee as agent in the administration of such property. No surety shall be required on the bond of the Trustee or agent acting under the provisions of this



paragraph. No periodic court accounting shall be required of such appointed Trustee, it being my intention to excuse any statutory accounting which may ordinarily be required.

25. Additions. To receive and accept additions to the Trusts in cash or in kind from donors, executors, administrators, Trustee or attorneys in fact, including additions of my property by the Trustee or others as my attorneys in fact.

26. Title and Possession. To have title to and possession of all real or personal property held in the Trusts, and to register or hold title to such property in its own name or in the name of its nominee, without disclosing its fiduciary capacity, or in bearer form.

27. Dealing with Estates. To use principal of the Trusts to make loans to my estate, with or without interest, and to make purchases from my estate.

28. Agents. To employ persons, including attorneys, auditors, investment advisers, and agents, even if they are the Trustee or associated with the Trustee, to advise or assist the Trustee in the performance of its administrative duties and to pay compensation and costs incurred in connection with such employment from the assets of the Trust; to act without independent investigation upon their recommendations; and, instead of acting personally, to employ one or more agents to perform any act of administration, whether or not discretionary.

29. Tax Elections. To file tax returns, and to exercise all tax-related elections and options at its discretion, without compensating adjustments or reimbursements between any of the Trusts or any of the trust accounts or any beneficiaries.

B. Resignation. A Trustee may resign with or without cause, by giving no less than 30 days advance written notice, specifying the effective date of such resignation, to its successor Trustee and to the persons required and in the manner provided under Fla.Stats. §§736.0705(1)(a) and 736.0109. As to any required recipient, deficiencies in fulfilling the foregoing resignation requirements may be waived in a writing signed by such recipient. Upon the resignation of a Trustee, such Trustee shall be entitled to reimbursement from the trust for all reasonable expenses incurred in the settlement of accounts and in the transfer of assets to his or her successor.

C. Appointment of Successor Trustee.

1. Appointment. Upon a Trustee's resignation, or if a Trustee becomes Disabled or for any reason ceases to serve as Trustee, I may appoint any person or persons as successor Trustee, and in default of such appointment by me, ROBERT L. SPALLINA and DONALD R. TESCHER shall serve together as successor co-Trustees, or either of them alone as Trustee if either of them is unable to serve. Notwithstanding the foregoing, if a named Trustee is not a U.S. citizen or resident at the time of commencement of his term as Trustee, such Trustee should give due consideration to declining to serve to avoid potential adverse U.S. income tax consequences by reason of the characterization of a trust



hereunder as a foreign trust under the Code, but shall not be construed to have any duty to so decline if such Trustee desires to serve.

2. Specific Trusts. Notwithstanding the preceding provisions of this Subparagraph IV.C, subsequent to my death I specifically appoint the following person or persons as Trustee of the following Trusts under the following described circumstances provided that the foregoing appointments shall apply when and to the extent that no effective appointment is made below:

a. Trustee of Separate Trusts for My Grandchildren. Each grandchild of mine shall serve as co-Trustee with the immediate parent of such grandchild which parent is also a child of mine as to all separate trusts under which such grandchild is the sole current mandatory or discretionary income beneficiary upon attaining the age of twenty-five (25) years, and shall serve as sole Trustee of such trusts upon attaining the age of thirty-five (35) years. While serving alone as Trustee, a grandchild of mine may designate a co-Trustee that is not a Related or Subordinate Party to serve with such grandchild and such grandchild may remove and/or replace such co-Trustee with another that is not a Related or Subordinate Party from time to time.

b. Trustee of Separate Trusts for My Lineal Descendants Other Than My Grandchildren. In regard to a separate trust held for a lineal descendant of mine other than a grandchild of mine which lineal descendant is the sole current mandatory or discretionary income beneficiary, each such lineal descendant shall serve as co-Trustee, or sole Trustee if the preceding described Trustees cease or are unable to serve or to continue to serve, of his or her separate trust upon attaining age twenty-five (25) years. While serving alone as Trustee, a lineal descendant of mine other than a grandchild of mine may designate a co-Trustee to serve with such lineal descendant and such lineal descendant may remove and/or replace such co-Trustee with another from time to time.

3. Successor Trustees Not Provided For. Whenever a successor Trustee or co-Trustee is required and no successor or other functioning mechanism for succession is provided for under the terms of this Trust Agreement, the last serving Trustee or the last person or entity designated to serve as Trustee of the applicable trust may appoint his or her successor, and if none is so appointed, the following persons shall appoint a successor Trustee (who may be one of the persons making the appointment):

- a. The remaining Trustees, if any; otherwise,
- b. A majority of the permissible current mandatory or discretionary income beneficiaries, including the natural or legal guardians of any beneficiaries who are Disabled.

A successor Trustee appointed under this subparagraph shall not be a Related or Subordinate Party of the trust. The appointment will be by a written document executed by such person in the presence of two witnesses and acknowledged before a notary public delivered to the appointed Trustee and to me if I am living and not Disabled or in a valid last Will. Notwithstanding the foregoing, a designation under this Subparagraph of a successor trustee to a corporate or entity trustee shall be limited to a corporate or



entity trustee authorized to serve as such under Florida law with assets under trust management of no less than one billion dollars.

4. Power to Remove Trustee. Subsequent to my death, the age 35 or older permissible current mandatory or discretionary income beneficiaries from time to time of any trust established hereunder shall have the power to unanimously remove a Trustee of such trust at any time with or without cause, other than a named Trustee or successor Trustee designated hereunder, or a Trustee appointed by me during my lifetime or under my Will or otherwise at the time of my death, with the successor Trustee to be determined in accordance with the foregoing provisions.

D. Method of Appointment of Trustee. Any such appointment of a successor Trustee by a person shall be made in a written instrument executed by such person in the presence of two witnesses and acknowledged before a notary public which is delivered to such appointed Trustee during the lifetime of the person making such appointment, or any such appointment of a successor Trustee by a person may be made under the last Will of such person.

E. Limitations on Removal and Replacement Power. Any power to remove and/or replace a trustee hereunder that is granted to an individual (including such power when reserved to me) is personal to that individual and may not be exercised by a guardian, power of attorney holder, or other legal representative or agent.

F. Successor Fiduciaries. No Trustee is responsible for, nor has any duty to inquire into, the administration, acts or omissions of any executor, administrator, Personal Representative, or trustee or attorney-in-fact adding property to these Trusts, or of any predecessor Trustee. Each successor Trustee has all the powers, privileges, immunities, rights and title (without the execution of any instrument of transfer or any other act by any retiring Trustee) and all the duties of all predecessors.

G. Liability and Indemnification of Trustee.

1. Liability in General. No individual Trustee (that is, a Trustee that is not a corporation or other entity) shall be liable for any of his or her actions or failures to act as Trustee, even if the individual Trustee is found by a court to have been negligent or in breach of fiduciary duty, except for liability caused by his or her actions or failures to act done in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries. Each Trustee that is a corporation or other entity will be liable for its actions or failures to act that are negligent or that breach its fiduciary duty, without contribution by any individual Trustee.

2. Indemnification of Trustee. Except in regard to liabilities imposed on a Trustee under Subparagraph IV.G.1, each Trustee shall be held harmless and indemnified from the assets of the trust for any liability, damages, attorney's fees, expenses, and costs incurred as a result of its service as Trustee. A Trustee who ceases to serve for any reason will be entitled to receive reasonable security from the assets of the trust to protect it from liability, and may enforce these provisions for indemnification against the current Trustee or against any assets held in the trust, or if the former Trustee is an individual



and not a corporation or other entity, against any beneficiary to the extent of distributions received by that beneficiary. This indemnification right extends to the estate, personal representatives, legal successors and assigns of a Trustee.

3. Indemnification of Trustee - Additional Provisions. I recognize that if a beneficiary accuses a Trustee of wrongdoing or breach of fiduciary duty, the Trustee may have a conflict of interest that ordinarily would prevent it from paying legal fees and costs from the trust estate to defend itself. I do not want to put a financial burden on any individual named to serve as a Trustee. Just as important, I do not want an individual who has been selected to serve as a Trustee to be reluctant to accept the position, or while serving to be intimidated in the performance of the Trustee's duties because of the threats of lawsuits that might force the Trustee to pay fees and costs from the Trustee's personal resources. For this reason, I deliberately and intentionally waive any such conflict of interest with respect to any individual serving as Trustee so that he or she can hire counsel to defend himself or herself against allegations of wrongdoing or if sued for any reason (whether by a beneficiary or by someone else) and pay all fees and costs for his or her defense from the trust estate until the dispute is resolved. I understand and agree that a court may award, disallow or allocate fees and costs in whole or in part after the dispute is resolved, as provided by law. The Trustee will account for all such fees and costs paid by it as provided by law. This provision shall not apply to any Trustee that is a corporation or other entity.

H. Compensation, Bond. Each Trustee is entitled to be paid reasonable compensation for services rendered in the administration of the trust. Reasonable compensation for a non-individual Trustee will be its published fee schedule in effect when its services are rendered unless otherwise agreed in writing, and except as follows. Any fees paid to a non-individual Trustee for making principal distributions, for termination of the trust, and upon termination of its services must be based solely on the value of its services rendered, not on the value of the trust principal. During my lifetime the Trustee's fees are to be charged wholly against income (to the extent sufficient), unless directed otherwise by me in writing. Each Trustee shall serve without bond.

I. Maintenance of Records. The Trustee shall maintain accurate accounts and records. It shall render annual statements of the receipts and disbursements of income and principal of a trust upon the written request of any adult vested beneficiary of such trust or the guardian of the person of any vested beneficiary and the approval of such beneficiary shall be binding upon all persons then or thereafter interested in such trust as to the matters and transactions shown on such statement. The Trustee may at any time apply for a judicial settlement of any account. No Trustee shall be required to file any statutory or other periodic accountings of the administration of a trust.

J. Interested Trustee. The Trustee may act under this Agreement even if interested in these Trusts in an individual capacity, as a fiduciary of another trust or estate (including my estate) or in any other capacity. The Trustee may in good faith enter into a sale, encumbrance, or other transaction involving the investment or management of trust property for the Trustee's own personal account or which is otherwise affected by a conflict between the Trustee's fiduciary and personal interests, without liability and without being voidable by a beneficiary. The Trustee is specifically authorized to make loans to, to receive loans from, or to sell, purchase or exchange assets in a transaction with (i) the



Trustee's spouse, (ii) the Trustee's children or grandchildren, siblings, parents, or spouses of such persons, (iii) an officer, director, employee, agent, or attorney of the Trustee, or (iv) a corporation, partnership, limited liability company, or other business entity in which the Trustee has a financial interest, provided that in any transaction the trusts hereunder receive fair and adequate consideration in money or money's worth. The Trustee may renounce any interest or expectancy of a trust in, or an opportunity to participate in, specified business opportunities or specified classes or categories of business opportunities that are presented to the Trustee. Such renunciation shall not prohibit the Trustee from participating in the Trustee's individual capacity in such opportunity or expectancy.

K. Third Parties. No one dealing with the Trustee need inquire into its authority or its application of property.

L. Merger of Trusts. If the Trustee is also trustee of a trust established by myself or another person by will or trust agreement, the beneficiaries to whom income and principal may then be paid and then operative terms of which are substantially the same as those of a trust held under this Agreement, the Trustee in its discretion may merge either such trust into the other trust. The Trustee, in exercising its discretion, shall consider economy of administration, convenience to the beneficiaries, tax consequences and any other factor it considers important. If it is later necessary to reestablish the merged trust as separate trusts, it shall be divided proportionately to the value of each trust at the time of merger.

M. Multiple Trustees. If two Trustees are serving at any time, any power or discretion of the Trustees may be exercised only by their joint agreement. Either Trustee may delegate to the other Trustee the authority to act on behalf of both Trustees and to exercise any power held by the Trustees. If more than two Trustees are serving at any time, and unless unanimous agreement is specifically required by the terms of this Trust Agreement, any power or discretion of the Trustees may be exercised only by a majority. The Trustees may delegate to any one or more of themselves the authority to act on behalf of all the Trustees and to exercise any power held by the Trustees. Trustees who consent to the delegation of authority to other Trustees will be liable for the consequences of the actions of those other Trustees as if the consenting Trustees had joined the other Trustees in performing those actions. A dissenting Trustee who did not consent to the delegation of authority to another Trustee and who has not joined in the exercise of a power or discretion cannot be held liable for the consequences of the exercise. A dissenting Trustee who joins only at the direction of the majority will not be liable for the consequences of the exercise if the dissent is expressed in writing delivered to any of the other Trustees before the exercise of that power or discretion.

ARTICLE V. ADDITIONAL TAX AND RELATED MATTERS

A. GST Trusts. I direct (a) that the Trustee shall divide any trust to which there is allocated any GST exemption into two separate Trusts (each subject to the provisions hereof) so that the generation-skipping tax inclusion ratio of one such trust is zero, (b) any property exempt from generation-skipping taxation shall be divided as otherwise provided herein and held for the same persons



designated in Trusts separate from any property then also so divided which is not exempt from generation-skipping taxation, and (c) if upon the death of a beneficiary a taxable termination would otherwise occur with respect to any property held in trust for him or her with an inclusion ratio greater than zero, such beneficiary shall have with respect only to such property a power to appoint such fractional share thereof which if included in such beneficiary's gross estate for federal estate tax purposes (without allowing any deduction with respect to such share) would not be taxed at the highest federal estate tax rate and such fractional share of such property shall be distributed to such persons including only such beneficiary's estate, spouse, and issue, as such beneficiary may appoint, and any part of a trust such beneficiary does not effectively appoint shall be treated as otherwise provided for disposition upon his or her death, provided, if upon his or her death two or more Trusts for his or her benefit are directed to be divided among and held or distributed for the same persons and the generation-skipping tax inclusion ratio of any such trust is zero, the amount of any other such Trust to which there is allocated any of such beneficiary's GST exemption shall be added to the Trusts with generation-skipping tax inclusion ratios of zero in equal shares. For purposes of funding any pecuniary payment to which there is allocated any GST exemption, such payment shall be satisfied with cash or property which fairly represents appreciation and depreciation (occurring between the valuation date and the date of distribution) in all of the assets from which such distribution could be made, and any pecuniary payment made before a residual transfer of property to which any GST exemption is allocated shall be satisfied with cash or property which fairly represents appreciation and depreciation (occurring between the valuation date and the date of distribution) in all of the assets from which such pecuniary payment could be satisfied and shall be allocated a pro rata share of income earned by all such assets between the valuation date and the date of payment. Except as otherwise expressly provided herein, the valuation date with respect to any property shall be the date as of which its value is determined for federal estate tax purposes with respect to the transferor thereof, and subject to the foregoing, property distributed in kind in satisfaction of any pecuniary payment shall be selected on the basis of the value of such property on the valuation date. All terms used in this paragraph which are defined or explained in Chapter 13 of the Code or the regulations thereunder shall have the same meaning when used herein. I request (but do not require) that if two or more Trusts are held hereunder for any person, no principal be paid to such person from the Trusts with the lower inclusion ratios for generation-skipping tax purposes unless the trust with the highest inclusion ratio has been exhausted by use, consumption, distribution or otherwise or is not reasonably available. The Trustee is authorized and directed to comply with the provisions of the Treasury Regulations interpreting the generation skipping tax provisions of the Code in severing or combining any trust, creating or combining separate trust shares, allocating GST exemption, or otherwise, as necessary to best accomplish the foregoing allocations, inclusion ratios, combinations, and divisions, including, without limitation, the payment of "appropriate interest" as determined by the Trustee as that term is applied and used in said Regulations.

B. Individual Retirement Accounts. In the event that this trust or any trust created under this Agreement is the beneficiary of an Individual retirement account established and maintained under Code Section 408 or a qualified pension, profit sharing or stock bonus plan established and maintained under Code Section 401 (referred to in this paragraph as "IRA"), the following provisions shall apply to such trust:



1. I intend that the beneficiaries of such trust shall be beneficiaries within the meaning of Code Section 401(a)(9) and the Treasury Regulations thereunder. All provisions of such trust shall be construed consistent with such intent. Accordingly, the following provisions shall apply to such trust:

a. No benefits from any IRA may be used or applied for the payment of any debts, taxes or other claims against my estate as set forth in the later paragraph captioned "Taxes", unless other assets of this trust are not available for such payment.

b. In the event that a beneficiary of any trust created under this Agreement has a testamentary general power of appointment or a limited power of appointment over all or any portion of any trust established under this Agreement, and if such trust is the beneficiary of any benefits from any IRA, the beneficiary shall not appoint any part of such trust to a charitable organization or to a lineal descendant of mine (or a spouse of a lineal descendant of mine) who is older than the beneficiary whose life expectancy is being used to calculate distributions from such IRA.

2. The Trustee shall deliver a copy of this Agreement to the custodian of any IRA of which this trust or any trust created under this Agreement is the named beneficiary within the time period prescribed Code Section 401(a)(9) and the Treasury Regulations thereunder, along with such additional items required thereunder. If the custodian of the IRA changes after a copy of this Agreement has been provided pursuant to the preceding sentence, the Trustee shall immediately provide a copy of this Agreement to the new custodian. The Trustee shall request each custodian to complete a receipt of the Agreement and shall attach such receipt to this Agreement. The Trustee shall provide a copy of each amendment of this Agreement to the custodian and shall obtain a receipt of such amendment.

C. Gift Transfers Made From Trust During My Lifetime. I direct that all gift transfers made from the trust during my lifetime be treated for all purposes as if the gift property had been first withdrawn by (or distributed to) me and then transferred by me to the donees involved. Thus, in each instance, even where title to the gift property is transferred directly from the name of the trust (or its nominee) into the name of the donee, such transfer shall be treated for all purposes as first a withdrawal by (or distribution of the property to) me followed by a gift transfer of the property to the donee by me as donor, the Trustee making the actual transfer in my behalf acting as my attorney in fact, this paragraph being, to that extent, a power of attorney from me to the Trustee to make such transfer, which power of attorney shall not be affected by my Disability, incompetence, or incapacity.

D. Gifts. If I am Disabled, I authorize the Trustee to make gifts from trust property during my lifetime for estate planning purposes, or to distribute amounts to my legally appointed guardian or to my attorney-in-fact for those purposes, subject to the following limitations:

1. **Recipients.** The gifts may be made only to my lineal descendants or to trusts primarily for their benefit, and in aggregate annual amounts to any one such recipient that do not exceed the exclusion amount provided for under Code Section 2503(b).



2. Trustee Limited. When a person eligible to receive gifts is serving as Trustee, the aggregate of all gifts to that person during the calendar year allowable under the preceding subparagraph 1. shall thereafter not exceed the greater of Five Thousand Dollars (\$5,000), or five percent (5%) of the aggregate value of the trust estate. However, gifts completed prior to a recipient's commencing to serve as Trustee shall not be affected by this limitation.

3. Charitable Pledges. The Trustee may pay any charitable pledges I made while I was not Disabled (even if not yet due).

E. Death Costs. If upon my death the Trustee hold any United States bonds which may be redeemed at par in payment of federal estate tax, the Trustee shall pay the federal estate tax due because of my death up to the amount of the par value of such bonds and interest accrued thereon at the time of payment. The Trustee shall also pay from the trust all of my following death costs, but if there is an acting executor, administrator or Personal Representative of my estate my Trustee shall pay only such amounts of such costs as such executor, administrator or Personal Representative directs:

1. my debts which are allowed as claims against my estate,
2. my funeral expenses without regard to legal limitations,
3. the expenses of administering my estate,
4. the balance of the estate, inheritance and other death taxes (excluding generation-skipping transfer taxes unless arising from direct skips), and interest and penalties thereon, due because of my death with respect to all property whether or not passing under my Will or this Agreement (other than property over which I have a power of appointment granted to me by another person, and qualified terminable interest property which is not held in a trust that was subject to an election under Code Section 2652(a)(3) at or about the time of its funding) and life insurance proceeds on policies insuring my life which proceeds are not held under this trust or my probate estate at or by reason of my death), and
5. any gifts made in my Will or any Codicil thereto.

The Trustee may make any such payment either to my executor, administrator or Personal Representative or directly to the proper party. The Trustee shall not be reimbursed for any such payment, and is not responsible for the correctness or application of the amounts so paid at the direction of my executor, administrator, or Personal Representative. The Trustee shall not pay any of such death costs with any asset which would not otherwise be included in my gross estate for federal or state estate or inheritance tax purposes, or with any asset which otherwise cannot be so used, such as property received under a limited power of appointment which prohibits such use. Further, no payment of any such death costs shall be charged against or paid from the tangible personal property disposed of pursuant to the prior paragraph captioned "Disposition of Tangible Personal Property."



F. Subchapter S Stock. Regardless of anything herein to the contrary, in the event that after my death the principal of a trust includes stock in a corporation for which there is a valid election to be treated under the provisions of Subchapter S of the Code, the income beneficiary of such a trust is a U.S. citizen or U.S. resident for federal income tax purposes, and such trust is not an "electing small business trust" under Code Section 1361(e)(1) in regard to that corporation, the Trustee shall (a) hold such stock as a substantially separate and independent share of such trust within the meaning of Code Section 663(c), which share shall otherwise be subject to all of the terms of this Agreement, (b) distribute all of the income of such share to the one income beneficiary thereof in annual or more frequent installments, (c) upon such beneficiary's death, pay all accrued or undistributed income of such share to the beneficiary's estate, (d) distribute principal from such share during the lifetime of the income beneficiary only to such beneficiary, notwithstanding any powers of appointment granted to any person including the income beneficiary, and (e) otherwise administer such share in a manner that qualifies it as a "qualified Subchapter S trust" as that term is defined in Code Section 1361(d)(3), and shall otherwise manage and administer such share as provided under this Agreement to the extent not inconsistent with the foregoing provisions of this paragraph.

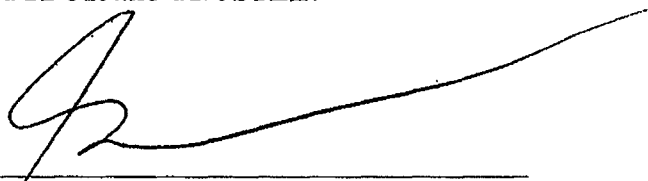
G. Residence as Homestead. I reserve the right to reside upon any real property placed in this trust as my permanent residence during my life, it being the intent of this provision to retain for myself the requisite beneficial interest and possessory right in and to such real property to comply with Section 196.041 of the Florida Statutes such that said beneficial interest and possessory right constitute in all respects "equitable title to real estate" as that term is used in Section 6, Article VII of the Constitution of the State of Florida. Notwithstanding anything contained in this trust to the contrary, for purposes of the homestead exemption under the laws of the State of Florida, my interest in any real property in which I reside pursuant to the provisions of this trust shall be deemed to be an interest in real property and not personalty and shall be deemed my homestead.

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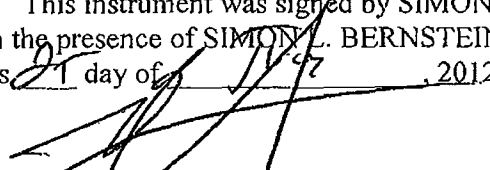


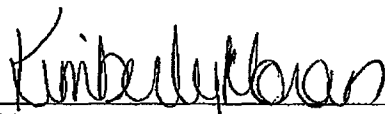
IN WITNESS WHEREOF, the parties hereto have executed this Amended and Restated Trust Agreement on the date first above written.

SETTLOR and TRUSTEE:


SIMON L. BERNSTEIN

This instrument was signed by SIMON L. BERNSTEIN in our presence, and at the request of and in the presence of SIMON L. BERNSTEIN and each other, we subscribe our names as witnesses on this 21 day of July, 2012:


Print Name: **ROBERT L. SPALLINA**
Address: **7387 WISTERIA AVENUE**
PARKLAND, FL 33076

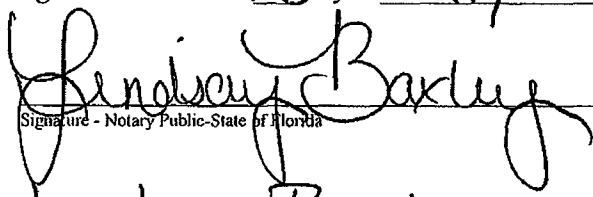

Print Name: **Kimberly Moran**
Address: **6362 Las Flores Drive**
Boca Raton, FL 33433

STATE OF FLORIDA


SS.

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 25 day of July, 2012, by SIMON L. BERNSTEIN.


Signature - Notary Public-State of Florida
Lindsay Baxley
Print, type or stamp name of Notary Public

[Seal with Commission Expiration Date]

NOTARY PUBLIC-STATE OF FLORIDA
 Lindsay Baxley
Commission # EE092282
Expires: MAY 10, 2015
BONDED THRU ATLANTIC BONDING CO., INC.

Personally Known _____ or Produced Identification _____
Type of Identification Produced _____

SHIRLEY BERNSTEIN

TRUST AGREEMENT

Prepared by:

Tescher & Spallina, P.A.
2101 Corporate Blvd., Suite 107, Boca Raton, Florida 33431
(561) 998-7847
www.tescherlaw.com

TESCHER & SPALLINA, P.A.

SHIRLEY BERNSTEIN

TRUST AGREEMENT

This Trust Agreement is dated this 20 day of May, 2008, and is between SHIRLEY BERNSTEIN, of Palm Beach County, Florida referred to in the first person, as settlor, and SHIRLEY BERNSTEIN, of Palm Beach County, and SHIRLEY BERNSTEIN's successors, as trustee (referred to as the "Trustee," which term more particularly refers to all individuals and entities serving as trustee of a trust created hereunder during the time of such service, whether alone or as co-trustees, and whether originally serving or as a successor trustee). Said Trustee acknowledges receipt of the property described in the Attachment to this Agreement, and agrees to hold said property and all additions, in trust, as provided in this Agreement.

ARTICLE I. DURING MY LIFE AND UPON MY DEATH

A. **Rights Reserved.** I reserve the right (a) to add property to this trust during my life or on my death, by my Will or otherwise; (b) to withdraw property held hereunder; and (c) by separate written instrument delivered to the Trustee, to revoke this Agreement in whole or in part and otherwise modify or amend this Agreement. However, after my spouse's death I may not exercise any of said rights with respect to property added by my spouse upon my spouse's death by my spouse's Will or otherwise.

B. **Payments During My Life.** If income producing property is held in the trust during my life, the Trustee shall pay the net income of the trust to me or as I may direct. However, during any periods while I am Disabled, the Trustee shall pay to me or on my behalf such amounts of the net income and principal of the trust as is proper for my Welfare, and also may in its discretion pay to my spouse such amounts of said net income and principal as is proper for his Welfare. Any income not so paid shall be added to principal.

C. **Gifts.** If I am Disabled, I authorize the Trustee to make gifts from trust property during my lifetime for estate planning purposes, or to distribute amounts to my legally appointed guardian or to my attorney-in-fact for those purposes, subject to the following limitations:

1. **Recipients.** The gifts may be made only to my spouse and my lineal descendants or to trusts primarily for their benefit, and in aggregate annual amounts to any one such recipient that do not exceed the exclusion amount provided for under Code Section 2503(b).

2. **Trustee Limited.** When a person eligible to receive gifts is serving as Trustee, the aggregate of all gifts to that person during the calendar year allowable under the preceding subparagraph 1. shall thereafter not exceed the greater of Five Thousand Dollars (\$5,000), or five percent

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(5%) of the aggregate value of the trust estate. However, gifts completed prior to a recipient's commencing to serve as Trustee shall not be affected by this limitation.

3. Charitable Pledges. The Trustee may pay any charitable pledges I made while I was not Disabled (even if not yet due).

D. Upon My Death. Upon my death the Trustee shall collect and add to the trust all amounts due to the trust under any insurance policy on my life or under any death benefit plan and all property added to the trust by my Will or otherwise. After paying or providing for the payment from the augmented trust of all current charges and any amounts payable under the later paragraph captioned "Death Costs," the Trustee shall hold the trust according to the following provisions.

ARTICLE II. AFTER MY DEATH

A. Disposition of Tangible Personal Property. If any non-business tangible personal property other than cash (including, but not limited to, my personal effects, jewelry, collections, household furnishings, and equipment, and automobiles) is held in the trust at the time of my death, such items shall be promptly distributed by the Trustee of the trust to such person or persons, including my estate, as to the item or items or proportion specified, as I may appoint, and to the extent that any such items are not disposed of by such appointment, such items shall be disposed of by the Trustee of the trust in exactly the same manner as such items would have been disposed of under the terms and provisions of my Will (including any Codicil thereto, or what the Trustee in good faith believes to be such Will and Codicil) had such items been included in my probate estate. Any such items which are not effectively disposed of pursuant to the preceding sentence shall pass with the other trust assets.

B. Specific Cash Devise. The Trustee shall set aside in a separate trust the sum of Two Hundred Thousand (\$200,000.00) Dollars for MATTHEW LOGAN, and said separate trust shall be administered as provided in Subparagraph II.F below. If MATTHEW LOGAN does not survive me this devise shall lapse.

C. Marital Deduction Gift. If my spouse survives me:

1. Family Trust. The Trustee shall hold as a separate "*Family Trust*" (i) all property of the trust estate as to which a federal estate tax marital deduction would not be allowed if it were distributed outright to my spouse, and (ii) after giving effect to (i), the largest pecuniary amount which will not result in or increase any federal or state death tax otherwise payable by reason of my death. In determining the pecuniary amount the Trustee shall assume that none of this Family Trust qualifies for a federal estate tax deduction, and shall assume that all of the Marital Trust hereinafter established (including any part thereof disclaimed by my spouse) qualifies for the federal estate tax marital deduction. I recognize that the pecuniary amount may be reduced by certain state death taxes and administration expenses which are not deducted for federal estate tax purposes.

2. Marital Trust. The balance of the trust remaining after the establishment of the Family Trust shall be held as a separate "**Marital Trust**."

3. Disclaimer. Any part of the Marital Trust my spouse disclaims shall be added to the Family Trust. My spouse shall not be deemed to have predeceased me for purposes of such addition. I suggest that my spouse or my spouse's fiduciaries consider an appropriate partial disclaimer to minimize the death taxes due upon both of our deaths.

If my spouse does not survive me, the entire trust shall be held as the Family Trust without regard to the provisions of Subparagraph II.B.1 describing or limiting which assets shall be held thereunder.

D. During Spouse's Life. Commencing with the date of my death the Trustee shall,

1. Marital Trust. Pay to my spouse from the Marital Trust, the net income, and such amounts of principal as is proper for my spouse's Welfare; and

2. Family Trust. Pay to my spouse from the Family Trust, the net income, and such amounts of principal as is proper for my spouse's Welfare. I request (but do not require) that no principal be paid to my spouse from the Family Trust for my spouse's Welfare unless the Marital Trust has been exhausted by use, consumption, distribution, or otherwise or is not reasonably available.

E. Disposition of Trusts Upon Death of Survivor of My Spouse and Me. Upon the death of the survivor of my spouse and me,

1. Limited Power. My spouse (if my spouse survives me) may appoint the Marital Trust and Family Trust (except any part added by disclaimer from the Marital Trust and proceeds of insurance policies on my spouse's life) to or for the benefit of one or more of my lineal descendants and their spouses;

2. Disposition of Balance. Any parts of the Marital Trust and the Family Trust my spouse does not or cannot effectively appoint (including any additions upon my spouse's death), or all of the Family Trust if my spouse did not survive me, shall be divided among and held in separate Trusts for my lineal descendants then living, *per stirpes*. Any assets allocated under this Subparagraph II.D. to my children (as that term is defined under this Trust), shall be distributed to the then serving Trustees of each of their respective Family Trusts, established by my spouse as grantor on even date herewith (the "**Family Trusts**" which term includes any successor trust thereto), to be held and administered as provided under said Trusts. The provisions of the Family Trusts are incorporated herein by reference, and if any of the Family Trusts are not then in existence and it is necessary to accomplish the foregoing dispositions, the current Trustee of this Trust is directed to take such action to establish or reconstitute such applicable trust(s), or if the Trustee is unable to do so, said assets shall be held in separate trusts for such lineal descendants and administered as provided in Subparagraph II.E. below. Each of my lineal descendants for whom a separate Trust is held hereunder shall hereinafter be referred to as a "**beneficiary**," with their separate trusts to be administered as provided in Subparagraph II.E. below.

F. Trusts for Beneficiaries. The Trustee shall pay to a beneficiary the net income of such beneficiary's trust. The Trustee shall pay to the beneficiary and the beneficiary's children, such amounts of the principal of such beneficiary's trust as is proper for the Welfare of such individuals. After a beneficiary has reached any one or more of the following birthdays, the beneficiary may withdraw the principal of his or her separate trust at any time or times, not to exceed in the aggregate 1/3 in value after the beneficiary's 25th birthday, 1/2 in value (after deducting any amount previously subject to withdrawal but not actually withdrawn) after the beneficiary's 30th birthday, and the balance after the beneficiary's 35th birthday, provided that the withdrawal powers described in this sentence shall not apply to any child of mine as beneficiary of a separate trust. The value of each trust shall be its value as of the first exercise of each withdrawal right, plus the value of any subsequent addition as of the date of addition. The right of withdrawal shall be a privilege which may be exercised only voluntarily and shall not include an involuntary exercise. If a beneficiary dies with assets remaining in his or her separate trust, upon the beneficiary's death the beneficiary may appoint his or her trust to or for the benefit of one or more of my lineal descendants and their spouses (excluding from said class, however, such beneficiary and such beneficiary's creditors, estate, and creditors of such beneficiary's estate). Any part of his or her trust such beneficiary does not effectively appoint shall upon his or her death be divided among and held in separate Trusts for the following persons:

1. for his or her lineal descendants then living, *per stirpes*; or
2. if he or she leaves no lineal descendant then living, *per stirpes* for the lineal descendants then living of his or her nearest ancestor (among me and my lineal descendants) with a lineal descendant then living who is also a lineal descendant of my spouse.

A trust for a lineal descendant of mine shall be held under this paragraph, or if a trust is then so held, shall be added to such trust.

G. Termination of Small Trust. If at any time after the death of the survivor of my spouse and me in the opinion of the Trustee a separate trust holds assets of a value of less than \$50,000.00 and is too small to justify the expense of its retention, and termination of such trust is in the best interests of its current income beneficiary, the Trustee in its discretion may terminate such trust and pay it to said beneficiary.

H. Contingent Gift. If at any time property of a trust held under this Agreement is not disposed of under the other provisions of this Agreement, it shall be paid, as a gift made hereunder, to such persons and in such shares as such property would be distributed if my spouse and I had each then owned one-half of such property and had each then died solvent, unmarried and intestate domiciled in the State of Florida, according to the laws of inheritance of the State of Florida then in effect.

I. Protective Provision. No beneficiary of any trust herein created shall have any right or power to anticipate, transfer, pledge, sell, alienate, assign or encumber in any way his or her interest in the income or principal of such trust. Furthermore, no creditor shall have the right to attach, lien, seize or levy upon the interest of a beneficiary in this trust (other than myself) and such interest shall not be

liable for or subject to the debts, liabilities or obligations of any such beneficiary or any claims against such beneficiary (whether voluntarily or involuntarily created), and the Trustee shall pay directly to or for the use or benefit of such beneficiary all income and principal to which such beneficiary is entitled, notwithstanding that such beneficiary has executed a pledge, assignment, encumbrance or in any other manner alienated or transferred his or her beneficial interest in the trust to another. This paragraph shall not preclude the effective exercise of any power of appointment granted herein or the exercise of any disclaimer.

J. Maximum Duration. Regardless of anything in this Agreement to the contrary, no trust interest herein created shall continue beyond three hundred sixty (360) years as provided in F.S. § 689.225(2)(a)(2), nor shall any power of appointment be exercised in such manner so as to delay vesting of any trust beyond such period. Immediately prior to the expiration of such period, all such trusts then in existence shall terminate, and the assets thereof shall be distributed outright and in fee to then beneficiaries of the current income and in the proportions in which such persons are the beneficiaries, and if such proportions cannot be ascertained, then equally among such beneficiaries.

K. Florida Homestead Possessory Rights. Notwithstanding anything herein to the contrary, if any portion of any Florida improved residential real estate (excluding commercial multi-unit rental property) is an asset of the Marital Trust, my spouse shall have the exclusive and continuous present right to full use, occupancy and possession of such real estate for life. It is my intention that my spouse's interest in such property shall constitute a "beneficial interest for life" and "equitable title to real estate" as contemplated by Section 196.041(2) of Florida Statutes, as amended from time to time or any corresponding provision of law.

ARTICLE III. GENERAL

A. Disability. Subject to the following Subparagraph captioned "Subchapter S Stock," while any beneficiary (other than my spouse as beneficiary of the Marital Trust) is Disabled, the Trustee shall pay to him or her only such portion of the income to which he or she is otherwise entitled as is proper for his or her Welfare, and any income not so paid shall be added to the principal from which derived. While any beneficiary is Disabled, income or principal payable to him or her may, in the discretion of the Trustee, be paid directly to him or her, without the intervention of a guardian, directly to his or her creditors or others for his or her sole benefit or to an adult person or an eligible institution (including the Trustee) selected by the Trustee as custodian for a minor beneficiary under the Uniform Transfers to Minors Act or similar law. The receipt of such payee is a complete release to the Trustee.

B. Timing of Income Distributions. The Trustee shall make required payments of income at least quarterly.

C. Substance Abuse.



1. In General. If the Trustee reasonably believes that a beneficiary (other than myself) of any trust:

a. routinely or frequently uses or consumes any illegal substance so as to be physically or psychologically dependent upon that substance, or

b. is clinically dependent upon the use or consumption of alcohol or any other legal drug or chemical substance that is not prescribed by a board certified medical doctor or psychiatrist in a current program of treatment supervised by such doctor or psychiatrist,

and if the Trustee reasonably believes that as a result the beneficiary is unable to care for himself or herself, or is unable to manage his or her financial affairs, all mandatory distributions (including distributions upon termination of the trust) to the beneficiary, all of the beneficiary's withdrawal rights, and all of the beneficiary's rights to participate in decisions concerning the removal and appointment of Trustees will be suspended (excluding, however, mandatory income rights under the Marital Trust). In that event, the following provisions of this Subparagraph III.C will apply.

2. Testing. The Trustee may request the beneficiary to submit to one or more examinations (including laboratory tests of bodily fluids) determined to be appropriate by a board certified medical doctor and to consent to full disclosure to the Trustee of the results of all such examinations. The Trustee shall maintain strict confidentiality of those results and shall not disclose those results to any person other than the beneficiary without the prior written permission of the beneficiary. The Trustee may totally or partially suspend all distributions otherwise required or permitted to be made to that beneficiary until the beneficiary consents to the examination and disclosure to the Trustee.

3. Treatment. If, in the opinion of the examining doctor, the examination indicates current or recent use of a drug or substance as described above, the examining doctor will determine an appropriate method of treatment for the beneficiary (for example, counseling or treatment on an in-patient basis in a rehabilitation facility) that is acceptable to the Trustee. If the beneficiary consents to the treatment, the Trustee shall pay the costs of treatment directly to the provider of those services from the distributions suspended under this Subparagraph III.C.

4. Resumption of Distributions. The Trustee may resume other distributions to the beneficiary (and the beneficiary's other suspended rights will be restored) when, in the case of use or consumption of an illegal substance, examinations indicate no such use for 12 months and, in all cases, when the Trustee in its discretion determines that the beneficiary is able to care for himself or herself and is able to manage his or her financial affairs.

5. Disposition of Suspended Amounts. When other distributions to the beneficiary are resumed, the remaining balance, if any, of distributions that were suspended may be distributed to the beneficiary at that time. If the beneficiary dies before distribution of those suspended amounts, the Trustee shall distribute the balance of the suspended amounts to the persons who would be the alternate

takers of that beneficiary's share (or takers through the exercise of a power of appointment) as otherwise provided in this Trust Agreement.

6. Exoneration. No Trustee (or any doctor retained by the Trustee) will be responsible or liable to anyone for a beneficiary's actions or welfare. The Trustee has no duty to inquire whether a beneficiary uses drugs or other substances as described in this Subparagraph III.C. The Trustee (and any doctor retained by the Trustee) is to be indemnified from the trust estate and held harmless from any liability of any nature in exercising its judgment and authority under this Subparagraph III.C., including any failure to request a beneficiary to submit to medical examination, and including a decision to distribute suspended amounts to a beneficiary.

7. Tax Savings Provision. Despite the provisions of this Subparagraph III.C., the Trustee cannot suspend any mandatory distributions or withdrawal rights that are required for that trust to become or remain a Qualified Subchapter S Trust (unless the Trustee elects for the trust to be an Electing Small Business Trust), or to qualify for any federal transfer tax exemption, deduction, or exclusion allowable with respect to that trust.

D. Income on Death of Beneficiary. Subject to the later paragraph captioned "Subchapter S Stock," and except as otherwise explicitly provided herein, upon the death of any beneficiary, all accrued or undistributed income of such deceased beneficiary's trust shall pass with the principal of his or her trust but shall remain income for trust accounting purposes.

E. Definitions. In this Agreement,

1. Children, Lineal Descendants. The terms "*child*," "*children*" and "*lineal descendant*" mean only persons whose relationship to the ancestor designated is created entirely by or through (a) legitimate births occurring during the marriage of the joint biological parents to each other, (b) children and their lineal descendants arising from surrogate births and/or third party donors when (i) the child is raised from or near the time of birth by a married couple (other than a same sex married couple) through the pendency of such marriage, (ii) one of such couple is the designated ancestor, and (iii) to the best knowledge of the Trustee both members of such couple participated in the decision to have such child, and (c) lawful adoptions of minors under the age of twelve years. No such child or lineal descendant loses his or her status as such through adoption by another person. Notwithstanding the foregoing, as I have adequately provided for them during my lifetime, for purposes of the dispositions made under this Trust, my children, TED S. BERNSTEIN ("*TED*") and PAMELA B. SIMON ("*PAM*"), and their respective lineal descendants shall be deemed to have predeceased the survivor of my spouse and me, provided, however, if my children, ELIOT BERNSTEIN, JILL IANTONI and LISA S. FRIEDSTEIN, and their lineal descendants all predecease the survivor of my spouse and me, then TED and PAM, and their respective lineal descendants shall not be deemed to have predeceased me and shall be eligible beneficiaries for purposes of the dispositions made hereunder.

2. Code. "Code" means the Internal Revenue Code of 1986, as amended, and in referring to any particular provision of the Code, includes a reference to any equivalent or successor provision of a successor federal tax law.

3. Disabled. "Disabled" or being under "Disability" means, as to any applicable individual: (1) being under the age of 21 years, (2) having been adjudicated by a court of competent jurisdiction as mentally or physically incompetent or unable to manage his or her own property or personal affairs (or a substantially similar finding under applicable state or national law), or (3) being unable to properly manage his or her personal or financial affairs, or a trust estate hereunder as to a Trustee hereunder, because of a mental or physical impairment (whether temporary or permanent in nature). A written certificate executed by an individual's attending physician or attending psychiatrist confirming that person's impairment will be sufficient evidence of Disability under item (3) above, and all persons may rely conclusively on such a certificate.

4. Education. The term "education" herein means vocational, primary, secondary, preparatory, theological, college and professional education, including post-graduate courses of study, at educational institutions or elsewhere, and expenses relating directly thereto, including tuition, books and supplies, room and board, and travel from and to home during school vacations. It is intended that the Trustee liberally construe and interpret references to "education," so that the beneficiaries entitled to distributions hereunder for education obtain the best possible education commensurate with their abilities and desires.

5. My Spouse. "My spouse" is SIMON L. BERNSTEIN ("SIMON").

6. Needs and Welfare Distributions. Payments to be made for a person's "Needs" means payments for such person's support, health (including lifetime residential or nursing home care), maintenance and education. Payments to be made for a person's "Welfare" means payments for such person's Needs, and as the Trustee determines in its sole discretion also for such person's advancement in life (including assistance in the purchase of a home or establishment or development of any business or professional enterprise which the Trustee believes to be reasonably sound), happiness and general well-being. However, the Trustee, based upon information reasonably available to it, shall make such payments for a person's Needs or Welfare only to the extent such person's income, and funds available from others obligated to supply funds for such purposes (including, without limitation, pursuant to child support orders and agreements), are insufficient in its opinion for such purposes, and shall take into account such person's accustomed manner of living, age, health, marital status and any other factor it considers important. Income or principal to be paid for a person's Needs or Welfare may be paid to such individual or applied by the Trustee directly for the benefit of such person. The Trustee may make a distribution or application authorized for a person's Needs or Welfare even if such distribution or application substantially depletes or exhausts such person's trust, without any duty upon the Trustee to retain it for future use or for other persons who might otherwise benefit from such trust.

7. Per Stirpes. In a division "per stirpes" each generation shall be represented and counted whether or not it has a living member.

8. Related or Subordinate Party. A "Related or Subordinate Party" to a trust describes a beneficiary of the subject trust or a related or subordinate party to a beneficiary of the trust as the terms "related or subordinate party" are defined under Code Section 672(c).

9. Spouse. A person's "spouse" includes only a spouse then married to and living as husband and wife with him or her, or a spouse who was married to and living as husband and wife with him or her at his or her death. The following rules apply to each person who is a beneficiary or a permissible appointee under this Trust Agreement and who is married to a descendant of mine. Such a person will cease to be a beneficiary and will be excluded from the class of permissible appointees upon:

- a. the legal termination of the marriage to my descendant (whether before or after my death), or
- b. the death of my descendant if a dissolution of marriage proceeding was pending when he or she died.

10. Gender, Number. Where appropriate, words of any gender include all genders and the singular and plural are interchangeable.

F. Powers of Appointment. Property subject to a power of appointment shall be paid to, or retained by the Trustee or paid to any trustee under any will or trust agreement for the benefit of, such one or more permissible appointees, in such amounts and proportions, granting such interests, powers and powers of appointment, and upon such conditions including spendthrift provisions as the holder of such power (i) in the case of a power exercisable upon the death of such holder, appoints in his or her will or in a trust agreement revocable by him or her until his or her death, or (ii) in the case of a power exercisable during the life of such holder, appoints in a written instrument signed by such holder, two witnesses and a notary public, but in either case only if such will, trust agreement, or instrument specifically refers to such power.

G. Limitations on Powers of Trustee. Regardless of anything herein to the contrary, no Trustee shall make or participate in making any distribution of income or principal of a trust to or for the benefit of a beneficiary which would directly or indirectly discharge any legal obligation of such Trustee or a donor of such trust (as an individual, and other than myself as donor) to support such beneficiary; and no Trustee (other than myself and other than my spouse as Trustee of the Marital Trust) shall make or participate in making any discretionary distribution of income or principal to or for the benefit of himself or herself other than for his or her Needs, including by reason of a determination to terminate a trust described herein. For example, if a Trustee (other than myself and other than my spouse as Trustee of the Marital Trust) has the power to distribute income or principal to himself or herself for his or her own Welfare, such Trustee (the "restricted Trustee") shall only have the power to make or participate in making a distribution of income or principal to the restricted Trustee for the restricted Trustee's Needs, although any co-Trustee who is not also a restricted Trustee may make or participate in making a distribution of income or principal to the restricted Trustee for such restricted Trustee's Welfare without the participation or consent of said restricted Trustee.

H. Presumption of Survivorship. If my spouse and I die under circumstances which make it difficult or impracticable to determine which one of us survived the other, I direct that my spouse shall be deemed to have survived me for purposes of this Agreement (except in regard to any property passing hereunder that became part of this trust solely by reason of passage to my probate estate or this trust from the probate estate of or a revocable trust established by my spouse in which case the opposite presumption shall apply), notwithstanding any provisions of law which provide for a contrary presumption. If any person other than my spouse shall be required to survive another person in order to take any interest under this Agreement, the former person shall be deemed to have predeceased the latter person, if such persons die under circumstances which make it difficult or impracticable to determine which one died first.

I. Governing Law. This Agreement is governed by the law of the State of Florida.

J. Other Beneficiary Designations. Except as otherwise explicitly and with particularity provided herein, (a) no provision of this trust shall revoke or modify any beneficiary designation of mine made by me and not revoked by me prior to my death under any individual retirement account, other retirement plan or account, or annuity or insurance contract, (b) I hereby reaffirm any such beneficiary designation such that any assets held in such account, plan, or contract shall pass in accordance with such designation, and (c) regardless of anything herein to the contrary, any of such assets which would otherwise pass pursuant to this trust due to the beneficiary designation not having met the requirements for a valid testamentary disposition under applicable law or otherwise shall be paid as a gift made hereunder to the persons and in the manner provided in such designation which is incorporated herein by this reference.

K. Mandatory Notice Required by Florida Law. The trustee of a trust may have duties and responsibilities in addition to those described in the instrument creating the trust. If you have questions, you should obtain legal advice.

L. Release of Medical Information.

1. **Disability of Beneficiary.** Upon the written request of a Trustee (with or without the concurrence of co-Trustees) issued to any current income or principal beneficiary (including discretionary beneficiaries) for whom a determination of Disability is relevant to the administration of a trust hereunder and for whom a Trustee (with or without the concurrence of co-Trustees) desires to make such a determination, such beneficiary shall issue to all Trustees (who shall be identified thereon both by name to the extent known and by class description) a valid authorization under the Health Insurance Portability and Accountability Act of 1996 and any other applicable or successor law authorizing all health care providers and all medical sources of such requested beneficiary to release protected health information of the requested beneficiary to all Trustees that is relevant to the determination of the Disability of the requested beneficiary as Disability is defined hereunder. The period of each such valid authorization shall be for six months (or the earlier death of the requested beneficiary). If such beneficiary (or his or her legal representative if such beneficiary is a minor or legally disabled) refuses within thirty days of receipt of the request to provide a valid authorization, or

at any time revokes an authorization within its term, the Trustee shall treat such beneficiary as Disabled hereunder until such valid authorization is delivered.

2. Disability of Trustee. Upon the request to a Trustee that is an individual by (a) a co-Trustee, or if none, (b) the person or entity next designated to serve as a successor Trustee not under legal incapacity, or if none, (c) any adult current income or principal beneficiary not under legal incapacity, or in any event and at any time (d) a court of competent jurisdiction, such Trustee shall issue to such person and all persons, courts of competent jurisdiction, and entities (who shall be identified thereon both by name to the extent known and by class description), with authority hereunder to determine such requested Trustee's Disability, a valid authorization under the Health Insurance Portability and Accountability Act of 1996 and any other applicable or successor law authorizing all health care providers and all medical sources of such requested Trustee to release protected health information of the requested Trustee to such persons, courts and entities, that is relevant to the determination of the Disability of the requested Trustee as Disability is defined hereunder. The period of each such valid authorization shall be for six months (or the earlier death or resignation of the requested Trustee). If such requested Trustee refuses within thirty days of receipt of the request to deliver a valid authorization, or at any time revokes an authorization within its term, such requested Trustee shall thereupon be treated as having resigned as Trustee hereunder.

3. Authorization to Issue Certificate. All required authorizations under this paragraph shall include the power of a physician or psychiatrist to issue a written certificate to the appropriate persons or entities as provided in Subparagraph III.E.3 hereof.

ARTICLE IV. FIDUCIARIES

A. Powers of the Trustee. During my life except while I am Disabled, the Trustee shall exercise all powers provided by law and the following powers, other than the power to retain assets, only with my written approval. While I am Disabled and after my death, the Trustee shall exercise said powers without approval, provided that the Trustee shall exercise all powers in a fiduciary capacity.

1. Investments. To sell or exchange at public or private sale and on credit or otherwise, with or without security, and to lease for any term or perpetually, any property, real and personal, at any time forming a part of the trust estate (the "*estate*"); to grant and exercise options to buy or sell; to invest or reinvest in real or personal property of every kind, description and location; and to receive and retain any such property whether originally a part of any trust herein created or subsequently acquired, even if the Trustee is personally interested in such property, and without liability for any decline in the value thereof; all without limitation by any statutes or judicial decisions whenever enacted or announced, regulating investments or requiring diversification of investments, it being my intention to give the broadest investment powers and discretion to the Trustee. Any bank, trust company, or other corporate trustee serving hereunder as Trustee is authorized to invest in its own common trust funds.

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2. Special Investments. The Trustee is expressly authorized (but not directed) to retain, make, hold, and dispose of investments not regarded as traditional for trusts, including interests or investments in privately held business and investment entities and enterprises, including without limitation stock in closely held corporations, limited partnership interests, joint venture interests, mutual funds, business trust interests, and limited liability company membership interests, notwithstanding (a) any applicable prudent investor rule or variation thereof, (b) common law or statutory diversification requirements (it being my intent that no such duty to diversify shall exist) (c) a lack of current cash flow therefrom, (d) the presence of any risk or speculative elements as compared to other available investments (it being my intent that the Trustee have sole and absolute discretion in determining what constitutes acceptable risk and what constitutes proper investment strategy), (e) lack of a reasonable rate of return, (f) risks to the preservation of principal, (g) violation of a Trustee's duty of impartiality as to different beneficiaries (it being my intent that no such duty exists for this purpose), and (h) similar limitations on investment under this Agreement or under law pertaining to investments that may or should be made by a Trustee (including without limitation the provisions of Fla.Stats. §518.11 and successor provisions thereto that would characterize such investments as forbidden, imprudent, improper or unlawful). The Trustee shall not be responsible to any trust created hereunder or the beneficiaries thereof for any loss resulting from any such authorized investment, including without limitation loss engendered by the higher risk element of that particular entity, investment, or enterprise, the failure to invest in more conservative investments, the failure to diversify trust assets, the prudent investor rule or variant thereof. Notwithstanding any provisions for distributions to beneficiaries hereunder, if the Trustee determines that the future potential investment return from any illiquid or closely held investment asset warrants the retention of that investment asset or that sufficient value could not be obtained from the sale or other disposition of an illiquid or closely held investment asset, the Trustee is authorized to retain that asset and if necessary reduce the distributions to beneficiaries due to lack of sufficient liquid or marketable assets. However, the preceding provisions of this Subparagraph shall not be exercised in a manner as to jeopardize the availability of the estate tax marital deduction for assets passing to or held in the a trust for my surviving spouse or that would otherwise qualify for the estate tax marital deduction but for such provisions, shall not override any express powers hereunder of my surviving spouse to demand conversion of unproductive property to productive property, or reduce any income distributions otherwise required hereunder for a trust held for the benefit of my surviving spouse or a "qualified subchapter S trust" as that term is defined in Code Section 1361(d)(3).

3. Distributions. To make any division or distribution pro rata or non-pro rata, in cash or in kind, and to allocate undivided interests in property and dissimilar property (without regard to its tax basis) to different shares.

4. Management. To manage, develop, improve, partition or change the character of an asset or interest in property at any time; and to make ordinary and extraordinary repairs, replacements, alterations and improvements, structural or otherwise.

5. Borrowing. To borrow money from anyone on commercially reasonable terms, including entities owned in whole or in part by the trust, a Trustee, beneficiaries and other persons who may have a direct or indirect interest in a Trust; and to mortgage, margin, encumber and pledge real and

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personal property of a trust as security for the payment thereof, without incurring any personal liability thereon and to do so for a term within or extending beyond the terms of the trust and to renew, modify or extend existing borrowing on similar or different terms and with the same or different security without incurring any personal liability; and such borrowing from a Trustee may be with or without interest, and may be secured with a lien on trust assets.

6. Lending. To extend, modify or waive the terms of any obligation, bond or mortgage at any time forming a part of a trust and to foreclose any such mortgage; accept a conveyance of encumbered property, and take title to the property securing it by deed in lieu of foreclosure or otherwise and to satisfy or not satisfy the indebtedness securing said property; to protect or redeem any such property from forfeiture for nonpayment of taxes or other lien; generally, to exercise as to such bond, obligation or mortgage all powers that an absolute owner might exercise; and to loan funds to beneficiaries at commercially reasonable rates, terms and conditions.

7. Abandonment of Property. To abandon any property or asset when it is valueless or so encumbered or in such condition that it is of no benefit to a trust. To abstain from the payment of taxes, liens, rents, assessments, or repairs on such property and/or permit such property to be lost by tax sale, foreclosure or other proceeding or by conveyance for nominal or no consideration to anyone including a charity or by escheat to a state; all without personal liability incurred therefor.

8. Real Property Matters. To subdivide, develop or partition real estate; to purchase or sell real property and to enter into contracts to do the same; to dedicate the same to public use; to make or obtain the location of any plats; to adjust boundaries; to adjust differences in valuations on exchange or partition by giving or receiving consideration; and, to grant easements with or without consideration as the fiduciaries may determine; and to demolish any building, structures, walls and improvements, or to erect new buildings, structures, walls and improvements and to insure against fire and other risks; and to protect and conserve, or to lease, or to encumber, or otherwise to manage and dispose of real property to the extent such power is not otherwise granted herein or otherwise restricted herein.

9. Claims. To enforce, compromise, adjust, arbitrate, release or otherwise settle or pay any claims or demands by or against a trust.

10. Business Entities. To deal with any business entity or enterprise even if a Trustee is or may be a fiduciary of or own interests in said business entity or enterprise, whether operated in the form of a corporation, partnership, business trust, limited liability company, joint venture, sole proprietorship, or other form (all of which business entities and enterprises are referred to herein as "**Business Entities**"). I vest the Trustee with the following powers and authority in regard to Business Entities:

a. To retain and continue to operate a Business Entity for such period as the Trustee deems advisable;

b. To control, direct and manage the Business Entities. In this connection, the Trustee, in its sole discretion, shall determine the manner and extent of its active participation in the operation and may delegate all or any part of its power to supervise and operate to such person or persons as the Trustee may select, including any associate, partner, officer or employee of the Business Entity;

c. To hire and discharge officers and employees, fix their compensation and define their duties; and similarly to employ, compensate and discharge agents, attorneys, consultants, accountants, and such other representatives as the Trustee may deem appropriate; including the right to employ any beneficiary or fiduciary in any of the foregoing capacities;

d. To invest funds in the Business Entities, to pledge other assets of a trust as security for loans made to the Business Entities, and to lend funds from a trust to the Business Entities;

e. To organize one or more Business Entities under the laws of this or any other state or country and to transfer thereto all or any part of the Business Entities or other property of a trust, and to receive in exchange such stocks, bonds, partnership and member interests, and such other securities or interests as the Trustee may deem advisable;

f. To treat Business Entities as separate from a trust. In a Trustee's accounting to any beneficiary, the Trustee shall only be required to report the earnings and condition of the Business Entities in accordance with standard business accounting practice;

g. To retain in Business Entities such net earnings for working capital and other purposes of the Business Entities as the Trustee may deem advisable in conformity with sound business practice;

h. To sell or liquidate all or any part of the Business Entities at such time and price and upon such terms and conditions (including credit) as the Trustee may determine. My Trustee is specifically authorized and empowered to make such sale to any person, including any partner, officer, or employee of the Business Entities, a fiduciary, or to any beneficiary; and

i. To guaranty the obligations of the Business Entities, or pledge assets of a trust to secure such a guaranty.

11. Principal and Income. To allocate items of income or expense between income and principal as permitted or provided by the laws of the State of Florida but without limiting the availability of the estate tax marital deduction, provided that the Trustee shall not be required to provide a rate of return on unproductive property unless otherwise provided in this instrument.

12. Life Insurance. With respect to any life insurance policies constituting an asset of a trust, to pay premiums; to apply dividends in reduction of such premiums; to borrow against the cash values thereof; to convert such policies into other forms of insurance, including paid-up insurance; to

exercise any settlement options provided in any such policies; to receive the proceeds of any policy upon its maturity and to administer such proceeds as a part of the principal of the Trust; and in general, to exercise all other options, benefits, rights and privileges under such policies.

13. Continuing Power. To continue to have or exercise, after the termination of a trust, in whole or in part, and until final distribution thereof, all title, power, discretions, rights and duties conferred or imposed upon the Trustee by law or by this Agreement or during the existence of the trust.

14. Exoneration. To provide for the exoneration of the Trustee from any personal liability on account of any arrangement or contract entered into in a fiduciary capacity.

15. Agreements. To comply with, amend, modify or rescind any agreement made during my lifetime, including those regarding the disposition, management or continuation of any closely held unincorporated business, corporation, partnership or joint venture, and including the power to complete contracts to purchase and sell real estate.

16. Voting. To vote and give proxies, with power of substitution to vote, stocks, bonds and other securities, or not to vote a security.

17. Combination of Shares. To hold the several shares of a trust or several Trusts as a common fund, dividing the income proportionately among them, to assign undivided interests to the several shares or Trusts, and to make joint investments of the funds belonging to them. For such purposes and insofar as may be practicable, the Trustee, to the extent that division of the trust estate is directed hereby, may administer the trust estate physically undivided until actual division thereof becomes necessary to make distributions. The Trustee may hold, manage, invest and account for whole or fractional trust shares as a single estate, making the division thereof by appropriate entries in the books of account only, and may allocate to each whole or fractional trust share its proportionate part of all receipts and expenses; provided, however, this carrying of several Trusts as a single estate shall not defer the vesting in possession of any whole or fractional share of a trust for the beneficiaries thereof at the times specified herein.

18. Reimbursement. To reimburse itself from a trust for reasonable expenses incurred in the administration thereof.

19. Reliance Upon Communication. To rely, in acting under a trust, upon any letter, notice, certificate, report, statement, document or other paper, or upon any telephone, telegraph, cable, wireless or radio message, if believed by the Trustee to be genuine, and to be signed, sealed, acknowledged, presented, sent, delivered or given by or on behalf of the proper person, firm or corporation, without incurring liability for any action or inaction based thereon.

20. Assumptions. To assume, in the absence of written notice to the contrary from the person or persons concerned, that a fact or an event, by reason of which an interest or estate under

a trust shall commence or terminate, does not exist or has not occurred, without incurring liability for any action or inaction based upon such assumption.

21. Service as Custodian. To serve as successor custodian for any beneficiary of any gifts that I may have made under any Transfer to Minors Act, if at the time of my death no custodian is named in the instrument creating the gift.

22. Removal of Assets. The Trustee may remove from the domiciliary state during the entire duration of a trust or for such lesser period as it may deem advisable, any cash, securities or other property at any time in its hands whether principal or not, and to take and keep the same outside the domiciliary state and at such place or places within or outside the borders of the United States as it may determine, without in any event being chargeable for any loss or depreciation to the trust which may result therefrom.

23. Change of Situs. The situs and/or applicable law of any trust created hereunder may be transferred to such other place as the Trustee may deem to be for the best interests of the trust estate. In so doing, the Trustee may resign and appoint a successor Trustee, but may remove such successor Trustee so appointed and appoint others. Each successor Trustee may delegate any and all fiduciary powers, discretionary and ministerial, to the appointing Trustee as its agent.

24. Fiduciary Outside Domiciliary State. In the event the Trustee shall not be able and willing to act as Trustee with respect to any property located outside the domiciliary state, the Trustee, without order of court, may appoint another individual or corporation (including any employee or agent of any appointing Trustee) to act as Trustee with respect to such property. Such appointed Trustee shall have all of the powers and discretions with respect to such property as are herein given to the appointing Trustee with respect to the remaining trust assets. The appointing Trustee may remove such appointed Trustee and appoint another upon ten (10) days notice in writing. All income from such property, and if such property is sold, exchanged or otherwise disposed of, the proceeds thereof, shall be remitted to the appointing Trustee, to be held and administered by it as Trustee hereunder. Such appointed Trustee may employ the appointing Trustee as agent in the administration of such property. No surety shall be required on the bond of the Trustee or agent acting under the provisions of this paragraph. No periodic court accounting shall be required of such appointed Trustee, it being my intention to excuse any statutory accounting which may ordinarily be required.

25. Selection of Assets for Marital Trust. The Trustee shall have sole discretion to determine which assets shall be allocated to the Marital Trust; provided, if possible no assets or the proceeds of any assets which do not qualify for the federal estate tax marital deduction shall be allocated to the Marital Trust. To the extent that other assets qualifying for the marital deduction are available, the Trustee shall not allocate to the Marital Trust any assets with respect to which a credit for foreign taxes paid is allowable under the Code, nor any policy of insurance on the life of my spouse. Any allocation of assets among the Family Trust and the Marital Trust shall, with respect to each such trust, be comprised of assets having an aggregate market value at the time of such allocation fairly representative of the net appreciation or depreciation in the value of the property available for such

allocation between the date of valuation for federal estate tax purposes and the date or dates of said allocation and selection.

26. Additions. To receive and accept additions to the Trusts in cash or in kind from donors, executors, administrators, Trustee or attorneys in fact, including additions of my property by the Trustee or others as my attorneys in fact.

27. Title and Possession. To have title to and possession of all real or personal property held in the Trusts, and to register or hold title to such property in its own name or in the name of its nominee, without disclosing its fiduciary capacity, or in bearer form.

28. Dealing with Estates. To use principal of the Trusts to make loans to my estate, with or without interest, and to make purchases from my estate or my spouse's estate.

29. Agents. To employ persons, including attorneys, auditors, investment advisers, and agents, even if they are the Trustee or associated with the Trustee, to advise or assist the Trustee in the performance of its administrative duties and to pay compensation and costs incurred in connection with such employment from the assets of the Trust; to act without independent investigation upon their recommendations; and, instead of acting personally, to employ one or more agents to perform any act of administration, whether or not discretionary.

30. Tax Elections. To file tax returns, and to exercise all tax-related elections and options at its discretion, without compensating adjustments or reimbursements between any of the Trusts or any of the trust accounts or any beneficiaries.

B. Resignation. A Trustee may resign with or without cause, by giving no less than 30 days advance written notice, specifying the effective date of such resignation, to its successor Trustee and to the persons required and in the manner provided under Fla.Stats. §§736.0705(1)(a) and 736.0109. As to any required recipient, deficiencies in fulfilling the foregoing resignation requirements may be waived in a writing signed by such recipient. Upon the resignation of a Trustee, such Trustee shall be entitled to reimbursement from the trust for all reasonable expenses incurred in the settlement of accounts and in the transfer of assets to his or her successor.

C. Appointment of Successor Trustee

1. Appointment. Upon a Trustee's resignation, or if a Trustee becomes Disabled or for any reason ceases to serve as Trustee, I may appoint any person or persons as successor Trustee, and in default of such appointment by me, SIMON and TED, one at a time and successively in that order, shall serve as successor Trustee. Notwithstanding the foregoing, if a named Trustee is not a U.S. citizen or resident at the time of commencement of his term as Trustee, such Trustee should give due consideration to declining to serve to avoid potential adverse U.S. income tax consequences by reason of the characterization of a trust hereunder as a foreign trust under the Code, but shall not be construed to have any duty to so decline if such Trustee desires to serve.

2. Specific Trusts. Notwithstanding the preceding provisions of this Subparagraph IV.C, subsequent to my death I specifically appoint the following person or persons as Trustee of the following Trusts under the following described circumstances:

a. Trustee of the Marital Trust. SIMON and TED, one at a time and successively in that order, shall serve as Trustee of the Marital Trust. While serving as Trustee, my spouse may designate a co-Trustee to serve with my spouse and my spouse may remove and/or replace such co-Trustee from time to time.

b. Trustee of the Family Trust. SIMON and TED, one at a time and successively in that order, shall serve as Trustee of the Family Trust. While serving as Trustee, my spouse may designate a co-Trustee that is not a Related or Subordinate Party to serve with my spouse and my spouse may remove and/or replace such co-Trustee with another that is not a Related or Subordinate Party from time to time.

c. Trustee of Separate Trusts for My Children. Each child of mine shall serve as sole Trustee of his or her separate trust. While serving alone as Trustee, a child of mine may designate a co-Trustee that is not a Related or Subordinate Party to serve with such child and such child may remove and/or replace such co-Trustee with another that is not a Related or Subordinate Party from time to time.

d. Trustee of Separate Trusts for My Lineal Descendants Other Than My Children. In regard to a separate trust held for a lineal descendant of mine other than a child of mine which lineal descendant is the sole current mandatory or discretionary income beneficiary, each such lineal descendant shall serve as co-Trustee, or sole Trustee if the preceding described Trustees cease or are unable to serve or to continue to serve, of his or her separate trust upon reaching age twenty-five (25) years.

e. Trustee of Separate Trust for MATTHEW LOGAN. In regard to a separate trust held MATTHEW LOGAN, his mother, DEBORAH BERNSTEIN ("**DEBORAH**"), shall serve as Trustee until MATTHEW attains age 25 years, at which time he shall serve as a co-Trustee with DEBORAH of such separate trust.

3. Successor Trustees Not Provided For. Whenever a successor Trustee or co-Trustee is required and no successor or other functioning mechanism for succession is provided for under the terms of this Trust Agreement, the last serving Trustee or the last person or entity designated to serve as Trustee of the applicable trust may appoint his or her successor, and if none is so appointed, the following persons shall appoint a successor Trustee (who may be one of the persons making the appointment):

a. The remaining Trustees, if any; otherwise,

b. A majority of the permissible current mandatory or discretionary income beneficiaries, including the natural or legal guardians of any beneficiaries who are Disabled.

A successor Trustee appointed under this subparagraph shall not be a Related or Subordinate Party of the trust. The appointment will be by a written document executed by such person in the presence of two witnesses and acknowledged before a notary public delivered to the appointed Trustee and to me if I am living and not Disabled or in a valid last Will. Notwithstanding the foregoing, a designation under this Subparagraph of a successor trustee to a corporate or entity trustee shall be limited to a corporate or entity trustee authorized to serve as such under Florida law with assets under trust management of no less than one billion dollars.

4. Power to Remove Trustee. Subsequent to my death, the age 25 or older permissible current mandatory or discretionary income beneficiaries from time to time of any trust established hereunder shall have the power to unanimously remove a Trustee of such trust at any time with or without cause, with the successor Trustee to be determined in accordance with the foregoing provisions.

D. Method of Appointment of Trustee. Any such appointment of a successor Trustee by a person shall be made in a written instrument executed by such person in the presence of two witnesses and acknowledged before a notary public which is delivered to such appointed Trustee during the lifetime of the person making such appointment, or any such appointment of a successor Trustee by a person may be made under the last Will of such person.

E. Limitations on Removal and Replacement Power. Any power to remove and/or replace a trustee hereunder that is granted to an individual (including such power when reserved to me) is personal to that individual and may not be exercised by a guardian, power of attorney holder, or other legal representative or agent.

F. Successor Fiduciaries. No Trustee is responsible for, nor has any duty to inquire into, the administration, acts or omissions of any executor, administrator, Personal Representative, or trustee or attorney-in-fact adding property to these Trusts, or of any predecessor Trustee. Each successor Trustee has all the powers, privileges, immunities, rights and title (without the execution of any instrument of transfer or any other act by any retiring Trustee) and all the duties of all predecessors.

G. Liability and Indemnification of Trustee.

I. Liability in General. No individual Trustee (that is, a Trustee that is not a corporation or other entity) shall be liable for any of his or her actions or failures to act as Trustee, even if the individual Trustee is found by a court to have been negligent or in breach of fiduciary duty, except for liability caused by his or her actions or failures to act done in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries. Each Trustee that is a corporation or other entity will be liable for its actions or failures to act that are negligent or that breach its fiduciary duty, without contribution by any individual Trustee.

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2. Indemnification of Trustee. Except in regard to liabilities imposed on a Trustee under Subparagraph IV.G.1, each Trustee shall be held harmless and indemnified from the assets of the trust for any liability, damages, attorney's fees, expenses, and costs incurred as a result of its service as Trustee. A Trustee who ceases to serve for any reason will be entitled to receive reasonable security from the assets of the trust to protect it from liability, and may enforce these provisions for indemnification against the current Trustee or against any assets held in the trust, or if the former Trustee is an individual and not a corporation or other entity, against any beneficiary to the extent of distributions received by that beneficiary. This indemnification right extends to the estate, personal representatives, legal successors and assigns of a Trustee.

3. Indemnification of Trustee - Additional Provisions. I recognize that if a beneficiary accuses a Trustee of wrongdoing or breach of fiduciary duty, the Trustee may have a conflict of interest that ordinarily would prevent it from paying legal fees and costs from the trust estate to defend itself. I do not want to put a financial burden on any individual named to serve as a Trustee. Just as important, I do not want an individual who has been selected to serve as a Trustee to be reluctant to accept the position, or while serving to be intimidated in the performance of the Trustee's duties because of the threats of lawsuits that might force the Trustee to pay fees and costs from the Trustee's personal resources. For this reason, I deliberately and intentionally waive any such conflict of interest with respect to any individual serving as Trustee so that he or she can hire counsel to defend himself or herself against allegations of wrongdoing or if sued for any reason (whether by a beneficiary or by someone else) and pay all fees and costs for his or her defense from the trust estate until the dispute is resolved. I understand and agree that a court may award, disallow or allocate fees and costs in whole or in part after the dispute is resolved, as provided by law. The Trustee will account for all such fees and costs paid by it as provided by law. This provision shall not apply to any Trustee that is a corporation or other entity.

H. Compensation, Bond. Each Trustee is entitled to be paid reasonable compensation for services rendered in the administration of the trust. Reasonable compensation for a non-individual Trustee will be its published fee schedule in effect when its services are rendered unless otherwise agreed in writing, and except as follows. Any fees paid to a non-individual Trustee for making principal distributions, for termination of the trust, and upon termination of its services must be based solely on the value of its services rendered, not on the value of the trust principal. During my lifetime the Trustee's fees are to be charged wholly against income (to the extent sufficient), unless directed otherwise by me in writing. Each Trustee shall serve without bond.

I. Maintenance of Records. The Trustee shall maintain accurate accounts and records. It shall render annual statements of the receipts and disbursements of income and principal of a trust upon the written request of any adult vested beneficiary of such trust or the guardian of the person of any vested beneficiary and the approval of such beneficiary shall be binding upon all persons then or thereafter interested in such trust as to the matters and transactions shown on such statement. The Trustee may at any time apply for a judicial settlement of any account. No Trustee shall be required to file any statutory or other periodic accountings of the administration of a trust.

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J. Interested Trustee. The Trustee may act under this Agreement even if interested in these Trusts in an individual capacity, as a fiduciary of another trust or estate (including my estate) or in any other capacity. The Trustee may in good faith enter into a sale, encumbrance, or other transaction involving the investment or management of trust property for the Trustee's own personal account or which is otherwise affected by a conflict between the Trustee's fiduciary and personal interests, without liability and without being voidable by a beneficiary. The Trustee is specifically authorized to make loans to, to receive loans from, or to sell, purchase or exchange assets in a transaction with (i) the Trustee's spouse, (ii) the Trustee's children or grandchildren, siblings, parents, or spouses of such persons, (iii) an officer, director, employee, agent, or attorney of the Trustee, or (iv) a corporation, partnership, limited liability company, or other business entity in which the Trustee has a financial interest, provided that in any transaction the trusts hereunder receive fair and adequate consideration in money or money's worth. The Trustee may renounce any interest or expectancy of a trust in, or an opportunity to participate in, specified business opportunities or specified classes or categories of business opportunities that are presented to the Trustee. Such renunciation shall not prohibit the Trustee from participating in the Trustee's individual capacity in such opportunity or expectancy.

K. Third Parties. No one dealing with the Trustee need inquire into its authority or its application of property.

L. Merger of Trusts. If the Trustee is also trustee of a trust established by myself or another person by will or trust agreement, the beneficiaries to whom income and principal may then be paid and then operative terms of which are substantially the same as those of a trust held under this Agreement, the Trustee in its discretion may merge either such trust into the other trust. The Trustee, in exercising its discretion, shall consider economy of administration, convenience to the beneficiaries, tax consequences and any other factor it considers important. If it is later necessary to reestablish the merged trust as separate trusts, it shall be divided proportionately to the value of each trust at the time of merger.

M. Multiple Trustees. If two Trustees are serving at any time, any power or discretion of the Trustees may be exercised only by their joint agreement. Either Trustee may delegate to the other Trustee the authority to act on behalf of both Trustees and to exercise any power held by the Trustees. If more than two Trustees are serving at any time, and unless unanimous agreement is specifically required by the terms of this Trust Agreement, any power or discretion of the Trustees may be exercised only by a majority. The Trustees may delegate to any one or more of themselves the authority to act on behalf of all the Trustees and to exercise any power held by the Trustees. Trustees who consent to the delegation of authority to other Trustees will be liable for the consequences of the actions of those other Trustees as if the consenting Trustees had joined the other Trustees in performing those actions. A dissenting Trustee who did not consent to the delegation of authority to another Trustee and who has not joined in the exercise of a power or discretion cannot be held liable for the consequences of the exercise. A dissenting Trustee who joins only at the direction of the majority will not be liable for the consequences of the exercise if the dissent is expressed in writing delivered to any of the other Trustees before the exercise of that power or discretion.

ARTICLE V. ADDITIONAL TAX AND RELATED MATTERS

A. GST Trusts.

1. Family Trust. I direct (a) that the Trustee shall divide any trust other than the Marital Trust to which there is allocated any GST exemption into two separate Trusts (each subject to the provisions of this Trust Agreement relating to the trust that is being divided) so that the generation-skipping tax inclusion ratio of one such trust is zero.

2. Marital Trust. I direct that, if possible, (a) the Trustee shall divide the Marital Trust into two separate Marital Trusts (each subject to the provisions hereof concerning the Marital Trust) so that through allocation of my GST exemption remaining unallocated at my death and not otherwise allocated to transfers occurring at or by reason of my death (including allocations to the Family Trust), if any, the generation-skipping tax inclusion ratio of one such Marital Trust is zero (the GST Marital Trust), (b) my Personal Representative to exercise the election provided by Code Section 2652(a)(3) as to the GST Marital Trust, and (c) that upon the death of my spouse the total amount recoverable by my spouse's estate from the property of the Marital Trusts under Code Section 2207A shall first be recoverable in full from the non-GST Marital Trust to the extent thereof.

3. Misc. I direct that (a) upon the death of the survivor of me and my spouse, any property then directed to be paid or distributed which constitutes a direct skip shall be paid first from property then exempt from generation-skipping taxation (by reason of the allocation of any GST exemption) to the extent thereof, (b) property exempt from generation-skipping taxation (by reason of the allocation of any GST exemption) and not directed to be paid or distributed in a manner which constitutes a direct skip shall be divided and distributed as otherwise provided herein and held for the same persons designated in Trusts separate from any property then also so divided which is not exempt from generation-skipping taxation, and (c) if upon the death of a beneficiary a taxable termination would otherwise occur with respect to any property held in trust for him or her with an inclusion ratio greater than zero, such beneficiary shall have with respect only to such property a power to appoint such fractional share thereof which if included in such beneficiary's gross estate for federal estate tax purposes (without allowing any deduction with respect to such share) would not be taxed at the highest federal estate tax rate and such fractional share of such property shall be distributed to such persons including only such beneficiary's estate, spouse, and lineal descendants, in such estates, interests, and proportions as such beneficiary may, by a will specifically referring to this general power appoint, and any part of a trust such beneficiary does not effectively appoint shall be treated as otherwise provided for disposition upon his or her death, provided, if upon his or her death two or more Trusts for his or her benefit are directed to be divided among and held or distributed for the same persons and the generation-skipping tax inclusion ratio of any such trust is zero, the amount of any other such trust to which there is allocated any of such beneficiary's GST exemption shall be added to the Trusts with generation-skipping tax inclusion ratios of zero in equal shares. I request (but do not require) that if two or more Trusts are held hereunder for any person, no principal be paid to such person from the Trusts with the lower inclusion ratios for generation-skipping tax purposes unless the trust with the highest inclusion ratio has been exhausted by use, consumption, distribution, or otherwise or is not reasonably available.

Notwithstanding any other provision of this Trust Agreement, for purposes of funding any pecuniary payment or trust division to which there is allocated any GST exemption, such payment or trust division allocation shall be satisfied with cash or property which fairly represents appreciation and depreciation (occurring between the valuation date and the date of distribution) in all of the assets from which such distribution or allocation could be made, and any pecuniary payment made before a residual transfer of property to which any GST exemption is allocated shall be satisfied with cash or property which fairly represents appreciation and depreciation (occurring between the valuation date and the date of distribution) in all of the assets from which such pecuniary payment could be satisfied and shall be allocated a pro rata share of income earned by all such assets between the valuation date and the date of payment. In regard to the division or severance of a trust hereunder, including the Marital Trust, such division or severance shall be made in a manner that all resulting trusts are recognized for purposes of Chapter 13 of the Code, including without limitation complying with the requirements of Treas. Regs. §26.2654-1(b). Except as otherwise expressly provided herein, the valuation date with respect to any property shall be the date as of which its value is determined for federal estate tax purposes with respect to the transferor thereof, and subject to the foregoing, property distributed in kind in satisfaction of any pecuniary payment shall be selected on the basis of the value of such property on the valuation date. All terms used in this Article which are defined or explained in Chapter 13 of the Code or the regulations thereunder shall have the same meaning when used herein. The Trustee is authorized and directed to comply with the provisions of the Treasury Regulations interpreting the generation skipping tax provisions of the Code in severing or combining any trust, creating or combining separate trust shares, allocating GST exemption, or otherwise, as necessary to best accomplish the foregoing allocations, inclusion ratios, combinations, and divisions, including, without limitation, the payment of "appropriate interest" as determined by the Trustee as that term is applied and used in said Regulations.

B. Individual Retirement Accounts. In the event that this trust or any trust created under this Agreement is the beneficiary of an Individual retirement account established and maintained under Code Section 408 or a qualified pension, profit sharing or stock bonus plan established and maintained under Code Section 401 (referred to in this paragraph as "IRA"), the following provisions shall apply to such trust:

1. I intend that the beneficiaries of such trust shall be beneficiaries within the meaning of Code Section 401(a)(9) and the Treasury Regulations thereunder. All provisions of such trust shall be construed consistent with such intent. Accordingly, the following provisions shall apply to such trust:

a. No benefits from any IRA may be used or applied for the payment of any debts, taxes or other claims against my estate as set forth in the later paragraph captioned "Taxes", unless other assets of this trust are not available for such payment.

b. In the event that a beneficiary of any trust created under this Agreement has a testamentary general power of appointment or a limited power of appointment over all or any portion of any trust established under this Agreement, and if such trust is the beneficiary of any benefits from any IRA, the beneficiary shall not appoint any part of such trust to a charitable organization or to

a lineal descendant of mine (or a spouse of a lineal descendant of mine) who is older than the beneficiary whose life expectancy is being used to calculate distributions from such IRA.

2. The Trustee shall deliver a copy of this Agreement to the custodian of any IRA of which this trust or any trust created under this Agreement is the named beneficiary within the time period prescribed Code Section 401(a)(9) and the Treasury Regulations thereunder, along with such additional items required thereunder. If the custodian of the IRA changes after a copy of this Agreement has been provided pursuant to the preceding sentence, the Trustee shall immediately provide a copy of this Agreement to the new custodian. The Trustee shall request each custodian to complete a receipt of the Agreement and shall attach such receipt to this Agreement. The Trustee shall provide a copy of each amendment of this Agreement to the custodian and shall obtain a receipt of such amendment.

C. **Gift Transfers Made From Trust During My Lifetime.** I direct that all gift transfers made from the trust during my lifetime be treated for all purposes as if the gift property had been first withdrawn by (or distributed to) me and then transferred by me to the donees involved. Thus, in each instance, even where title to the gift property is transferred directly from the name of the trust (or its nominee) into the name of the donee, such transfer shall be treated for all purposes as first a withdrawal by (or distribution of the property to) me followed by a gift transfer of the property to the donee by me as donor, the Trustee making the actual transfer in my behalf acting as my attorney in fact, this paragraph being, to that extent, a power of attorney from me to the Trustee to make such transfer, which power of attorney shall not be affected by my Disability, incompetence, or incapacity.

D. **Death Costs.** If upon my death the Trustee hold any United States bonds which may be redeemed at par in payment of federal estate tax, the Trustee shall pay the federal estate tax due because of my death up to the amount of the par value of such bonds and interest accrued thereon at the time of payment. The Trustee shall also pay from the trust all of my following death costs, but if there is an acting executor, administrator or Personal Representative of my estate my Trustee shall pay only such amounts of such costs as such executor, administrator or Personal Representative directs:

1. my debts which are allowed as claims against my estate,
2. my funeral expenses without regard to legal limitations,
3. the expenses of administering my estate,
4. the balance of the estate, inheritance and other death taxes (excluding generation-skipping transfer taxes unless arising from direct skips), and interest and penalties thereon, due because of my death with respect to all property whether or not passing under my Will or this Agreement (other than property over which I have a power of appointment granted to me by another person, and qualified terminable interest property which is not held in a trust that was subject to an election under Code Section 2652(a)(3) at or about the time of its funding) and life insurance proceeds on policies insuring my life which proceeds are not held under this trust or my probate estate at or by reason of my death), and

5. any gifts made in my Will or any Codicil thereto.

The Trustee may make any such payment either to my executor, administrator or Personal Representative or directly to the proper party. The Trustee shall not be reimbursed for any such payment, and is not responsible for the correctness or application of the amounts so paid at the direction of my executor, administrator, or Personal Representative. The Trustee shall not pay any of such death costs with any asset which would not otherwise be included in my gross estate for federal or state estate or inheritance tax purposes, or with any asset which otherwise cannot be so used, such as property received under a limited power of appointment which prohibits such use. Further, no payment of any such death costs shall be charged against or paid from the property disposed of pursuant to the prior paragraphs captioned "Disposition of Tangible Personal Property", "Specific Cash Devise" nor from the Marital Trust.

E. Marital Trust. I intend the maximum obtainable reduction of federal estate tax due by reason of my death by use of the federal estate tax marital deduction, and qualification of all property of the Marital Trust for the marital deduction. This Agreement shall be construed and all powers shall be exercised consistent with such intent. For example, the Trustee shall not allocate any receipt to principal or any disbursement to income if such allocation understates the net income of the Marital Trust under Florida law; and upon the written demand of my spouse, the Trustee shall convert unproductive or underproductive property of said trust into productive property within a reasonable time notwithstanding any other provision hereunder. The foregoing notwithstanding, if my spouse survives me but dies within six months after my death, the Marital Trust provided in Subparagraph II.B will be reduced to that amount, if any, required to obtain for my estate an estate tax marital deduction resulting in the lowest combined estate taxes in my estate and my spouse's estate, on the assumption that my spouse died after me on the date of my death, that my spouse's estate is valued on the same date and in the same manner as my estate is valued for federal estate tax purposes, and that elections in my spouse's estate were made that would be consistent with minimizing taxes. The purpose of this provision is to equalize, insofar as possible, our estates for federal estate tax purposes, based on the above assumptions.

F. Subchapter S Stock. Regardless of anything herein to the contrary, in the event that after my death the principal of a trust includes stock in a corporation for which there is a valid election to be treated under the provisions of Subchapter S of the Code, the income beneficiary of such a trust is a U.S. citizen or U.S. resident for federal income tax purposes, and such trust is not an "electing small business trust" under Code Section 1361(e)(1) in regard to that corporation, the Trustee shall (a) hold such stock as a substantially separate and independent share of such trust within the meaning of Code Section 663(c), which share shall otherwise be subject to all of the terms of this Agreement, (b) distribute all of the income of such share to the one income beneficiary thereof in annual or more frequent installments, (c) upon such beneficiary's death, pay all accrued or undistributed income of such share to the beneficiary's estate, (d) distribute principal from such share during the lifetime of the income beneficiary only to such beneficiary, notwithstanding any powers of appointment granted to any person including the income beneficiary, and (e) otherwise administer such share in a manner that qualifies it as a "qualified Subchapter S trust" as that term is defined in Code Section 1361(d)(3), and shall otherwise

manage and administer such share as provided under this Agreement to the extent not inconsistent with the foregoing provisions of this paragraph.

G. Residence as Homestead. Regardless of anything herein to the contrary, while any residential real property located in Florida is owned by a trust, I, or my spouse if I am not then living and such trust is the Marital Trust, shall have the right to use, possess and occupy such residence as a personal residence so that such right shall constitute a possessory right in such real property within the meaning of Florida Statute Section 196.041.

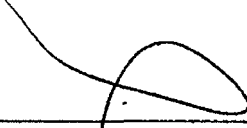
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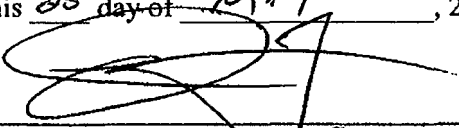
IN WITNESS WHEREOF, the parties hereto have executed this Trust Agreement on the date first above written.

SETTLOR and TRUSTEE:




SHIRLEY BERNSTEIN

This instrument was signed by SHIRLEY BERNSTEIN in our presence, and at the request of and in the presence of SHIRLEY BERNSTEIN and each other, we subscribe our names as witnesses on this 20 day of May, 2008:



Print Name: ROBERT L. SPALLINA
Address: 7387 WISTERIA AVENUE
PARKLAND, FL 33076



Print Name: TRACI KRATISH
Address: 16068 GLENCREST AVENUE
DELRAY BEACH, FL 33446

STATE OF FLORIDA

SS.

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 20 day of May, 2008, by SHIRLEY BERNSTEIN.

NOTARY PUBLIC-STATE OF FLORIDA
Kimberly Moran
Commission #DD766470
Expires: APR. 28, 2012
BONDED THRU ATLANTIC BONDING CO., INC.
[Seal with Commission Expiration Date]



Signature - Notary Public-State of Florida

Print, type or stamp name of Notary Public

Personally Known ✓ or Produced Identification _____
Type of Identification Produced _____

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SHIRLEY BERNSTEIN
TRUST AGREEMENT

-27-

TESCHER & SPALLINA, P.A.

ATTACHMENT

The following property has been delivered in trust under this Agreement:

One Dollar (\$1.00) Cash

During my life, the Trustee has no duty to maintain, invest, review, insure, account for, or any other responsibility with respect to trust property other than income producing property, or any duty to pay premiums on life insurance payable to the trust, and shall receive no fee for its services as Trustee based on any trust property other than income producing property.



SHIRLEY BERNSTEIN, Settlor and Trustee

**FIRST AMENDMENT TO
SHIRLEY BERNSTEIN TRUST AGREEMENT**

This First Amendment is dated this 18 day of Nov, 2008, and is between SHIRLEY BERNSTEIN of Palm Beach County, Florida referred to in the first person, as settlor, and SHIRLEY BERNSTEIN of Palm Beach County, Florida as trustee (referred to as the "**Trustee**," which term more particularly refers to all individuals and entities serving as trustee of a trust created hereunder during the time of such service, whether alone or as co-trustees, and whether originally serving or as a successor trustee).

WHEREAS, on May 20, 2008, I created and funded the SHIRLEY BERNSTEIN TRUST AGREEMENT (the "**Trust Agreement**," which reference includes any subsequent amendments of said trust agreement);

WHEREAS, Paragraph A. of Article I. of said Trust Agreement provides, inter alia, that during my lifetime I shall have the right at any time and from time to time by an instrument, in writing, delivered to the Trustee to amend or revoke the said Trust Agreement, in whole or in part.

NOW THEREFORE, by executing this instrument, I hereby amend the Trust Agreement as follows:

1. I hereby delete Paragraph B. of Article II. in its entirety.
2. I hereby amend the last sentence of Paragraph E. of Article III. to read as follows:

"Notwithstanding the foregoing, as my spouse and I have adequately provided for them during our lifetimes, for purposes of the dispositions made under this Trust, my children, TED S. BERNSTEIN ("**TED**") and PAMELA B. SIMON ("**PAM**"), shall be deemed to have predeceased the survivor of my spouse and me, provided, however, if my children, ELIOT BERNSTEIN, JILL IANTONI and LISA S. FRIEDSTEIN, and their respective lineal descendants all predecease the survivor of my spouse and me, then TED and PAM shall not be deemed to have predeceased the survivor of my spouse and me and shall become eligible beneficiaries for purposes of the dispositions made hereunder."

3. I hereby ratify and reaffirm the Trust Agreement as amended by this First Amendment.

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IN WITNESS WHEREOF, the parties hereto have executed this First Amendment on the date first above written.

SETTLOR and TRUSTEE:

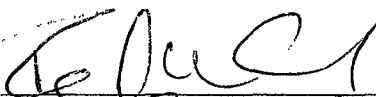


SHIRLEY BERNSTEIN

This instrument was signed by SHIRLEY BERNSTEIN in our presence, and at the request of and in the presence of SHIRLEY BERNSTEIN and each other, we subscribe our names as witnesses on this 18 day of Nov, 2008:



Print Name: **ROBERT L. SPALLINA**
Address: **7387 WISTERIA AVENUE**
PARKLAND, FL 33076



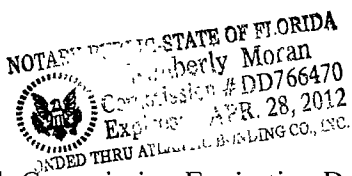
Print Name: Rachel Walker
Address: 100 Plaza Real South
Apt 308
Boca Raton, FL 33432

STATE OF FLORIDA

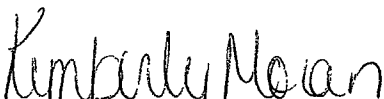
SS.

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 18 day of November, 2008, by SHIRLEY BERNSTEIN.



[Seal with Commission Expiration Date]



Signature - Notary Public - State of Florida

Print, type or stamp name of Notary Public

Personally Known ☒ or Produced Identification _____
Type of Identification Produced _____

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LIMITED LIABILITY COMPANY

OPERATING AGREEMENT

of

BERNSTEIN FAMILY REALTY, LLC

a Florida limited liability company

**OPERATING AGREEMENT OF
BERNSTEIN FAMILY REALTY, LLC**

This Limited Liability Company Agreement (the "Agreement") is made and entered into as of the ____ day of June, 2008, by and among BERNSTEIN FAMILY REALTY, LLC, a Florida limited liability company (the "Company"); STANFORD TRUST COMPANY, Trustee of the DANIEL BERNSTEIN IRREVOCABLE TRUST dated September 7, 2006, STANFORD TRUST COMPANY, Trustee of the JAKE BERNSTEIN IRREVOCABLE TRUST dated September 7, 2006, and STANFORD TRUST COMPANY, Trustee of the JOSHUA Z. BERNSTEIN IRREVOCABLE TRUST dated September 7, 2006, and any subsequent transferee as the Members ("Members"). The Members are herein sometimes referred to individually as a "Member" and collectively as "Members."

WITNESSETH:

WHEREAS, Articles of Organization for **BERNSTEIN FAMILY REALTY, LLC** (the "Company") were filed with the Florida Department of State on June 2, 2008.

WHEREAS, the Members desire to reduce their agreements to writing, to set forth the rights and obligations of the Members and the Manager.

NOW, THEREFORE, the Members and the Company hereby agree as follows:

ARTICLE I

DEFINITIONS

The following terms used in this Agreement shall have the following meanings:

(a) "**Act**" shall mean the Florida Limited Liability Company Act at F.S § 608.401, *et seq* and all amendments to the Act.

(b) "**Articles of Organization**" shall mean the Articles of Organization of **BERNSTEIN FAMILY REALTY, LLC**, as filed with the Department of State of Florida on June 2, 2008, and as may be amended from time to time.

(c) "**Capital Contribution**" shall mean any contribution to the capital of the Company in cash or the fair market value of property by a Member whenever made, net of any liabilities secured by such contributed property.

(d) "**Capital Account**" as of any given date shall mean the Capital Contribution to the Company by a Member as adjusted up to such date pursuant to Article VIII.

(e) "**Code**" shall mean the Internal Revenue Code of 1986 or corresponding provisions of subsequent superseding federal revenue laws.

(f) **"Company"** shall refer to **BERNSTEIN FAMILY REALTY, LLC**, a limited liability company formed under the laws of the State of Florida.

(g) **"Distributable Cash"** shall mean all cash, revenues and funds received by the Company from Company operations, less the sum of the following to the extent paid or set aside by the Company: (i) all principal and interest payments on indebtedness of the Company and all other sums paid to lenders; (ii) all cash expenditures incurred in the normal operation of the Company's business; and (iii) such Reserves as the Managers deem reasonably necessary for the proper operation of the Company's business.

(h) **"Entity"** shall mean any general partnership, limited liability partnership, limited partnership, limited liability limited partnerships, limited liability company, corporation, joint venture, trust, business trust, cooperative, association, foreign trust or foreign business organization.

(i) **"Gifting Member"** shall mean any Member who gifts, bequeaths or otherwise transfers for no consideration (by operation of law or otherwise, except with respect to bankruptcy) all or any part of its Membership Interest.

(j) **"Initial Capital Contribution"** shall mean the initial contribution to the capital of the Company pursuant to this Agreement.

(k) **"Interest"** shall mean "Percentage Interest" unless otherwise specifically agreed or in the case of special allocations.

(l) **"Majority Interest"** shall mean the Interests of Members, which in the aggregate exceed 50% of all Interests.

(m) **"Manager"** shall mean one or more managers designated as such pursuant to this Agreement or by subsequent vote of the Members. References to the Manager in the singular or as him, her, it, itself, or other like references shall also, where the context so requires, be deemed to include the plural or the masculine or feminine reference, as the case may be. Any Person may be named a Manager pursuant to this Agreement.

(n) **"Member"** shall mean each of the parties who executes a counterpart of this Agreement as a Member and each of the parties who may hereafter become Members. To the extent a Manager has purchased a Membership Interest in the Company, he will have all the rights of a Member with respect to such Membership Interest, and the term "Member" as used herein shall include a Manager to the extent he has purchased such Membership Interest in the Company. If a Person is a Member immediately prior to the purchase or other acquisition by such Person of an Transferee Interest, such Person shall have all the rights of a Member with respect to such purchased or otherwise acquired Membership Interest or Transferee Interest, as the case may be.

(o) **"Membership Interest"** shall mean a Member's entire interest in the Company including such Member's Transferee Interest and, the right to participate in the management of the business and affairs of the Company, including the right to vote on, consent to, or otherwise participate in any decision or action of or by the Members granted pursuant to this Agreement and the Act.

(p) **"Net Income"** and **"Net Losses"** shall mean the income, gain, loss, deductions and credits of the Company in the aggregate or separately stated, as appropriate, determined in accordance with sound accounting principles employed under the cash method of accounting at the close of each fiscal year on the Company's tax return filed for federal income tax purposes.

(q) **"Operating Agreement" (or "Agreement")** shall mean this Operating Agreement of **BERNSTEIN FAMILY REALTY, LLC**, as originally executed and as amended from time to time.

(r) **"Percentage Interest"** shall mean, for any Member, the percentage interest that the Capital Account of the Member bears to the total Capital Accounts of all of the Members of the Company, as set forth at Section 9.1 herein, and Exhibit A, as may be changed from time to time by the unanimous vote of the Members.

(s) **"Person"** shall mean any individual or Entity, and the heirs, executors, administrators, legal representatives, successors, and assigns of such "Person" where the context so permits.

(t) **"Reserves"** shall mean funds set aside or amounts allocated to reserves which shall be maintained in amounts reasonably deemed sufficient by the Managers for working capital and to pay taxes, insurance, debt service or other costs or expenses incident to the ownership or operation of the Company's business.

(u) **"Selling Member"** shall mean any Member or Transferee which sells, assigns, pledges, hypothecates or otherwise transfers for consideration all or any portion of its Membership Interest or Transferee Interest.

(v) **"Transferee"** shall be person who has not been admitted by the Company as a Member Partner, but, by virtue of a Transfer of an Interest in the Company to said person, said person is entitled to a pro rata share of one or more of the Company's items of income, losses, credits, and distributions of the Company's assets pursuant to this Agreement and the Act, but said person shall not have, and is not entitled to any right to participate in the management or affairs of the Company, including, the right to vote on, consent to or otherwise participate in any decision of the Members or Manager.

(w) **"Transferring Member"** shall collectively mean a Selling Member and a Gifting Member.

(x) **"Treasury Regulations"** shall include proposed, temporary and final regulations promulgated under the Code.

ARTICLE II

FORMATION OF COMPANY

2.1 *Organization.*

BERNSTEIN FAMILY REALTY, LLC, has been organized as a Florida limited liability company by executing and delivering the Articles of Organization to the Florida Department of State in accordance with and pursuant to the Act.

2.2 *Name.*

The name of the Company is ***BERNSTEIN FAMILY REALTY, LLC***, and all business of the Company shall be conducted under that name unless a majority of the Members agree to the filing and use of a fictitious name.

2.3 *Principal Place of Business.*

The initial principal place of business of the Company shall be 950 Peninsula Corporate Circle, Suite 3010, Boca Raton, Florida 33431. The Company may locate its places of business and registered office at any other place or places as the Manager may deem advisable.

2.4 *Registered Office and Registered Agent.*

The Company's initial registered office shall be at the office of its registered agent in Florida, and the name of its initial registered agent shall be Donald R. Tescher, 2101 Corporate Blvd., Suite 107, Boca Raton, Florida, 33431. The registered office and registered agent may be changed by filing the address of the new registered office and/or the name of the new registered agent with the Florida Department of State pursuant to the Act.

2.5 *Term.*

The term of the Company has filed Articles of Organization with the Florida Department of State, and shall have perpetual existence, unless the Company is earlier dissolved in accordance with either the provisions of this Agreement or the Act.

ARTICLE III

BUSINESS OF COMPANY

The business of the Company shall be to engage in management of investments, and closely-held business or real estate ventures, and such lawful activities as are reasonably necessary or useful to the furtherance of the forgoing purpose (the "Business").

ARTICLE IV

NAMES AND ADDRESSES OF MEMBERS

The names and addresses of the Members are listed on Exhibit A attached hereto and incorporated herein, as amended from time to time.

ARTICLE V

RIGHTS AND DUTIES OF MANAGERS

5.1 *Management.*

5.1.1 General. The business and affairs of the Company shall be managed by its Managers. The Managers shall direct, manage, and control the business of the Company. Except for situations in which the approval of the Members is expressly required by this Agreement or by nonwaivable provisions of the Act, the Managers shall have exclusive, sole, full and complete authority, power and discretion to manage and control the business, affairs and properties of the Company, to make all decisions regarding those matters, and to perform any and all other acts or activities customary or incident to the management of the Company's business. At any time when there is more than one Manager, any one Manager may take any action permitted to be taken by the Managers, unless the approval of more than one of the Managers is expressly required pursuant to this Agreement or the Act. The Managers may create a Board of Directors, and may also appoint individuals with or without titles, including the titles of General Manager, Executive Director, President, Vice President, Treasurer, Secretary, and Assistant Secretary, to act on behalf of the Company with such power and authority as the Managers or Board of Directors may delegate to any such Person.

5.1.2 Initial Managers/Designation of Managers/Voting. The Members agree that the initial Manager of the Company is SIMON BERNSTEIN. Unless otherwise specifically agreed herein, business decisions of the Company shall be made by said Manager. The Members shall vote their Interests such that only the aforementioned person is Manager of the Company for so long as he is alive and not mentally disabled or incompetent. After proper notice, in the event of death or mental disability or incompetence of the Manager, the Members shall vote on and elect a new Manager.

5.2 Certain Powers of Managers.

Without limiting the generality of Section 5.01, the Manager (or, if more than one Manager, then the Managers) shall have power and authority, on behalf of the Company to do the following:

- (a) To acquire or lease property from any Person as the Managers may determine, whether or not such Person is directly or indirectly affiliated or connected with any Manager or Member;
- (b) To borrow money for the Company from banks, other lending institutions, the Managers, Members, or affiliates of the Managers or Members on such terms as the Managers deem appropriate, and in connection therewith, to hypothecate, encumber and grant security interests in the assets of the Company to secure repayment of the borrowed sums. No debt shall be contracted or liability incurred by or on behalf of the Company except by the Managers, or to the extent permitted under the Act, by agents or employees of the Company expressly authorized to contract such debt or incur such liability by the Managers;
- (c) To purchase liability and other insurance to protect the Company's property and business;
- (d) To hold and own Company real and personal properties in the name of the Company;
- (e) To invest Company funds in time deposits, short-term governmental obligations, commercial paper or other investments;

(f) To sell or otherwise dispose of all or substantially all of the assets of the Company as part of a single transaction or plan as long as such disposition is not in violation of or a cause of a default under any other agreement to which the Company may be bound;

(g) To execute on behalf of the Company all instruments and documents, including, without limitation, checks; drafts; notes and other negotiable instruments; mortgages or deeds of trust; security agreements; financing statements; documents providing for the acquisition, mortgage or disposition of the Company's property; assignments, bills of sale; leases; and any other instruments or documents necessary to the business of the Company;

(h) To employ accountants, legal counsel, managing agents or other experts to perform services for the Company;

(i) To enter into any and all other agreements on behalf of the Company, in such forms as the Managers may approve; and

(j) To do and perform all other acts as may be necessary or appropriate to the conduct of the Company's business.

Unless authorized to do so by this Agreement or by the Manager of the Company, no attorney-in-fact, employee or other agent of the Company shall have any power or authority to bind the Company in any way, to pledge its credit or to render it liable for any purpose. No Member shall have any power or authority to bind the Company unless the Member has been authorized by the Manager to act as an agent of the Company in accordance with the previous sentence.

5.3 *Liability for Certain Acts.*

Each Manager shall perform his duties as Manager in good faith, in a manner he or she reasonably believes to be in the best interests of the Company, and with such care as an ordinarily prudent person in a like position would use under similar circumstances. A Manager shall not be liable to the Company or to any Member for any loss or damage sustained by the Company or any Member, unless the loss or damage shall have been the result of fraud, deceit, gross negligence, willful misconduct, unlawful acts, or a wrongful taking by the Manager.

5.4 *No Exclusive Duty to Company.*

A Member or Manager shall not be required to manage the Company as his or her sole and exclusive function and may have other business interests and engage in activities in addition to those relating to the Company. Neither the Company nor any Member shall have any right, by virtue of this Agreement, to share or participate in such other investments or activities of a Manager or to the income or proceeds derived therefrom.

5.5 *Bank Accounts.*

The Manager may from time to time open bank accounts in, the name of the Company, and the Manager shall be the sole signatory thereon, unless Members owning a Majority Interest determine otherwise.

5.6 *Indemnity of the Managers, Employees and Other Agents.*

The Company shall, to the maximum extent permitted under the Act, indemnify and make advances for expenses to Managers, its employees, and other agents.

5.7 *Resignation.*

Any Manager of the Company may resign at any time by giving written notice to the Members of the Company. The resignation of any Manager shall take effect upon receipt of notice thereof or at such later date specified in such notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. The resignation of a Manager who is also a Member shall not affect the Manager's rights as a Member and shall not constitute a withdrawal of a Member.

5.8 *Removal.*

A Manager shall not be subject to removal by vote of the Members except, if at all, pursuant to the provisions of this Agreement, as it may be amended by agreement of all of the Members.

5.9 *Vacancies.*

To the extent not expressly provided for in Section 5.1.2 "Voting Agreement of Members," and only to said extent, if any: Any vacancy occurring for any reason in the number of Managers of the Company may be filled by the affirmative vote of Members holding a majority of the Percentage Interests present at an election at a meeting of Members called for that purpose or by the Members' unanimous written consent. A Manager elected to fill a vacancy shall be elected for the unexpired term of their predecessor in office and shall hold office until the expiration of such term and until their successor shall be elected and qualified or until the Manager's earlier death, resignation or removal. A Manager chosen to fill a position resulting from an increase in the number of Managers shall hold office until his successor shall be elected and qualified, or until his earlier death, resignation or removal.

5.10 *Salaries.*

Each Manager shall receive annual compensation (the "Management Fee") if such compensation is agreed to by a majority of the Percentage Interest of the Members in writing, and shall be entitled to reimbursement of reasonable and necessary expenses advanced on behalf of the Company.

ARTICLE VI

RIGHTS AND OBLIGATIONS OF MEMBERS

6.1 *Limitation of Liability.*

Each Member's liability to the Company shall be limited as set forth in this Agreement, the Act and other applicable law.

6.2 *Company Liability.* A Member will not be personally liable for any debts, obligations, liabilities or losses of the Company, whether arising in contract, tort, or otherwise, solely by reason of being a Member, beyond his respective Capital Contributions or any obligation of the Member under Sections 8.1 and 8.2 hereunder, except as provided in Section 6.7 or as otherwise required by law.

6.3 *List of Members.*

Upon the written request of any Member, the Managers shall provide a list showing all of the names, addresses and Membership Interests and Transferee Interests in the Company.

6.4 *Approval of Sale of All Assets.* The Managers shall have the right, to approve the sale, exchange or other disposition of all, or substantially all, of the Company's assets which is to occur as part of a single transaction or plan.

6.5 *Company Books.*

The Managers shall maintain and preserve, during the term of the Company, the accounts, books, and other relevant Company documents described in Section 9.9. Upon reasonable written request, each Member and Transferee shall have the right, at any time during ordinary business hours, as reasonably determined by the Manager, to inspect and copy, at the requesting Member's or Transferee's expense, the Company documents required to be maintained under Section 608.4101 of the Act, and such other documents which the Managers, in their reasonable discretion, deem appropriate.

6.6 *Priority and Return of Capital.*

Except as may be expressly provided in Article IX, no Member or Transferee shall have priority over any other Member or Transferee, either as to the return of Capital Contributions or as to Net Profits, Net Losses or distributions; provided that this Section shall not apply to loans which a Member has made to the Company.

6.7 *Liability of a Member to the Company.*

A Member who receives a distribution or return in whole or in part of its contribution is liable to the Company only to the extent provided by the Act.

ARTICLE VII

MEETINGS OF MANAGERS AND MEMBERS

7.1 *Meetings.*

Meetings of the Managers, for any purpose or purposes, may be called by any Manager. Meetings of the Members for any purpose or purposes, may be called by any Members holding at least 51% of the Percentage Interests of the Members.

7.2 *Place of Meetings.*

The Managers may designate any location within the U.S., either within or outside the State of Florida, as the place of meeting for any meeting of the Members. If no designation is made, or if a special meeting be otherwise called, the place of meeting shall be the principal place of business of the Company.

7.3 *Notice of Meetings.*

Except as provided in Section 7.04, written notice stating the place, day and hour of the meeting and the purpose or purposes for which the meeting is called shall be delivered not less than five (5) nor more than thirty (30) days before the date of the meeting, either personally or by mail, by or at the direction of the Managers or Member or Members calling the meeting, to each Member or Manager entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered two (2) calendar days after being deposited in the United States mail, certified mail return receipt requested, addressed to the Member or to the Manager at its address as it appears on the books of the Company, with postage therein prepaid. Notice may also be given by telegram, teletype or facsimile, or other form of electronic communication. Managers and Members may participate in and hold meetings whereby all conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other. Participation by communications equipment shall constitute presence at the meeting, unless a Member or Manager is participating in the meeting for the express purpose of objecting to the transaction of any business on the ground the meeting is not lawfully called or convened.

7.4 *Meeting of All Members and Meetings of All Managers.* If all of the Members or all of the Managers shall meet at any time and place, and consent to the holding of a meeting at such time and place, such meeting shall be valid without call or notice, and at such meeting lawful action may be taken.

7.5 *Record Date.*

For the purpose of determining Members entitled to notice of or to vote at any meeting of Members or any adjournment thereof, or Members entitled to receive payment of any distribution, or in order to make a determination of Members for any other purpose, the date on which notice of the meeting is mailed or the date on which the resolution declared such distribution is adopted, as the case may be, shall be the record date for such determination of Members. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this Section, such determination shall apply to any adjournment thereof.

7.6 *Quorum.*

Members holding at least fifty percent (50%) of all Percentage Interests, represented in person or by proxy, shall constitute a quorum at any meeting of Members, and if there is more than one Manager then serving, then a majority of the number of the then-serving Managers shall constitute a quorum at a meeting of the Managers, who shall be represented in person, and shall constitute a quorum at any meeting.

7.7 *Manner of Acting.*

If a quorum is present, the affirmative vote of a majority of all of the Members represented at the meeting, who must hold a majority Percentage Interest in the Company, shall be the act of the Members, unless the vote of a greater or lesser proportion or number is otherwise required by the Act, or by this Agreement. Unless otherwise expressly provided herein or required under applicable law, only Members who have a Membership Interest may vote or consent upon any matter and their vote or consent, as the case may be, shall be counted in the determination of whether the matter was approved by the Members.

7.8 Proxies.

At all meetings of Members, a Member may vote in person or by proxy executed in writing by the Member or by a duly authorized attorney-in-fact. Such proxy shall be filed with the Managers of the Company before or at the time of the meeting. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy. Managers shall not be able to vote by Proxies.

7.9 Action by Members Without a Meeting.

Action required or permitted to be taken at a meeting of Members may be taken without a meeting if the action is evidenced by one or more written consents describing the action taken, signed by each Member entitled to vote and delivered to the Managers of the Company for inclusion in the minutes or for filing with the Company records. Action taken under this Section is effective when all Members entitled to vote have signed the consent, unless the consent specifies a different effective date.

7.10 Waiver of Notice.

When any notice is required to be given to any Member, a waiver thereof in writing signed by the person entitled to such notice, whether before, at, or after the time stated therein, shall be equivalent to the giving of such notice.

ARTICLE VIII

CONTRIBUTIONS TO THE COMPANY AND CAPITAL ACCOUNTS

8.1 Members' Initial Capital Contributions.

Each Member shall contribute such amount as is set forth on the books and records of the Company. No interest shall accrue on any Capital Contribution and the Member shall not have the right to withdraw or be repaid any Capital Contribution except as provided in this Agreement.

8.2 Additional Contributions.

A Member may, but shall not be obligated to, make such additional Capital Contributions as shall be determined by the Managers. Such additional Capital Contributions shall be reflected in the Account of the Contributing Member and shall not be a part of any other Member's Capital Account absent written agreement of the Members. After the making of any such determination, the Managers

shall give written notice to each Member of the amount of required additional contribution, if any, and each Member may deliver to the Company its pro rata share thereof (in proportion to the *respective* Percentage Interest of the Member on the date such notice is given) no later than thirty (30) days following the date such notice is given. None of the terms, covenants, obligations or rights contained in this Section 8.2 is or shall be deemed to be for the benefit of any person or entity other than the Members and the Company, and no such third person shall under any circumstances have any right to compel any actions or payments by the Managers and/or the Members.

8.3 *Capital Accounts.*

(a) A separate Capital Account will be maintained for each Member. Each Member's Capital Account will be increased by (1) the amount of money contributed by such Member to the Company; (2) the fair market value of property contributed by such Member to the Company (net of liabilities secured by such contributed property that the Company is considered to assume or take subject to under Code Section 752); (3) allocations to such Member of Net Profits and Net Losses; and (4) allocations to such Member of income described in Code Section 705(a)(1)(B). Each Member's Capital Account will be decreased by (1) the amount of money distributed to such Member by the Company; (2) the fair market value of property distributed to such Member by the Company (net of liabilities secured by such distributed property that such Member is considered to assume or take subject to under Code Section 752); (3) allocations to such Member of expenditures described in Code Section 705(a)(2)(B); and (4) allocations to the account of such Member of Company loss and deduction as set forth in such Regulations, taking into account adjustments to reflect book value.

(b) In the event of a permitted sale or exchange of a Membership Interest or a Transferee Interest in the Company, the Capital Account of the transferor shall become the Capital Account of the Transferee to the extent it relates to the transferred Membership Interest or Transferee Interest in accordance with Section 1.704-1(b) (2) (iv) of the Treasury Regulations.

(c) The manner in which Capital Accounts are to be maintained pursuant to this Section 8.3 is intended to comply with the requirements of Code Section 704(b) and the Treasury Regulations promulgated thereunder. If the Company determines that the manner in which Capital Accounts are to be maintained pursuant to the preceding provisions of this Section 8.3 should be modified in order to comply with Code Section 704(b) and the Treasury Regulations, then notwithstanding anything to the contrary contained in the preceding provisions of this Section 8.3, the method in which Capital Accounts are maintained shall be so modified; provided, however, that any change in the manner of maintaining Capital Accounts shall not materially alter the economic agreement between or among the Members as set forth in this Agreement.

(d) Except as otherwise required in the Act (and subject to Sections 8.1 and 8.2), no Member or Transferee shall have any liability to restore all or any portion of a deficit balance in such Member's or Transferee's Capital Account.

8.4 *Withdrawal or Reduction of Members' Contributions to Capital.*

(a) A Member or Transferee Interest Holder shall not receive out of the Company's property any part of its Capital Contribution until all liabilities of the Company, except liabilities to

Members on account of their Capital Contributions, have been paid or there remains property of the Company sufficient to pay them.

(b) A Member or Transferee Interest Holder, irrespective of the nature of its Capital Contribution, has only the right to demand and receive cash in return for its Capital Contribution.

(c) Notwithstanding anything to the contrary in this Agreement, a Member may withdraw from the Company only at the time or upon the occurrence of an event specified in this Agreement or in the Articles of Organization. No such event is specified in either the Articles of Organization or in this Agreement at the date hereof. A Member which violates the withdrawal prohibition in this Section shall be liable for breach of this Agreement and shall become a Transferee. A withdrawing Member shall not have a right to receive the fair value of receive the withdrawing member's Interest in the Company as of the date of the resignation but rather, shall have only such rights as a Transferee would have to receive distributions as are made by the Company in the discretion of the Managers.

ARTICLE IX

ALLOCATIONS, INCOME TAX, DISTRIBUTIONS, ELECTIONS AND REPORTS

9.1 *Allocations of Income and Losses from Operations.*

The Net Income and Net Losses of the Company for each fiscal year, and each Member or Transferee's share of Cash Flow, will be allocated in accordance with the Percentage Interests schedule set forth in Exhibit A attached hereto, and, except as provided therein, the Percentage Interests of Members shall be proportionate to the amount of their Capital Accounts as determined hereinabove.

9.2 *Special Tax Provisions As to Extraordinary Allocations, if Any, to Capital*

Allocations of Net Income and Net Losses other than those set forth above shall be made based upon the determinations of the tax accountants and attorneys employed by the Company, giving regard to the intention expressed hereinabove and otherwise herein, with respect to special or priority allocations if any, and with regard to federal partnership tax and capital accounting principles described in Section 8.3 hereinabove.

9.3 *Distributions.*

Within the discretion of the Managers as to amounts, if any, and as to timing, the Managers may distribute Cash Flow to the Members, in accordance with their Percentage Interests .

9.4 *Limitation upon Distributions.*

(a) No distributions or return of contributions shall be made and paid if, after the distribution or return of distribution is made either

(1) the Company would be insolvent; or

(2) the net assets of the Company would be less than zero.

(b) The Managers may base a determination that a distribution or return of contribution may be made under Section 9.4(a) in good faith reliance upon a balance sheet and profit and loss statement of the Company represented to be correct by the person having charge of its books of account or certified by an independent public or certified public accountant or firm of accountants to fairly reflect the financial condition of the Company.

9.5 Tax Accounting Principles.

The income and losses of the Company shall be determined in accordance with sound tax accounting principles applied on a consistent basis using generally accepted tax accounting principles as applied consistent with the Code.

9.6 Interest on and Return of Capital Contributions.

No Member shall be entitled to interest on its Capital Contribution or to a return of its Capital Contribution, except as otherwise provided in this Agreement.

9.7 Loans to Company.

Nothing in this Agreement shall prevent any Member from making secured or unsecured loans to the Company by agreement with the Company, provided that such loans are arms-length transactions, containing terms customary in the lending industry at the time such loans were made.

9.8 Accounting Period.

The Company's accounting period shall be the calendar year ("Fiscal Year").

9.9 Records, Audits and Reports.

At the expense of the Company, the Managers shall maintain records and accounts of the operations and expenditures of the Company. At a minimum, the Company shall keep at its principal place of business the following records:

(a) A current list of the full name and last known address of each Member and Transferee setting forth the amount of cash each Member and Transferee has contributed, a description and statement of the agreed value of the other property or services, each Member and Transferee has contributed or has agreed to contribute in the future, and the date on which each became a Member or Transferee, and their respective Percentage Interest in the Company;

(b) A copy of the Articles of Organization of the Company and all amendments thereto together with executed copies of any powers of attorney pursuant to which any amendment has been executed;

(c) Copies of the Company's federal, state, and local income tax returns and reports, if any, for the three most recent years;

(d) Copies of the Company's currently effective written Agreement, all amendments thereto, and copies of any financial statements of the Company for the three most recent years;

(e) Notices of and minutes of every Member and Managers meeting,

(f) Any written consents obtained from Members for actions taken by Members without a meeting; and

(g) Unless contained in the Articles of Organization or the Agreement, a writing prepared by the Managers setting out the following:

(1) The times at which or events on the happening of which any additional contributions agreed to be made by each Member and Transferee are to be made.

(2) Any right of a Member or Transferee to receive distributions of include a return on all or any part of the Member or Transferee's contributions.

(3) Any power of a Member or Transferee to grant the right to become an assignee of any part of the Member's or Transferee's interest, and the terms and condition of the power.

9.10 *Returns and Other Elections.*

The Managers shall cause the preparation and timely filing of tax returns required to be filed by the Company pursuant to the Code and all other tax returns deemed necessary and required in each jurisdiction in which the Company does business. Copies of such returns, and pertinent information therefrom, shall be furnished to the Members within a reasonable time after the end of the Company's fiscal year upon the Members' written request. All elections permitted to be made by the Company under federal or state laws shall be made by the Managers in their sole discretion. It is the intention of the Members that the Company shall be taxed as a "Partnership" for federal, state, and local income tax purposes.

9.11 *Tax Matters Partner.*

SIMON BERNSTEIN is designated the "Tax Matters Partner" (as defined in Code Section 6231), and is authorized and required to represent the Company (at the Company's expense), either directly, or through accounting or tax representatives, in connection with all examinations for the Company's affairs by tax authorities, including, without limitation administrative and judicial proceedings, and to expend Company funds for professional services and costs associated therewith. The Members agree to cooperate with each other and to do or refrain from doing any and all things reasonably required to conduct such proceedings.

ARTICLE X

TRANSFERABILITY

10.1 *General.*

10.1.1. **Transferees Not Members, Generally.** Except as otherwise set forth in Section 10.1.2, or with the consent of all of the Members, neither a Member nor a Transferee shall have the right, as to all or any part of its Membership Interest or Transferee Interest to:

- (a) sell, assign, pledge, hypothecate, transfer, exchange or otherwise transfer for consideration (collectively, “sell” or, as context requires “selling”); or
- (b) gift, bequeath or otherwise transfer for no consideration (whether or not by operation of law, except in the case of bankruptcy) (collectively, “gift”).

Absent the written consent of all Members to the contrary or otherwise provided by law, the Interest of the Transferee shall be a Non-Voting Interest.

10.1.2 **Transferees Who are Lineal Descendants of a Member.** Any Transferees who are lineal descendants of both SHIRLEY BERNSTEIN and SIMON BERNSTEIN, either directly, or indirectly, as beneficiaries of a Trust, or other entity beneficially owned solely for or by that Member (including, but not limited to a revocable trust established by a Member for the sole lifetime benefit of the Member or the Member’s descendants) shall be Members upon their written agreement to be bound by the terms of this Agreement and shall be subject to the voting agreements described in Article V, hereinabove.

10.2 **Right of First Refusal.**

(a) If a Selling Member desires to sell all or any portion of its Membership Interest in the Company to a third party purchaser, the Selling Member shall obtain from such third party purchaser a bona fide written offer to purchase such Interest, stating the terms and conditions upon which the purchase is to be made and the consideration offered; provided, however, the offer shall include a “tag along” or “take along” provision, pursuant to which, all Members have the right to sell a pro-rata portion (determined in accordance with the Percentage Interests of all of the Members) of their Interests to the third party. The Selling Member or Transferee shall give written notification to the remaining Members, by certified mail or personal delivery, of its intention to so transfer such Interest, furnishing to the remaining Members a copy of the written offer to purchase such Interest.

(b) Each of the remaining Members, on a basis pro rata to their Percentage Interests or on a basis pro rata to the Percentage Interests of those remaining Members exercising their rights of first refusal, shall have the right to exercise a right of first refusal to purchase all (but not less than all) of the Interest proposed to be purchased by the third party and sold by the Selling Member and the “tag along Members” upon the same terms and conditions as stated in the aforesaid written offer to purchase by giving written notification to the Selling Member and the “tag along Members”, by certified mail or personal delivery, of the intention to do so within thirty (30) days after receiving written notice from the Selling Member. Subject to the following paragraph, the failure of the remaining Members to so notify the Selling Member and the “tag along Members” of their desire to exercise this right of first refusal within said thirty (30) day period shall result in the termination of the right of the first refusal and the Selling Member and the “tag along Members” shall be entitled to consummate the sale of its Interest in the Company to such third party purchaser, provided that the sale shall be consummated within sixty (60) days following the expiration of the aforesaid thirty (30) day period. In the event the remaining

Members (or any one or more of the remaining Members) give written notice to the Selling Member and the "tag along Members" of their desire to exercise this right of first refusal and to purchase all of the Interests of the Selling Member and the "tag along Members" offered upon the same terms and conditions as are stated in the aforesaid written offer to purchase, the remaining Members shall have the right to designate the time, date and place of closing, provided that the date of closing shall be within sixty (60) days after written notification to the Selling Member of the remaining Member or Members' election to exercise their right of the first refusal. In the event that two (2) or more Members give written notice of their desire to exercise their right of first refusal, absent an agreement between all the Members so exercising such right, each such Member exercising their right of first refusal shall be entitled to purchase that percentage of the selling Member's share according to the proportion that their Percentage Interests bears to the total Percentage Interests exercising such right of first refusal. The Members shall communicate with each other during the pendency of any offer made in accordance with the terms of this Section 10.2 in order to effectuate the intent of this Section.

(c) As a condition to the Company recognizing the effectiveness of either the sale or gift of an Interest in the Company (including, in both cases, a Transferee Interest), the remaining Members may require the Selling Member, Gifting Member and/or the proposed purchaser, donee or successor-in-interest, as the case may be, to execute, acknowledge and deliver to the remaining Members such instruments of transfer, assignment and assumption and such other certificates, representations and documents, and to perform all such other acts which the remaining Members' may deem necessary or desirable to:

(1) verify the purchase, gift or transfer, as the case may be;

(2) confirm that the person desiring, to acquire an Interest in the Company, or to be admitted as a Member, has accepted, assumed and agreed to be subject and bound by all of the terms, obligations and conditions of the Agreement (whether such Person is to be admitted as a new Member or as a Transferee);

(3) maintain the status of the Company as a partnership for federal tax purposes; and

(4) assure compliance with any applicable state and federal laws including securities laws and regulations.

(d) Any sale or gift of a Membership Interest or Transferee Interest in compliance with this Article X shall be deemed effective upon the last day of the calendar month in which all the terms and conditions hereof relating thereto have been satisfied. The admission of a Member in compliance with this Article X shall be deemed effective as of the last day of the calendar month in which the remaining Members' consent thereto was given. The Selling Member hereby indemnifies the Company and the remaining Members against any and all loss, damage, or expense (including, without limitation, tax liabilities or loss of tax benefits) arising directly or indirectly as a result of any transfer or purported transfer in violation of this Article X.

10.3 *Permitted Transfer to Descendants & Spouse/Mandatory Offer at Death.*

10.3.1 No Mandatory Offer At Death. If a Member's Interest is Transferred to a lineal descendant of the Member or Member's spouse, to a Trust or other entity beneficially owned solely for or by that Member, that Member's spouse, or the lineal descendant of that Member or Member's spouse, the Transferee shall not be required to sell or offer to sell his or her Interest, shall be eligible to become a Member pursuant to Sections 10.1.1 and 10.1.2 above, and shall be subject to the voting agreements described in Article V, above. If Members of the Company are trusts for the lifetime benefit of the lineal descendants of a Member either directly or indirectly, then the successors in interest to the Interests in the Company pursuant to the terms of such trusts shall be considered as Members hereof (regardless of indirect ownership as trust beneficiaries) as long as the beneficial interests are owned by the lineal descendants of the Member or their spouses, and said persons shall be subject to the voting agreements described in Article V, above.

10.3.2 Mandatory Offer At Death. Except with transfers described in 10.3.1., above, the death of any Member or Transferee who owns an Interest shall constitute an offer by the Member's Estate, Trust, or other legal successor in interest, to sell all of the Member's Interest to the Company (the "Offer") at its fair market value (determined as of the date of death). The Company shall have one hundred eighty (180) days in which to accept the Offer at an agreed price, which acceptance shall be made by delivery of written notice thereof to the legal representative of the estate of the Member or Transferee, by certified mail or personal delivery, within said one hundred eighty (180) day period. If the Company does not elect to purchase the Interest within said one hundred eighty (180) day period, the remaining Members shall have the right, but are not required to, purchase the remaining part, or all, as the case may be, of the Interest at its fair market value (as determined herein) determined as of the date of death, in proportion to their existing Interests. Such right to purchase shall be exercised by delivery of written notice thereof, by certified mail or personal delivery, during the thirty (30) days immediately after the one hundred eighty (180) day period (the "30 Day Period"). If any such Member does not desire to purchase his/her or its full proportionate part of the Interest offered for sale, but the remaining Members desire to purchase all of the Interest offered for sale, said Members shall then have the right to purchase said Interest proportionally in accordance with their respective Interests and the Members shall communicate with each other during the 30 Day Period in order to effectuate the intent of this Section 10.3. Except as provided in Section 10.1.2 and 10.1.3, to the extent that any part, or all, of an Interest is not purchased under the provisions of this Section 10.3, the deceased's Member's Interest shall become a Transferee's Interest, if not owned beneficially or directly by another Member hereof. The purchase price shall be as agreed by the parties, and, unless otherwise agreed, shall be paid in cash at the closing, which shall occur no later than thirty (30) days after the end of the 30 Day Period. For purposes of this Agreement, the "fair market value" of an Interest is equal to its Percentage Interest multiplied by the value of the Company (as agreed by the parties). If the value of the Company is not agreed to by the parties, then for purposes of this Agreement "fair market value" of a Member's Interest shall be determined without reduction for minority, lack of marketability or other entity/Company level discounts, based upon a reasonable appraisal procedure to determine the fair market value of the Company's assets. The appraisal procedure shall be agreed upon by the Member and Company. If the parties cannot agree to an appraisal procedure, then an MAI appraiser shall be selected by the Personal Representative of the deceased Member's estate, and if the Company does not agree as to that appraiser, then the Company shall select its own appraiser and each MAI appraiser then shall select a third MAI appraiser and the average of all three (3) appraisals shall be the fair market value of the Interest. As set

forth hereinabove, fair market value” of a Member’s Interest shall be determined without reduction for minority, lack of marketability or other entity/Company level discounts.

10.4 *Transferee Not Member in Absence of Unanimous Consent.*

(a) Except as provided in Section 10.1.2 and 10.1.3, if all of the remaining Members do not approve by unanimous written consent of the proposed, sale or gift of the Transferring Member’s Membership Interest to a transferee or donee which is not a Member immediately prior to the sale or gift, then the proposed transferee or donee shall have no right to participate in the management of the business and affairs of the Company or to become a Member. The transferee or donee shall be merely a Transferee entitled solely to economic rights to profits, losses and distributions and shall have no voting rights under this Agreement or in matters relating to the Company and its business; provided, however, any sale of a Transferee’s interest in the Company should be subject to Section 10.2. No transfer of a Member’s Interest in the Company (including any transfer of the Transferee Interest or any other transfer which has not been approved by unanimous written consent of the Members) shall be effective unless and until written notice (including the name and address of the proposed transferee or donee and the date of such transfer) has been provided to the Company and the nontransferring Member(s).

(b) Upon and contemporaneously with any sale or gift of a Transferring Member’s Interest in the Company which does not at the same time transfer the balance of the rights associated with the Transferee Interest transferred by the Transferring Member (including, without limitation, the rights of the Transferring Member to participate in the management of the business and affairs of the Company), all remaining rights and interest which were owned by the Transferring Member immediately prior to such sale or gift or which were associated with the transferred Interest shall immediately lapse until the remaining Members, by unanimous written consent, reinstate such rights to the Transferee who did not previously obtain the unanimous written consent, reinstating such rights to a successor or transferee of such Transferee.

ARTICLE XI

ADDITIONAL MEMBERS

From the date of the formation of the Company, any Person or Entity acceptable to the Members by their unanimous vote thereof may become a Member in this Company for such consideration as the Members by their unanimous votes shall determine, subject to the terms and conditions of this Agreement. No new Members shall be entitled to any retroactive allocation of profits losses, income or expense deductions incurred by the Company. The Manager(s) may, at their option, at the time a Member is admitted, close the Company books (as though the Company’s tax year has ended) or make pro rata allocations of income, loss, and expense deductions to a new Member for that portion of the Company’s tax year in which a Member was admitted in accordance with the provisions of Code Section 706(d) and the Treasury Regulations promulgated thereunder.

ARTICLE XII

DISSOLUTION AND TERMINATION

12.1 *Dissolution.*

(a) The Company shall be dissolved upon the occurrence of any of the following events:

- (i) by the unanimous written consent of all Members; or
- (ii) the sale, transfer or assignment of substantially all of the assets of the Company; or
- (iii) as otherwise required by law.

12.2 *Winding Up, Liquidation and Distribution of Assets.*

(a) Upon dissolution, an accounting shall be made by the Company's independent accountant of the accounts of the Company and of the Company's assets, liabilities and operations, from the date of the last previous accounting until the date of dissolution. The Managers shall immediately proceed to wind up the affairs of the Company.

(b) If the Company is dissolved and its affairs are to be wound up, the Managers shall:

(1) Sell or otherwise liquidate all of the Company's assets as promptly as practicable (except to the extent the Managers may determine to distribute any assets to the Members in kind),

(2) Allocate any profit or loss resulting from such sales to the Member's and Transferees' Capital Accounts in accordance with Article IX hereof.

(3) Discharge all liabilities of the Company, including liabilities to Members and Transferees who are creditors, to the extent other-wise permitted by law, other than liabilities to Members and Transferees for Distributions, and establish such Reserves as may be reasonably necessary to provide for contingent liabilities of the Company (for purposes of determining the Capital Accounts of the Members and Transferees, the amounts of such Reserves shall be deemed to be an expense of the Company),

(4) Distribute the remaining assets in the following order:

(i) If any assets of the Company are to be distributed in kind, the net fair market value of such assets as of the date of dissolution shall be determined by independent appraisal or by agreement of all of the Members. Such assets shall be deemed to have been sold as of the date of dissolution for their fair market value, and

the Capital Accounts of the Members and Transferees shall be adjusted pursuant to the provisions of Article IX and Section 8.3 of this Agreement to reflect such deemed sale.

(ii) To the Members and Transferees, pro rata, in accordance with the positive balance (if any) of each Member's and Transferee's Capital Account (as determined after taking into account all Capital Account adjustments for the Company's taxable year during which the liquidation occurs) shall be distributed to the Members and Transferee either in cash or in kind, as determined by the Managers, with any assets distributed in kind being valued for this purpose at their fair market value as determined pursuant to Section 12.2(b)(i).

(iii) Thereafter, to the Members and Transferee's pro rata, in accordance with their respective Percentage Interests.

(c) Notwithstanding anything to the contrary in this Agreement, upon a liquidation within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Treasury Regulations, if any Member has a Deficit Capital Account (after giving effect to all contributions, distributions, allocations and other Capital Account adjustments for all taxable years, including the year during which such liquidation occurs), such Member shall have no obligation to make any Capital Contribution, and the negative balance of such Member's Capital Account shall not be considered a debt owed by such Member to the Company or to any other Person for any purpose whatsoever.

(d) Upon completion of the winding up, liquidation and distribution of the assets, the Company shall be deemed terminated.

(e) The Manager(s) shall comply with all requirements of applicable law pertaining to the winding up of the affairs of the Company and the final distribution of its assets.

12.3 *Articles of Dissolution.*

When all debts, liabilities and obligations of the Company have been paid and discharged or adequate provisions have been made therefor and all of the remaining property and assets of the Company have been distributed among its members in accordance with their respective rights and interests, a Articles of Dissolution of the Company shall be filed with the Florida Department of State.

12.4 *Effect of Filing Articles of Dissolution.*

Upon the filing of Articles of Dissolution with the Florida Department of State, and upon issuance of the Certificate of Dissolution by the Department of the State, the existence of the Company shall cease, except for the purpose of suits, of the proceedings and appropriate action as provided in the Act. The Managers shall have authority to distribute any Company property discovered after dissolution, convey real estate and take such other action as may be necessary on behalf of and in the name of the Company.

12.5 *Return of Contribution Nonrecourse to Other Members.*

Except as provided by law or as expressly provided in this Agreement, upon dissolution, each Member and Transferee shall look solely to the assets of the Company for the return of its Capital Contribution. If the Company property remaining after the payment or discharge of the debts and liabilities of the Company is insufficient to return the cash contribution of one or more Members or Transferees, such Member(s) or Transferee(s) shall have no recourse against any other Member or Transferee, except as otherwise provided by law.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

13.1 *Notices.*

Any notice, demand, or communication required or permitted to be given by any provision of this Agreement shall be deemed to have been sufficiently given or served for all purposes if delivered personally or by express mail or courier service (with receipt acknowledged) to the party or to an executive officer of the party to whom the same is directed, if telecopied (with receipt acknowledged) to the party or an executive officer of the party to whom the same is directed or, if sent by registered or certified mail, postage and charges prepaid, addressed to the Member's and/or Company's address, as appropriate, which is set forth in this Agreement. Except as otherwise provided herein any such notice shall be deemed to be given two (2) business days after the date on which the same was deposited in the United States mail, addressed and sent as aforesaid, if sent by mail or upon confirmation of receipt if delivered by telecopier, personal delivery or courier service.

13.2 *Books of Account and Records.*

Proper and complete records and books of account shall be kept or shall be caused to be kept by the Managers in which shall be entered fully and accurately all transactions relating to the Company's business in such detail and completeness as is customary and usual for businesses of the type engaged in by the Company. Such books and records shall be maintained as provided in Section 9.9. The books and records shall at all times be maintained at the principal place of business of the Company. Additionally, the Managers shall promptly distribute to all Members, copies of the Company's financial statements on an annual basis.

13.3 *Application of Florida Law.*

This Agreement and its interpretation shall be governed exclusively by its terms and by the laws of the State of Florida, and specifically the Act.

13.4 *Waiver of Action for Partition.*

Each Member and Transferee irrevocably waives during the term of the Company any right that it may have to maintain any action for partition with respect to the property of the Company.

13.5 *Amendments.*

This Agreement may not be amended except in writing by the affirmative vote of a majority of the Members of the Company which vote must include the affirmative vote of the Manager. Any amendment changing either the Percentage Interests of the Members or any provision within Article V requires the unanimous vote of the Members.

13.6 *Execution of Additional Instruments.*

Each Member hereby agrees to execute such other and further statements of interest and holdings, designations and other instruments necessary to comply with an laws, rules or regulations.

13.7 *Construction.*

Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.

13.8 *Headings.*

The headings in this Agreement are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of this Agreement or any provision thereof

13.9 *Waivers.*

The failure of any party to seek redress for default of or to insist upon the strict performance of any covenant of condition of this Agreement shall not prevent a subsequent act, which would have originally constituted a default, from having the effect of an original default.

13.10 *Rights and Remedies Cumulative.*

The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive the right to use any other remedy. Said rights and remedies are given in addition to any other legal rights that parties may have.

13.11 *Severability.*

If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

13.12 *Heirs, Successors and Assigns.*

Each and all of the covenants, terms, provisions and agreement herein contained shall be binding upon and inure to the benefit of the parties hereto and, to the extent permitted by this Agreement, their respective heirs, legal representatives, successors and assigns.

13.13 *Creditors.*

None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of the Company.

13.14 Counterparts.


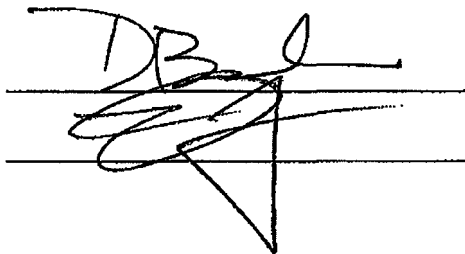
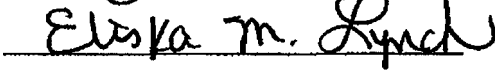
This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

13.15 Conflict of Interest Waiver. The Members and the Company acknowledge that the law firm of TESCHER & SPALLINA, P.A. has represented the Company in connection with the drafting of this Agreement and the formation and structuring of the Company, and that said law firm also represents one or more of the Managers and Trustees. The Company and its Members acknowledge that they have been advised that there are material income tax consequences and economic ramifications from being a Member in the Company, that they fully understand the tax consequences and economic ramifications of a Member's investment in the Company, and that they have been encouraged to consult with separate and independent counsel to advise them on Company and Member issues including this Agreement and the formation of the Company. The Company and the Members hereby waive any conflicts of interest with respect to the foregoing law firm's representation of the Company and the aforedescribed Members and owners of interests in entity Members, in connection with the services set forth in this Section.

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IN WITNESS WHEREOF, the parties hereto have caused their signatures to be set forth below on the day and year first above written.

Witnesses:

COMPANY:


BERNSTEIN FAMILY REALTY, LLC, a
Florida limited liability company

By: 
SIMON BERNSTEIN, Manager

MEMBERS:

DANIEL BERNSTEIN IRREVOCABLE
TRUST dated September 7, 2006

STANFORD TRUST COMPANY, Trustee

By: 
LOUIS B. FOURNIER, PRESIDENT
Name Title

JAKE BERNSTEIN IRREVOCABLE TRUST
dated September 7, 2006

STANFORD TRUST COMPANY, Trustee

Raven Bass
Eliska M. Lynch

By:



LOUIS B. FOURNIER, PRESIDENT
Name Title

JOSHUA Z. BERNSTEIN IRREVOCABLE
TRUST dated September 7, 2006

STANFORD TRUST COMPANY, Trustee

Raven Bass
Eliska M. Lynch

By:


LOUIS B. FOURNIER, PRESIDENT
Name Title

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BERNSTEIN FAMILY REALTY, LLC
OPERATING AGREEMENT

EXHIBIT A

<u>Member(s)</u>	<u>Percentage Interest*</u>	<u>Capital Contributions</u>
DANIEL BERNSTEIN IRREVOCABLE TRUST dated September 7, 2006	33.34%	\$33.34
JAKE BERNSTEIN IRREVOCABLE TRUST dated September 7, 2006	33.33%	\$33.33
JOSHUA Z. BERNSTEIN IRREVOCABLE TRUST dated September 7, 2006	33.33%	\$33.33

The addresses of all of the Members is 950 Peninsula Corporate Circle, Suite 3010, Boca Raton, Florida 33487.

*proportionate to capital accounts of Members

**AGREEMENT OF LIMITED PARTNERSHIP OF
BERNSTEIN FAMILY INVESTMENTS, LLLP**

**AGREEMENT OF LIMITED PARTNERSHIP OF
BERNSTEIN FAMILY INVESTMENTS, LLLP**

This is an Agreement of Limited Partnership ("Agreement") dated this 20 day of May, 2008, by and between BERNSTEIN HOLDINGS, LLC, a Florida limited liability company (the "General Partner"); and SIMON L. BERNSTEIN, Trustee of the SIMON L. BERNSTEIN TRUST AGREEMENT dated May 20, 2008 and SHIRLEY BERNSTEIN, Trustee of the SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008, together with any individual, partnership, corporation, trust, estate or other entity subsequently admitted as Limited Partners, referred to as the "Limited Partners," and individually as a "Limited Partner". The General Partner and the Limited Partners are herein sometimes referred to individually as a "Partner" and collectively as "Partners."

The parties agree as follows:

1. Formation. BERNSTEIN FAMILY INVESTMENTS, LLLP, a limited partnership under the Revised Uniform Limited Partnership Act of Florida ("Act"), became effective on February 15, 2008, the date of filing of the Certificate of Limited Partnership with the Florida Secretary of State by the General Partner. Except as otherwise provided in this Agreement, the Act shall govern the rights and liabilities of the Partners. The limited partnership has elected to be a Florida limited liability limited partnership.

2. Name. The name of the Partnership is BERNSTEIN FAMILY INVESTMENTS, LLLP. The General Partner may, in its discretion, change the name of the Partnership and adopt such trade or fictitious names as it may deem appropriate.

3. Definitions. In this Agreement, the following terms have the following meanings unless the context otherwise requires:

3.1 "Act" means the Revised Uniform Limited Partnership Act of Florida, as amended from time to time.

3.2 "Adjusted Capital Account Deficit" means, with respect to any Partner, the deficit balance, if any, in such Partner's Capital Account as of the end of the relevant fiscal year, after giving effect to the following adjustments:

3.2.1 Credit to such Capital Account any amounts which such Partner is obligated to restore (pursuant to the terms of such Partner's promissory note or otherwise) or is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5); and

3.2.2 Debit to such Capital Account the items described in Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), and 1.704-1(b)(2)(ii)(d)(6) of the Regulations.

The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Section 1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted consistently therewith.

3.3 "Aggregate Capital Contribution" means the net fair market value of all contributions made to the capital of the Partnership by a Partner pursuant to Section 7.

3.4 "Agreement" means this Agreement of Limited Partnership, as it may be amended from time to time.

3.5 "Capital Account" means, with respect to any Partner, the Capital Account maintained for such Partner in accordance with the following provisions:

3.5.1 To each Partner's Capital Account there shall be credited such Partner's Capital Contributions, such Partner's distributive share of Profits and any items in the nature of income or gain which are specially allocated pursuant to Section 9.3 or Section 9.4 hereof, and the amount of any Partnership liabilities assumed by such Partner or which are secured by any Partnership Property distributed to such Partner.

3.5.2 To each Partner's Capital Account there shall be debited the amount of cash and the Gross Asset Value of any Partnership Property distributed to such Partner pursuant to any provision of this Agreement, such Partner's distributive share of Losses and any items in the nature of expenses or losses which are specially allocated pursuant to Section 9.3 or Section 9.4 hereof, and the amount of any liabilities of such Partner assumed by the Partnership or which are secured by any property contributed by such Partner to the Partnership.

3.5.3 In the event all or a portion of an Interest in the Partnership is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the transferred Interest.

3.5.4 In determining the amount of any liability for purposes of Sections 3.5.1, and 3.5.2 hereof, there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Regulations.

The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations Section 1.704-1(b), and shall be interpreted and applied in a manner consistent with such Regulations. In the event the General Partner shall determine that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto (including, without limitation, debits or credits relating to liabilities that are secured by contributed or distributed property or that are assumed by the Partnership, the General Partner, or Partners), are computed in order to comply with such Regulations, the General Partner may make such modification, provided that it is not likely to have a material effect on the amounts distributable to a Partner pursuant to Section 10.3 hereof upon the dissolution of the Partnership. The General Partner also

shall (i) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Partners and the amount of Partnership capital reflected on the Partnership's balance sheet, as computed for book purposes, in accordance with Regulations Section 1.704-1(b)(2)(iv)(g), and (ii) make any appropriate modifications in the event unanticipated events (for example, the acquisition by the Partnership of oil or gas properties) might otherwise cause this Agreement not to comply with Regulations Section 1.704-1(b).

3.6 "Capital Contributions" means, with respect to a Partner, the amount of money and the initial Gross Asset Value of any property (other than money) contributed to the Partnership with respect to the Partnership Interest held by such Partner. The principal amount of a promissory note which is not readily traded on an established securities market and which is contributed to the Partnership by the maker of the note (or a person related to the maker of the note within the meaning of Regulations Section 1.704-1(b)(2)(ii)(c)) shall not be included in the Capital Account of any Partner until the Partnership makes a taxable disposition of the note or until (and to the extent) principal payments are made on the note, all in accordance with Regulations Section 1.704-1(b)(2)(iv)(d)(2).

3.7 "Certificate" means the certificate of limited partnership required by the Act to be filed with the Department of State of Florida, as it may be amended from time to time.

3.8 "Code" means the Internal Revenue Code of 1986, as amended, or subsequent revenue laws.

3.9 "Depreciation" means, for each Fiscal Year, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable with respect to an asset for such Fiscal Year, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such Fiscal Year, Depreciation shall be an amount which bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such Fiscal Year bears to such beginning adjusted tax basis; provided, however, that if the adjusted basis for federal income tax purposes of an asset at the beginning of such Fiscal Year is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the General Partner.

3.10 "Event of Withdrawal" means an event described as such in Fla.Stats. §620.1603, or successor provision thereto.

3.11 "Fiscal Year" means (i) the period commencing on the effective date of this Agreement and ending on the last day of the Partnership's taxable year, (ii) any subsequent twelve (12) month period commencing on day after the last day of the partnership's taxable year and ending on the last day of the partnership's taxable year, or (iii) any portion of the period described in clause (ii) for which the Partnership is required to allocate Profits, Losses, and other items of Partnership income, gain, loss, or deduction pursuant to Section 9 hereof.

3.12 "General Partner" means BERNSTEIN HOLDINGS, LLC, and its successors as provided herein.

3.13 "Gross Asset Value" means, with respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

3.13.1 The initial Gross Asset Value of any asset contributed by a Partner to the Partnership shall be the gross fair market value of such asset, as determined by the contributing Partner and the General Partner, provided that, if the contributing Partner is a General Partner, the determination of the fair market value of a contributed asset shall be determined by appraisal;

3.13.2 The Gross Asset Values of all Partnership assets shall be adjusted to equal their respective gross fair market values, as determined by the General Partner, as of the following times: (a) the acquisition of an additional Interest in the Partnership by any new or existing Partner in exchange for more than a *de minimis* Capital Contribution; (b) the distribution by the Partnership to a General Partner or Partner of more than a *de minimis* amount of Partnership Property as consideration for an Interest in the Partnership; and (c) the liquidation of the Partnership within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g): provided, however, that the adjustments pursuant to clauses (a) and (b) above shall be made only if the General Partner reasonably determines that such adjustments are necessary or appropriate to reflect the relative economic interests of the General Partner and Partners in the Partnership;

3.13.3 The Gross Asset Value of any Partnership asset distributed to a Partner shall be adjusted to equal the gross fair market value of such asset on the date of distribution as determined by the distributee and the General Partner, provided that, if the distributee is a General Partner, the determination of the fair market value of the distributed asset shall be determined by appraisal; and

3.13.4 The Gross Asset Values of Partnership assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulations Section 1.704-1(b)(2)(iv)(m) and Sections 3.26.6 and 9.3.7 hereof; provided, however, that Gross Asset Values shall not be adjusted pursuant to this Section 3.13.4 to the extent the General Partner determines that an adjustment pursuant to Section 3.13.2 hereof is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this Section 3.13.4.

If the Gross Asset Value of an asset has been determined or adjusted pursuant to Section 3.13.1, Section 3.13.2, or Section 3.13.4 hereof, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Profits and Losses.

3.14 "Involuntary Transfer" means any involuntary sale, transfer, encumbrance or other disposition, by or in which any Partner or assignee of a Partnership Interest shall be deprived or divested of any right, title or interest in or to any Partnership Interest, or portion thereof, to any Person or governmental entity other than a Partner, including, without limitation, (i) any sale in connection with the execution of a judgment pursuant to court order, (ii) a transfer or sale in connection with a bankruptcy or a transfer or sale by a receiver, (iii) any transfer to a judgment creditor pursuant to court

order, (iv) any transfer in connection with a reorganization, insolvency or similar proceeding, (v) any transfer to a public officer or agency pursuant to any abandoned property or escheat law, or (vi) any transfer to the spouse or former spouse of a Partner or assignee of a Partnership Interest as the result of or incident to any dissolution of marriage, marital separation, or similar event (notwithstanding such transfer is pursuant to a marital or property settlement agreement).

3.15 "Limited Partners" means those Persons identified on the Signature Pages of this Agreement as limited partners and all other Persons who shall be admitted to the Partnership as Substitute Limited Partners as provided in this Agreement and no other Person.

3.16 "Net Cash From Operations" means the gross cash proceeds from Partnership operations (including sales and dispositions in the ordinary course of business) less the portion thereof used to pay or establish reserves for all Partnership expenses, debt payments, capital improvements, replacements, and contingencies, all as determined by the General Partner. "Net Cash From Operations" shall not be reduced by depreciation, amortization, cost recovery deductions, or similar allowances, but shall be increased by any reductions of reserves previously established pursuant to the first sentence of this Section 3.16 and Section 3.17 hereof. Net Cash from Operations shall include income-type items derived from Partnership investment assets (e.g., dividends, interest, and partnership operating distributions).

3.17 "Net Cash From Sales or Refinancings" means the net cash proceeds from all sales and other dispositions (other than in the ordinary course of business) and all refinancings of Property, from any insurance payments or damage recoveries, other than under policies commonly referred to as a rent insurance paid to the Partnership in respect of its capital assets, and from any exercise by a governmental authority of any right of eminent domain, condemnation or similar right or power with respect to the capital assets of the Partnership, less any portion thereof used to establish reserves, all as determined by the General Partner. "Net Cash From Sales or Refinancings" shall include all principal and interest payments with respect to any note or other obligation received by the Partnership in connection with sales and other dispositions (other than in the ordinary course of business) of Partnership Property.

3.18 "Partner Nonrecourse Debt" has the meaning set forth in Section 1.704-2(b)(4) of the Regulations.

3.19 "Partner Nonrecourse Debt Minimum Gain" means an amount, with respect to each Partner Nonrecourse Debt, equal to the Partnership Minimum Gain that would result if such Partner Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Section 1.704-2(i)(3) of the Regulations.

3.20 "Partner Nonrecourse Deductions" has the meaning set forth in Sections 1.704-2(i)(1) and 1.704-2(i)(2) of the Regulations.

3.21 "Partners" means collectively the General Partner and all Limited Partners.

3.22 "Partnership" means BERNSTEIN FAMILY INVESTMENTS, LLLP.

3.23 "Partnership Interest" means a Partner's percentage interest in the profits, losses, and property of the Partnership, which percentage is to be determined in accordance with the relative contributions to the capital of the Partnership as made by the Partner and the other Partners from time to time.

3.24 "Partnership Minimum Gain" has the meaning set forth in Sections 1.704-2(b)(2) and 1.704-2(d).

3.25 "Person" means an individual, corporation, partnership, association, trust, estate or any other entity.

3.26 "Profits" and "Losses" means, for each Fiscal Year, an amount equal to the Partnership's taxable income or loss for such year or period, determined in accordance with Code Section 703(a)(for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

3.26.1 Any income of the Partnership that is exempt from federal income tax and not otherwise taken into account in computing Profits and Losses pursuant to this Section 3.26 shall be added to such taxable income or loss;

3.26.2 Any expenditures of the Partnership described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits or Losses pursuant to this Section 3.26 shall be subtracted from such taxable income or loss;

3.26.3 In the event the Gross Asset Value of any Partnership asset is adjusted pursuant to Section 3.13.2 or Section 3.13.3 hereof, the amount of such adjustment shall be taken into account as gain or loss from the disposition of such asset for purposes of computing Profits or Losses;

3.26.4 Gain or loss resulting from any disposition of Partnership Property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the property disposed of, notwithstanding that the adjusted tax basis of such property differs from its Gross Asset Value;

3.26.5 In lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such fiscal year or other period, computed in accordance with Section 3.9 hereof;

3.26.6 To the extent an adjustment to the adjusted tax basis of any Partnership asset pursuant to Code Section 734(b) or Code Section 743(b) is required pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Partner's Interest in the Partnership, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss

(if the adjustment decreases the basis of the asset) from the disposition of the asset and shall be taken into account for purposes of computing Profits or Losses;

3.26.7 Notwithstanding any other provision of this Section 3.26, any items which are specially allocated pursuant to Section 9.3 or Section 9.4 hereof shall not be taken into account in computing Profits or Losses.

The amounts of the items of Partnership income, gain, loss, or deduction available to be specially allocated pursuant to Sections 9.3 or Section 9.4 hereof shall be determined by applying rules analogous to those set forth in Sections 3.26.1 through 3.26.6 above.

3.27 "Property" means the property described in Exhibit "A", and such other property as the Partners shall agree to submit to Partnership ownership.

3.28 "Regulatory Allocations" has the meaning set forth in Section 9.4 hereof.

3.29 "Special Limited Partners" has the meaning set forth in Section 16.5.2.

3.30 "Substitute Limited Partners" means Persons who have acquired Partnership Interests from Limited Partners and who have been substituted for such Limited Partners as provided in this Agreement. Solely for purposes of determining those Persons who are entitled to distributions and allocations under Sections 9 and 10, "Substitute Limited Partners" means Persons who have acquired Partnership Interests from Limited Partners and Special Limited Partners and their assignees, whether or not such Persons have been substituted as provided herein.

3.31 "Transfer" means the mortgage, pledge, hypothecation, transfer, gift, bequest, sale, assignment or other disposition of any part or all or any Partnership Interest including a general partnership interest in the Partnership, whether voluntarily, by operation of law or otherwise.

4. Principal Place of Business and Recordkeeping Office and Agent for Service of Process. The principal place of business and recordkeeping of the Partnership is at BERNSTEIN FAMILY INVESTMENTS, LLLP, 950 Peninsula Corporate Circle, Suite 310, Boca Raton, Florida 33487, or at such other location as the General Partner, in its discretion, may determine. DONALD R. TESCHER shall act as agent for service of process on the Partnership.

5. Term. The Partnership shall continue until December 31, 2058, unless sooner terminated as provided in Section 18.

6. Business and Purposes. The purpose and business of the Partnership shall be the ownership, investment, management and control of the Property and other investment properties (including, without limitation, investments in real property, loans, business enterprises, marketable securities, either directly or through interests in corporations, limited partnerships, limited liability companies, and other entities), to provide a means for the BERNSTEIN family to own investment property and preserve its assets, and

to conduct such other activities as may be necessary or appropriate to promote such business and purposes, it being agreed that each of the foregoing is an ordinary part of the Partnership's business. In addition to the foregoing, or as part thereof, the Partnership shall accomplish among other things the following: (a) maintain control over BERNSTEIN family assets contributed to it, (b) consolidate fractional interests in BERNSTEIN family assets, (c) seek to increase BERNSTEIN family wealth, (d) establish a method by which gifts can be made without fractionalizing BERNSTEIN family assets, (e) provide protection to BERNSTEIN family assets from future claims against members of the families, (f) facilitate the administration and reduce the costs associated with the disability or probate of the estate of members of the BERNSTEIN family, (g) provide a mechanism to resolve BERNSTEIN family disputes, and (h) if applicable, hold restricted securities until such securities become unrestricted and free of underwriting limitations of the Securities and Exchange Commission. The Partnership shall not engage in any other business without the prior consent of Limited Partners owning (in the aggregate) at least eighty (80%) percent of the limited partnership Interests owned by the Limited Partners.

7. Capital Contributions and Capital Accounts.

7.1 Contribution of General Partners. The General Partner shall, as soon as practicable after the execution of this Agreement, contribute to the Partnership the cash and property set forth on Schedule "A" attached hereto and made a part hereof. The value of said capital contribution shall be allocated to the capital account of the General Partner. In addition, the General Partner shall contribute its efforts as managing partner.

7.2 Contribution of Limited Partners. The Limited Partners shall contribute to the Partnership the cash and property set forth on Schedule "A" attached hereto and made a part hereof. The value of each such contribution shall be allocated to the respective capital accounts of the Limited Partners as reflected on Schedule "A."

7.3 Withdrawal of Capital. Except as specifically provided in this Agreement, no Partner shall be entitled to withdraw any part of his capital account or to receive any distribution from the Partnership, and no Partner shall be required to make any additional capital contribution to the Partnership.

7.4 Partner's Loans. Loans by any Partner to the Partnership shall not be considered contributions to the capital of the Partnership and shall not increase the capital account of the lending Partner.

7.5 Interest on Capital Contribution. No interest shall be paid on any capital contributed to the Partnership.

8. Compensation and Expenses of General Partner.

8.1 Compensation and Reimbursement. The Partnership shall pay to the General Partner or its affiliates reasonable fees as compensation for services and reimbursement for sums advanced. The Partnership is authorized to enter into business agreements, contracts, and other transactions with the

General Partner or its affiliates and is authorized to pay fees, commissions or other consideration to the General Partner, or its affiliates on an arms length basis, including without limitation, real estate brokerage commissions, development fees, insurance premiums, rent, property management fees, leasing commissions and mortgage brokerage fees.

8.2 Expenses. The General Partner may charge the Partnership for any reasonable expenses actually incurred by it in connection with the Partnership's business and all allocable portions of expenses incurred in connection with both Partnership and other activities, such allocation to be determined on any equitable basis selected by the General Partner consistent with generally accepted accounting principles. Such expenses shall include, but are not limited to, payment of fees and expenses to attorneys, accountants, property managers and property management companies and other consultants.

9. Allocations of Profit and Loss, Cash Distributions.

9.1 Allocations of Profits. After giving effect to the special allocations set forth in Sections 9.3 and 9.4 hereof, Profits for any Fiscal Year shall be allocated in the following order and priority:

9.1.1 First, to the Partners in an amount equal and in proportion to the excess, if any, of the cumulative Losses allocated to the Partners pursuant to Section 9.2.2 hereof for the current and all prior Fiscal Years, reduced by the cumulative Profits allocated to the Partners pursuant to this Section 9.1.1 hereof for the current and all prior Fiscal Years;

9.1.2 The balance, if any, pro-rata to the Partners or in proportion to their Partnership Interests.

9.2 Allocation of Losses. After giving effect to the special allocations set forth in Sections 9.3 and 9.4, Losses for any Fiscal Year shall be allocated as set forth in Section 9.2.1 below, subject to the limitations in Section 9.2.2 below.

9.2.1 To the Partners in proportion to their Partnership Interests.

9.2.2 The Losses allocated pursuant to Section 9.2.1 hereof shall not exceed the maximum amount of Losses that can be so allocated without causing any Partner who is not a General Partner to have an Adjusted Capital Account Deficit at the end of any Fiscal Year. In the event some but not all of the Partners who are not General Partners would have Adjusted Capital Account Deficits as a consequence of an allocation of Losses pursuant to Section 9.2.1, the limitation set forth in this Section 9.2.2 shall be applied on a Partner by Partner basis so as to allocate the maximum permissible Losses to each Partner who is not a General Partner under Section 1.704-1(b)(2)(ii)(d) of the Regulations. All Losses in excess of the limitation previously set forth in this Section 9.2.2 shall be allocated to the General Partner.

9.3 Special Allocations. The following special allocations shall be made in the following order:

9.3.1 Minimum Gain Chargeback. Except as otherwise provided in Section 1.704-2(f) of the Regulations, notwithstanding any other provision of this Section 9, if there is a net decrease in Partnership Minimum Gain during any Partnership Fiscal Year, each Partner shall be specially allocated items of Partnership income and gain for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to such Partner's share of the net decrease in Partnership Minimum Gain, determined in accordance with Regulations Section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Partner pursuant thereto. The items to be so allocated shall be determined in accordance with Sections 1.704-2(f)(6) and 1.704-2(j)(2) of the Regulations. This Section 9.3.1 is intended to comply with the minimum gain chargeback requirement in Section 1.704-2(f) of the Regulations and shall be interpreted consistently therewith.

9.3.2 Partner Minimum Gain Chargeback. Except as otherwise provided in Section 1.704-2(i)(4) of the Regulations, notwithstanding any other provision of this Section 9, if there is a net decrease in Partner Nonrecourse Debt Minimum Gain attributable to a Partner Nonrecourse Debt during any Partnership Fiscal Year, each Partner who has a share of the Partner Nonrecourse Debt Minimum Gain attributable to such Partner Nonrecourse Debt, determined in accordance with Section 1.704-2(i)(5) of the Regulations, shall be specially allocated items of Partnership income and gain for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to such Partner's share of the net decrease in Partner Nonrecourse Debt Minimum Gain attributable to such Partner Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Partner pursuant thereto. The items to be so allocated shall be determined in accordance with Sections 1.704-2(i)(4) and 1.704-2(j)(2) of the Regulations. This Section 9.3.2 is intended to comply with the minimum gain chargeback requirement in Section 1.704-2(i)(4) of the Regulations and shall be interpreted consistently therewith.

9.3.3 Qualified Income Offset. In the event any Partner who is not a General Partner unexpectedly receives any adjustments, allocations, or distributions described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), Regulations Section 1.704-1(b)(2)(ii)(d)(5), or Regulations Section 1.704-1(b)(2)(ii)(d)(6), items of Partnership income and gain shall be specially allocated to each such Partner in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Adjusted Capital Account Deficit of such Partner as quickly as possible, provided that an allocation pursuant to this Section 9.3.3 shall be made if and only to the extent that such Partner would have an Adjusted Capital Account Deficit after all other allocations provided for in this Section 9 have been tentatively made as if this Section 9.3.3 were not in the Agreement.

9.3.4 Gross Income Allocation. In the event any Partner who is not a General Partner has a deficit Capital Account at the end of any Partnership Fiscal Year which is in excess of the sum of (i) the amount such Partner is obligated to restore (pursuant to the terms of such Partner's promissory note or otherwise), and (ii) the amount such Partner is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5), each such Partner shall be specially allocated items of Partnership income and gain in the amount of such excess as quickly as possible, provided that an allocation pursuant to this Section 9.3.4 shall be made if and only to the extent

that such Partner would have a deficit Capital Account in excess of such sum after all other allocations provided for in this Section 9 have been tentatively made as if this Section 9.3.4 and Section 9.3.3 hereof were not in the Agreement.

9.3.5 Nonrecourse Deductions. Nonrecourse Deductions for any Fiscal Year shall be specially allocated to the Limited Partners.

9.3.6 Partner Nonrecourse Deductions. Any Partner Nonrecourse Deductions for any Fiscal Year shall be specially allocated to the General Partner or Partner who bears the economic risk of loss with respect to the Partner Nonrecourse Debt to which such Partner Nonrecourse Deductions are attributable in accordance with Regulations Section 1.704-2(i)(1).

9.3.7 Section 754 Adjustment. To the extent an adjustment to the adjusted tax basis of any Partnership asset pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(2) or Regulations Section 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as the result of a distribution to a General Partner or Partner in complete liquidation of his Interest in the Partnership, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the General Partner and the Partners in accordance with their Interests in the Partnership in the event that Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies, or to the Partners to whom such distribution was made in the event that Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies.

9.3.8 Allocations Relating to Taxable Issuance of Partnership Interests. Any income, gain, loss, or deduction realized as a direct or indirect result of the issuance of an Interest in the Partnership by the Partnership to a Partner (the "Issuance Items") shall be allocated among the Partners so that, to the extent possible, the net amount of such Issuance Items, together with all other allocations under this Agreement to each Partner, shall be equal to the net amount that would have been allocated to each such Partner if the Issuance Items had not been realized.

9.4 Curative Allocations. The allocations set forth in Sections 9.2.2, 9.3.1, 9.3.2, 9.3.3, 9.3.4, 9.3.5, 9.3.6 and 9.3.7 hereof (the "Regulatory Allocations") are intended to comply with certain requirements of the Regulations. It is the intent of the Partners that, to the extent possible, all Regulatory Allocations shall be offset either with other Regulatory Allocations or with special allocations of other items of Partnership income, gain, loss, or deduction pursuant to this Section 9.4. Therefore, notwithstanding any other provision of this Section 9 (other than the Regulatory Allocations), the General Partner shall make such offsetting special allocations of Partnership income, gain, loss, or deduction in whatever manner it determines appropriate so that, after such offsetting allocations are made, each Partner's Capital Account balance is, to the extent possible, equal to the Capital Account balance such General Partner or Partner would have had if the Regulatory Allocations were not part of the Agreement and all Partnership items were allocated pursuant to Sections 9.1, 9.2.1, 9.3.8, and 9.5. In exercising its discretion under this Section 9.4, the General Partner shall take into account future Regulatory Allocations under Sections 9.3.1 and 9.3.2 that, although not yet made, are likely to offset other Regulatory Allocations previously made under Sections 9.3.5 and 9.3.6.

9.5 Other Allocation Rules.

9.5.1 Generally, unless otherwise explicitly provided, all Profits and Losses allocated to the Partners shall be allocated among them in proportion to the Partnership Interest held by each. In the event additional Limited Partners are admitted to the Partnership on different dates during any Fiscal Year, the Profits (or Losses) allocated to the Partners for each such Fiscal Year shall be allocated among the Partners in proportion to the Partnership Interest each holds from time to time during such Fiscal Year in accordance with Code Section 706, using any convention permitted by law and selected by the General Partner.

9.5.2 The Partners are aware of the income tax consequences of the allocations made by this Section 9 and hereby agree to be bound by the provisions of this Section 9 in reporting their shares of Partnership income and loss for income tax purposes.

9.5.3 Solely for purposes of determining a General Partner's or Partner's proportionate share of the "excess nonrecourse liabilities" of the Partnership within the meaning of Regulations Section 1.752-3(a)(3), the Partner's Interests in Partnership profits are as follows: Limited Partners one hundred percent (100%) (in proportion to their Partnership Interests).

9.5.4 To the extent permitted by Sections 1.704-2(h)(3) of the Regulations, the General Partner shall endeavor to treat distributions of Net Cash From Operations or Net Cash From Sales or Refinancings as having been made from the proceeds of a Nonrecourse Liability or a Partner Nonrecourse Debt only to the extent that such distributions would cause or increase an Adjusted Capital Account Deficit for any Partner who is not a General Partner.

9.6 Tax Allocations: Code Section 704(c). In accordance with Code Section 704(c) and the Regulations thereunder, income, gain, loss, and deduction with respect to any property contributed to the capital of the Partnership shall, solely for tax purposes, be allocated among the General Partner and Partners so as to take account of any variation between the adjusted basis of such property to the Partnership for federal income tax purposes and its initial Gross Asset Value (computed in accordance with Section 3.13.1 hereof). In the event the Gross Asset Value of any Partnership asset is adjusted pursuant to Section 3.13.2 hereof, subsequent allocations of income, gain, loss, and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Gross Asset Value in the same manner as under Code Section 704(c) and the Regulations thereunder. Any elections or other decisions relating to such allocations shall be made by the General Partner in any manner that reasonably reflects the purpose and intention of this Agreement. Allocations pursuant to this Section 9.6 are solely for purposes of federal, state, and local taxes and shall not affect, or in any way be taken into account in computing, any Partner's Capital Account or share of Profits, Losses, other items, or distributions pursuant to any provision of this Agreement.

10. Distributions.

10.1 Net Cash From Operations. Except as otherwise provided in Section 10.3 hereof, Net Cash From Operations not needed in the General Partner's determination for the reasonable needs of the Partnership business, shall be distributed to the Partners in proportion to their respective Partnership Interests.

To the extent such cash is comprised in whole or in part of nonrental income-type items derived from Partnership passive investment assets (*e.g.*, dividends, interest, and partnership operating distributions), reinvestments of such proceeds in other investment assets shall constitute expenditures for the reasonable needs of the business in the determination of the General Partner.

10.2 Net Cash From Sales or Refinancings. Except as otherwise provided in Section 10.3 hereof, Net Cash From Sales or Refinancings not needed in the General Partner's determination for the reasonable needs of the Partnership business, shall be distributed in the following order and priority:

10.2.1 First, proportionally to the Partners until their aggregate Capital Account balances are reduced to zero; and

10.2.2 thereafter, to the Partners in proportion to their Partnership Interests.

To the extent such cash is comprised in whole or in part of cash from the sale of Partnership non-real property passive investment assets (*e.g.*, marketable securities), reinvestments of such proceeds in other investment assets shall constitute expenditures for the reasonable needs of the business in the determination of the General Partner.

10.3 Liquidating Distributions. Notwithstanding the distribution provisions, liquidating distributions of the partnership, including all distributions made pursuant to a liquidation described in Regulations Section 1.704-1(b)(2)(ii)(g), shall be distributed as follows:

10.3.1 First, to the payment and discharge of all of the Partnership's debts and liabilities to creditors other than the General Partners;

10.3.2 Second, to the payment and discharge of all of the Partnership's debts and liabilities to General Partners; and

10.3.3 The balance, if any, proportionally to the Partners until their aggregate Capital Account balances are reduced to zero; and

10.3.4 thereafter, to the Partners in proportion to their Partnership Interests.

The foregoing liquidating distributions are intended to be made in compliance with Regulations Section 1.704-1(b)(2)(ii)(b)(2) and subsequent to a revaluation of Partnership property and corresponding adjustment of Capital Accounts under Treas. Regs. §1.704-1(b)(2)(iv)(f). If any General Partner's Capital Account has a deficit balance (after giving effect to all contributions, distributions, and allocations for all Fiscal Years, including the Fiscal Year during which such liquidation occurs), such General Partner

shall contribute to the capital of the Partnership the amount necessary to restore such deficit balance to zero in compliance with Regulations Section 1.704-1(b)(2)(ii)(b)(3). If any Limited Partner who is not a General Partner has a deficit balance in his Capital Account (after giving effect to all contributions, distributions, and allocations for all Fiscal Years, including the Fiscal Year during which such liquidation occurs), such Limited Partner shall have no obligation to make any contribution to the capital of the Partnership with respect to such deficit, and such deficit shall not be considered a debt owed to the Partnership or to any other Person for any purpose whatsoever. In the discretion of the General Partner, a pro rata portion of the distributions that would otherwise be made to the General Partner and Limited Partners pursuant to this subsection may be (a) distributed to a trust established for the benefit of the General Partner and Limited Partners for the purposes of liquidating Partnership assets, collecting amounts owed to the Partnership, and paying any contingent or unforeseen liabilities or obligations of the Partnership or of the General Partner arising out of or in connection with the Partnership. The assets of any such trust shall be distributed to the General Partner and Limited Partners from time to time, in the reasonable discretion of the General Partner, in the same proportions as the amount distributed to such trust by the Partnership would otherwise have been distributed to the General Partner and Limited Partners pursuant to this Subsection 10.3; or (b) withheld to provide a reasonable reserve for Partnership liabilities (contingent or otherwise) and to reflect the unrealized portion of any installment obligations owed to the Partnership, provided that such withheld amounts shall be distributed to the Partners as soon as practicable.

10.4 Division Among Partners. Except as otherwise provided above, all distributions to the Partners pursuant to this Section 10 shall be divided among them in proportion to the Partnership Interest held by each.

10.5 Amounts Withheld. All amounts withheld pursuant to the Code or any provision of any state or local tax law with respect to any payment, distribution, or allocation to the Partnership, the General Partner, or the Partners shall be treated as amounts distributed to the General Partner and the Partners pursuant to this Section 10 for all purposes under this Agreement. The General Partner is authorized to withhold from distributions, or with respect to allocations, to the General Partner and Partners and to pay over to any federal, state, or local government any amounts required to be so withheld pursuant to the Code or any provisions of any other federal, state, or local law and shall allocate such amounts to the General Partner and Partners with respect to which such amount was withheld.

10.6 Special Tax Elections. At the written request of any Partner the Partnership shall make an election pursuant to Section 754 of the Code upon a distribution of property described in Code Section 734 or a transfer described in Code Section 743 of a Partnership Interest in accordance with this Agreement. Each Partner shall, upon request, supply the General Partner with the information necessary to make such election.

10.7 General Elections and Limitations. The General Partner is authorized, in its sole discretion, to make any other elections required or permitted with respect to Federal or state taxes in any Partnership tax return; provided, however, no election shall be made by either the Partnership or the Partners to be excluded from the application of the provisions of Subchapter K, Chapter I of Subtitle A of the Code or from any similar provisions of any state tax laws.

10.8 Distribution in Kind. If any assets of the Partnership are distributed in kind, such assets shall be distributed to the Partners entitled to participate in the distribution as tenants-in-common in the same proportions as such Partners would have been entitled to cash distributions.

10.9 Rights of Partners to Property. No Partner shall have the right to withdraw or reduce his capital contribution to the Partnership except as a result of the dissolution of the Partnership or as otherwise provided by law. No Partner shall be entitled to demand and receive property other than cash in return for his capital contribution to the Partnership, and, to the maximum extent permissible under applicable law, each Partner hereby waives all right to partition the Partnership Property.

10.10 Priorities of Limited Partners. No Limited Partner shall have any priority over any other Limited Partner as to the return of his contribution to the capital of the Partnership or as to compensation by way of income.

10.11 Minimum Interest of General Partner. Notwithstanding the allocations contained in these Sections 9 and 10, it is the intent of this Agreement that in no event shall the General Partner be allocated less than 1% of Profits, Losses, Net Cash from Operations or Net Cash From Sales or Refinancings allocated to the Partners.

11. Rights, Duties and Powers of the General Partner and Limited Partners.

11.1 Management. The General Partner shall be solely responsible for the management of and shall use its best efforts to manage and control the Partnership business with all rights and powers generally conferred by law or necessary, advisable or consistent with such responsibility.

11.2 Rights. In addition to any other rights and powers which it may possess, the General Partner shall have all specific rights and powers required or appropriate to the management of the Partnership business which, by way of illustration, but not by way of limitation, shall include the right and power:

11.2.1 To evaluate, select, negotiate for, acquire, purchase, operate, hold, trade, sell, exchange, convey or lease the Partnership Property, and any real property which is or may become a part of the Partnership property, as well as personal or other property connected with it, and except as may be limited by this Agreement to acquire or grant options for the purchase or sale of or sell the Partnership property from or to any Person, including, without limitation, the General Partner for such price, cash or otherwise, and upon such terms as the General Partner in its sole discretion deems to be in the best interests of the Partnership.

11.2.2 To manage, develop, improve, maintain and service Partnership properties; to form corporations or acquire shares of stock in corporations to carry out any of the purposes of the Partnership and to acquire title to property in the name of such corporations and to guarantee or otherwise secure the obligations of such corporations in furtherance of Partnership purposes.

11.2.3 To borrow and lend money and, if security is required for a borrowing, to mortgage or subject to any other security device any portion of the property of the Partnership, to execute replacements of any mortgage or other security device, and to prepay, in whole or in part, refinance, increase, modify and consolidate such indebtedness as determined in their discretion to be in the best interest of the Partnership.

11.2.4 To place of record, title to, or the right to use, Partnership assets in the name or names of a nominee or nominees, including, but not limited to, the General Partner, or a land trustee, for any purpose convenient or beneficial to the Partnership.

11.2.5 To acquire and to enter into any contract of liability and other insurance which the General Partner deems necessary and proper for the protection of the Partners and Partnership, for the conservation of its assets or for any purpose convenient or beneficial to the Partnership.

11.2.6 To employ from time to time persons, firms or corporations for the operation and management of the Partnership business, including, but not limited to, attorneys, accountants, advisors, administrators, property managers and personnel, managing and supervising agents, construction, maintenance and repair contractors, independent contractors furnishing full service components, architects, land planners, financial consultants, engineers, insurance brokers, real estate brokers and loan brokers on such terms and for such compensation as the General Partner may determine. The General Partner is hereby specifically authorized in its sole discretion to employ the General Partner as provided in, and subject to, the provisions of this Agreement. Compensation connected with any such employment shall be an expense of the Partnership.

11.2.7 To make elections under the tax laws of the United States or any state as to the treatment of Partnership income, gain, loss, deduction and credit, and as to all other relevant matters.

11.2.8 To determine the Profits, Losses, Net Cash from Operations and Net Cash From Sales or Refinancings of the Partnership for any period and from any transaction.

11.2.9 To transfer all or part of the real or personal property belonging to the Partnership to one or more general or limited partnerships or corporations in exchange for partnership interests or shares of stock which the Partnership may hold or distribute among the Partners in accordance with their respective Interests in the Partnership.

11.2.10 To perform any and all other acts or activities customary or incidental to the Partnership purposes and businesses.

11.2.11 Adjust Partner Capital Account balances to reflect a revaluation of Partnership property on the books of the Partnership in accordance with and as permitted by the provisions of Treas.Reg. §1.704-1(b)(2)(iv)(f).

11.3 Certain Limitations. The General Partner shall have all of the rights and powers and be subject to all of the restrictions and liabilities of a partner in a partnership without limited partners,

except that without the written consent of all of the Limited Partners as provided in this Agreement, or as otherwise provided by law, the General Partner shall not have authority to do any of the following:

11.3.1 Any act in contravention of the Certificate or this Agreement.

11.3.2 Confess a judgment against the Partnership.

11.3.3 Possess Partnership property, or assign the rights of the Partnership in specific Partnership property, for other than a Partnership purpose.

11.3.4 Admit a Person as a General Partner, except as otherwise provided in this Agreement.

11.3.5 Admit a Person as a Limited Partner, except as otherwise provided in this Agreement.

11.3.6 Require any Limited Partner to make any contribution to the capital of the Partnership not provided in Section 7.

11.4 Other Interests. Any of the Partners and any affiliates of the Partners, or any shareholder or any other Person holding a legal or beneficial interest in an entity which is a Partner or an affiliate of the General Partner, may engage in or possess an interest in other business ventures which may be competitive with the business of, or which may transact business with, the Partnership. Neither the Partnership nor the Partners shall have any right by virtue of this Agreement in and to such independent ventures or to the income or profits derived from them.

11.5 Agreement Beyond the Partnership Term. Agreements entered into by the Partnership, including, but not limited to, security agreements, mortgages and leases, may extend for terms in excess of the term of the Partnership.

11.6 General Partner as Limited Partner. The General Partner or its affiliates may acquire and own Interests as Limited Partners, in addition to its Interest as General Partner. In addition, the General Partner may become a Limited Partner in accordance with the provisions of Section 16.5.2.

11.7 Time Devoted to Partnership Business. The General Partner shall devote only such time to the business of the Partnership as it, in its sole discretion, shall deem to be necessary to manage and supervise the Partnership business.

11.8 General Partner's Liability. The General Partner shall not be liable for the return of any portion of the Aggregate Capital Contributions of the Limited Partners.

11.9 Exculpation and Indemnification of General Partner. No General Partner shall be liable, responsible or accountable in damages or otherwise to the Partnership or any other Partner for

any act performed or failure to act by it unless such act or failure to act is attributable to willful misconduct or gross negligence. The Partnership shall indemnify and hold harmless the General Partner from and against any and all loss, damage, liability, cost or expense, including reasonable attorneys' fees, arising out of any act or failure to act by the General Partner if such act or failure to act is in good faith within the scope of this Agreement and is not attributable to willful misconduct or gross negligence. The General Partner shall indemnify and hold harmless the Partnership and the Partners for any loss, damage, liability, cost or expense (including reasonable attorneys' fees) arising out of any act or failure to act by the General Partner, where such act or failure to act is attributable to willful misconduct or gross negligence.

11.10 Tax Matters Partner. BERNSTEIN HOLDINGS, LLC, shall be the Tax Matters Partner; provided, however, if it is no longer General Partner then it shall be a successor appointed by Limited Partners owning in the aggregate 51% of the Limited Partnership Interests. The Tax Matters Partner shall notify all Partners as to the beginning of any administrative proceedings at the Partnership level with respect to Partnership items and shall further notify the Partners as to any final Partnership administrative adjustment resulting from any such proceeding. The Tax Matters Partner shall be entitled to reimbursement for all costs and expenses incurred in connection with its services to the Partnership as Tax Matters Partner, and shall be indemnified and held harmless by the Partners with respect to such services, except with respect to willful misconduct or gross negligence.

11.11 Powers of Limited Partners. The Limited Partners shall take no part in or interfere in any manner with the conduct or control of the Partnership business and shall have no right or authority to act for or to bind the Partnership. The Partnership may engage Limited Partners or persons associated with them for specific purposes and may otherwise deal with such Limited Partners on terms and for compensation to be agreed upon by any such Limited Partner and the Partnership. The exercise of any of the rights and powers of the Limited Partners pursuant to the terms of this Agreement shall not be deemed taking part in the day-to-day affairs of the Partnership or the exercise of control over Partnership affairs.

11.12 Liability of Limited Partners. A Limited Partner shall not be bound by, or personally liable for, any of the debts, contracts, liabilities, or other obligations of the Partnership or the General Partner, or for any losses of the Partnership in excess of their required capital contribution, and the liability of each Limited Partner shall be limited solely to the amount of his contribution to the capital of the Partnership required by the provisions of Section 7. Notwithstanding any of the foregoing to the contrary, and only to the extent otherwise required by applicable law, a Partner receiving a distribution in part or full return of his aggregate Capital Contribution shall be liable to the Partnership for any sum, not in excess of such amount returned plus interest, necessary to discharge the liabilities of the Partnership to creditors who extended credit or whose claims arose before such distribution, excluding liabilities of the Partnership represented by debt, the repayment of which is secured solely by the Partnership Property.

12. Loans to the Partnership. From time to time any Partner, including the General Partner, upon the request of the General Partner, may make optional loans to the Partnership or advance money on its

behalf. Such loans and advances may be in the form of direct loans, payment of sums payable by the Partnership, payments of guarantees of Partnership indebtedness or otherwise. Loans and advances under this Section shall be accounted for as loans and not as capital contributions to the Partnership. All sums loaned or advanced, together with interest on such sums, shall be deemed an obligation of indebtedness from the Partnership to the lending Partner, and such loan or advance shall bear interest at a reasonable rate agreed to by the Partnership and the lending Partner.

13. Books, Records, Reports, Bank Accounts and Tax Elections.

13.1 Books of Account. At all times during the existence of the Partnership, the General Partner shall keep, or cause to be kept, full and true books of account of the Partnership in accordance with generally accepted accounting principles. The books shall be maintained on such method of accounting, accrual or cash, as the General Partner determines in its discretion to be in the best interests of the Partnership. The books of the Partnership, together with a certified copy of the Certificate, shall be maintained at the principal place of business of the Partnership. During reasonable business hours the Limited Partners and their authorized representatives may inspect and copy the Partnership's books of account.

13.2 Financial Statements. At least annually, unaudited financial statements and an annual report of the business of the Partnership shall be prepared at the direction of the General Partner. If a Partner wishes to obtain an audited financial statement, he may cause it to be prepared, but he shall pay all fees and expenses for its preparation.

13.3 Tax Returns. In addition to the financial statement and annual report, the General Partner shall cause income tax returns for the Partnership to be prepared and filed with the appropriate authorities and the General Partner shall also cause such reports as may be required by regulatory agencies to be prepared, filed and distributed as required.

13.4 Dissemination. The General Partner shall distribute annual reports of the business of the Partnership, financial statements and income tax information to the Limited Partners as soon as is practicable after the close of each fiscal year of the Partnership.

13.5 Fiscal Year. The Partnership tax year shall be the calendar year, unless a General Partner elects another fiscal year and obtains the approval of the Internal Revenue Service to such year.

13.6 Bank Accounts. All funds of the Partnership shall be deposited in the Partnership name in such bank account or accounts as may be designated by the General Partner. Withdrawals from any such bank account or accounts shall be made upon such signature or signatures as the General Partner may designate.

14. Transfer of Limited Partnership Interest.

14.1 Method of Transfer. No Transfer of all or part of a Limited Partner's Interest may be effected except as permitted in this Section 14, and then only if a counterpart of the instrument of Transfer, executed and acknowledged by the parties to the Transfer is delivered to the Partnership. A permitted Transfer shall be effective as of the date specified in the instruments of Transfer. This Partnership is formed by those who know and trust one another, who have surrendered certain management rights (in exchange for limited liability in the case of a Limited Partner), or who have assumed management responsibility and risk (in the case of a General Partner) based upon their relationship and trust. Capital is material to the business and investment objectives of the Partnership and its federal tax status. An unauthorized Transfer of a Limited Partner's Interest could create a substantial hardship to the Partnership, jeopardize its capital base, and adversely affect its tax structure. The restrictions on Transfers set forth in this Section are not intended as a penalty, but as a method to protect and preserve existing relationships based upon trust and the Partnership's capital and its financial ability to continue.

14.2 Transfers by Limited Partners. Except as expressly provided herein, no Limited Partner may Transfer any part or all of his Interest. Notwithstanding the foregoing and without being subject to the right of first refusal provisions of Section 14.3, a Partner may Transfer all or any part of his Interest to (i) another Partner, (ii) a lineal descendant of both SIMON L. BERNSTEIN and SHIRLEY BERNSTEIN, (iii) a trust of which a majority in interest of the beneficiaries are Partners and/or lineal descendants of both SIMON L. BERNSTEIN and SHIRLEY BERNSTEIN; or (iv) to another partnership or corporation provided that a majority of the voting stock of the corporation or the general partnership interest in the case of a limited partnership or the interest in capital in a general partnership are owned and controlled by SIMON L. BERNSTEIN and/or lineal descendants of SIMON L. BERNSTEIN and SHIRLEY BERNSTEIN.

14.3 Right of First Refusal. Notwithstanding the above restrictions on Transfer of Interest, a Limited Partner may Transfer all or any part of his Interest, other than by gift or devise, pursuant to a Bona Fide offer as defined in Section 14.3.2, and in such instance the Partnership shall have a right of first refusal to purchase any Interest which any Limited Partner may wish to Transfer, on the terms and subject to the conditions set forth in Section 14.3.1 through 14.3.3:

14.3.1 In the event that any Limited Partner receives a Bona Fide Offer, as herein defined, from a third party (the "Proposed Assignee") to purchase all or any portion of his Interest and he is willing to accept such Bona Fide offer, that Limited Partner (the "Offeror-Limited Partner") shall promptly send written notice (the "Notice") to the General Partner, offering to sell his Interest to the Partnership at the same price and upon the same terms and conditions that are contained in the Bona Fide Offer. The Notice shall contain a true and complete copy of the Bona Fide Offer, the price, the portion of the Interest to be sold, and all terms and conditions and the name and addresses, both home and office, and businesses or other occupations of the Proposed Assignee.

14.3.2 As used in this Agreement, "Bona Fide Offer" means an offer in writing, signed by the Proposed Assignee, who must be a Person financially capable of carrying out the terms of the Bona Fide Offer, in a form legally enforceable against the Proposed Assignee.

14.3.3 Whenever an Offeror-Limited Partner gives the Partnership notice of a Bona Fide Offer to purchase his Interest, the following procedure shall be complied with:

14.3.3.1 For a period of ten days from its receipt of the Notice, the Partnership shall have the option to notify the Offeror-Limited Partner that it intends to purchase the Interest.

14.3.3.2 If the Partnership does not give the Offeror-Limited Partner notice within the prescribed time period that it will purchase the Interest covered by the Bona Fide Offer, the Offeror-Limited Partner shall have the right to accept the Bona Fide Offer and sell the Interest subject to the provisions and restrictions of this Agreement, but only in strict accordance with all of the terms of the Bona Fide Offer and only if the sale is fully consummated within 45 days after the mailing of the Notice. If the Interest is not sold to the Proposed Assignee pursuant to the Bona Fide Offer within that 45 day period, then, before disposing of the Interest the Offeror-Limited Partner shall again be obligated to reoffer the Interest to the Partnership pursuant to the terms of this Section.

14.3.3.3 If the Partnership exercises its option to purchase the Interest a closing shall be held within 15 days after the Partnership gives notice of its election to exercise the option to purchase. The closing shall be on the basis of the terms and other provisions of the Bona Fide Offer.

14.4 Rights of Transferees. No transferee of the Interest of any Limited Partner, including transferees described in Sections 14.2 or 14.3, shall have the right to become a Substitute Limited Partner, unless:

14.4.1 His transferor has stated such intention in the instrument of assignment.

14.4.2 The transferee has executed an instrument reasonably satisfactory to the General Partner accepting and adopting the terms and provisions of this Agreement.

14.4.3 The transferor or transferee pays to the Partnership any reasonable expenses in connection with the admission of the transferee as a Limited Partner.

14.4.4 The transferor and transferee furnish the Partnership with the transferee's tax identification number, sufficient information to determine the transferee's initial tax basis in the Interest transferred, and any other information reasonably necessary to permit the Partnership to file all required federal and state tax returns and other legally required information statements or returns. Without limiting the generality of the foregoing, the Partnership shall not be required to make any distribution otherwise provided for in this Agreement with respect to any transferred Partnership Interest (without regard to whether the transferee is admitted as a Substitute Limited Partner) until it has received such information.

14.4.5 In the case of an assignee or transferee who is not otherwise a Partner, the General Partner, in its sole, absolute and unfettered discretion, consents to such person becoming a

Substitute Limited Partner, including assignees of Partnership Interests whose interest arises by reason of the death of a Partner.

The assignor of a Limited Partnership Interest shall not act for or on behalf of the assignee of the Limited Partnership Interest who does not become a Substitute Limited Partner, and until an assignee of a Limited Partnership Interest is admitted as a Substitute Limited Partner, both the Partnership and the Partners shall be entitled, but not required, to treat the transferor of the Partnership Interest as the absolute owner thereof in all respects. An assignee of a Limited Partnership Interest who does not become a Substitute Limited Partner, unless otherwise a Partner, does not become a Partner and is not entitled to exercise the rights of a Partner.

14.5 General Partner's Acquisition of Limited Partner Interest. If a General Partner should acquire any Limited Partner Interest, that General Partner with respect to that Interest shall become a Limited Partner and enjoy all of the rights and be subject to all of the obligations and duties of a Limited Partner to the extent of such Interest.

14.6 Income/Loss Allocations Upon Transfer. Unless otherwise agreed between the transferor and the transferee, upon the Transfer of an Interest the Profits and Losses attributable to the Interest transferred shall be allocated between the transferor and the transferee as of the date set forth in the instrument of Transfer, and such allocation shall be based upon the number of days during the applicable fiscal year of the Partnership that the Interest transferred was held by each of them, without regard to the results of Partnership activities during the period in which each was the holder. All distributions with respect to such Interest shall be made only to the holder of record of the Interest on the date of distribution.

15. Death, Incompetency, Bankruptcy or Dissolution of a Limited Partner.

15.1 Individual Limited Partner. Upon the death, adjudication of bankruptcy, insolvency or legal incompetency of an individual Limited Partner, his personal representative shall have all the rights of a Limited Partner for the purposes of settling or managing his estate and such power as the decedent, bankrupt or incompetent possessed to constitute a successor as an assignee of his Interest in the Partnership and to join with such assignee in making application to the General Partner to have such assignee become a Substitute Limited Partner.

15.2 Other Limited Partners. Upon the adjudication of bankruptcy, insolvency, dissolution or other cessation to exist as a legal entity of a Limited Partner not an individual, the authorized representative of such entity shall have all of the rights of a Limited Partner for the purpose of effecting the orderly winding up and dissolution of the business of such entity and such power as such entity possessed to constitute a successor as an assignee of its Interest in the Partnership and to join with such assignee in making application to the General Partner to have such assignee become a Substitute Limited Partner.

16. Resignation, Removal and Election of a General Partner; Assignment; Transfer.

16.1 Substitution for a General Partner. The General Partner may not admit any Person as a substitute General Partner.

16.2 Resignation of a General Partner. A General Partner may resign as such by delivering thirty (30) days advance written notice of its resignation to all Partners.

16.3 Removal of a General Partner. A General Partner shall be removed and cease to be a General Partner of the Partnership:

16.3.1 If (a) the General Partner being removed is in default of a material provision of this Agreement and (b) has not cured such default within 30 days after written notice of such fact is given to the General Partner sought to be removed and to all other Partners by Limited Partners owning at least 75% of the Interests owned by the Limited Partners. Written notice pursuant to this section shall set forth the day upon which the removal is to become effective if the default is not cured. However, the removal of a General Partner shall not take effect unless and until that General Partner is released from all liability by all lenders who have made loans to the Partnership, including loans made to the General Partner, on behalf of the Partnership. Such release shall be evidenced by written instruments executed by the lenders and any releases of liability shall extend to such General Partner in his capacity as such and individually. The removal of a General Partner shall be effective on the later of the date set forth in the notice or the date of delivery of the releases to the General Partner.

16.3.2 The occurrence of an Event of Withdrawal.

16.4 Liability of General Partner After Resignation or Removal. If a General Partner resigns or is removed in accordance with the provisions of this Agreement, his liability as a General Partner shall cease upon resignation or removal as provided in the Act, and the Partnership shall promptly take all actions reasonably necessary under the Act to cause such cessation of liability. The Partnership shall indemnify the General Partner with respect to any such liability. However, claims, demands, liabilities, costs and damages held against or incurred by the General Partner in violation of the terms of this Agreement shall be held as an offset against the General Partner's Interest.

16.5 Interest of a General Partner After Resignation or Removal.

16.5.1 The resignation or removal of a General Partner shall not affect its rights as the owner of any Limited Partnership Interest.

16.5.2 Subject to the provisions of Section 16.5.3, upon the resignation or removal of a General Partner, the Interest which he had as a General Partner in Profits and Losses and distributions of Net Cash from Operations and Net Cash From Sales or Refinancings shall be retained by him and be converted into a "Special Limited Partner's" Interest and the Partnership shall take all actions necessary to admit such General Partner as a Special Limited Partner with respect to such converted Interest. Such conversion shall not, however, result in the General Partner becoming a Substituted Limited Partner with respect to such Interest. As a Special Limited Partner, the former General Partner shall be sent copies

of all notices, reports and other information furnished to Limited Partners by the General Partner or the Partnership.

16.5.3 Upon the resignation or removal of:

16.5.3.1 A General Partner leaving the Partnership with one or more General Partners whose total Interest in the Profits and Losses of the Partnership would be less than 1%, the Interest of the resigned or removed General Partner in such portion of the Partnership's Profits and Losses which is necessary to bring the total Interest of the remaining General Partners in the Profits and Losses of the Partnership up to 1% shall be automatically transferred to the remaining General Partner without any payment.

16.5.3.2 One or more General Partners leaving the Partnership without a General Partner and the election of a successor General Partner pursuant to Section 16.6, the rights and interest in 1% of the Partnership's Profits and Losses of the last General Partner who has resigned or been removed, shall be sold to and purchased by his successor as of the date of such resignation or removal at such price as shall be agreed upon between them; provided, however, that if no such agreement is reached within 30 days of the election of a successor then such price shall be determined by arbitration in the State of Florida under the rules of the American Arbitration Association. Within 60 days after the determination of such price it shall be paid in cash together with interest at the then prevailing short-term applicable federal rate under Internal Revenue Code Section 1274. The cost of arbitration shall be paid equally by the successor and the departing General Partner. If any sums payable under this Section to the resigned or removed General Partner are not paid to him when due, then such sums shall be paid to him by the Partnership.

16.6 Election of a Substitute General Partner. If there is only one General Partner and he resigns, or is removed in accordance with this Agreement, and if, pursuant to Section 18.1.2, the Limited Partners unanimously elect to continue the business of the Partnership, then a substitute General Partner shall be elected by an Eighty (80%) percent vote of the Limited Partners, and he shall take all actions necessary to continue the business of the Partnership. Notwithstanding the foregoing, if in the written opinion of counsel for the Partnership it is more likely than not that all Limited Partners must agree on a substitute General Partner to avoid a dissolution under the Act, then in lieu of the foregoing Eighty (80%) percent vote, all Limited Partners shall agree to the election of each substitute General Partner. Such election shall be accomplished in the following manner: Any one or more of the Limited Partners shall, promptly after the election to continue, nominate a person or entity for election as the substitute General Partner. Such nominee shall not become the General Partner unless elected by a vote of Eighty (80%) percent (or, One Hundred (100%) percent, as provided above) of the Interests owned by the Limited Partners. In the event that such nominee is not elected, then any one or more of the Limited Partners shall as soon as practicable nominate another substitute General Partner and such procedure shall continue until a substitute General Partner is elected or the Partnership is dissolved pursuant to Section 18.1.

16.7 Transfer of Interest of a General Partner. No General Partner may transfer, assign, encumber or otherwise dispose of his Interest as a General Partner in the Partnership except as provided for in this Section 16. All General Partners' Interests in the Partnership pursuant to Section 9 transferred pursuant to Section 16, including for this purpose, but not limited to, conversions to a Special Limited Partner's Interest, are included in the allocations to and distributive shares of the Partners in Section 9 as a Partner's Interest and shall be allocated and distributed to the transferees of such Interest.

17. Involuntary Transfers of Partnership Interests. In the event of any Involuntary Transfer, which for this purpose shall include a charging order, by any Partner or assignee of any Partnership Interest, the following procedures shall apply:

17.1 The Partner or assignee deprived or divested of any Partnership Interest by the Involuntary Transfer (the "Transferor") promptly shall give written notice of such Involuntary Transfer in reasonable detail to the Partnership and all Partners other than the Transferor, and the Person(s) who take or propose to take any interest in such Partnership Interest (for purposes of this Section 17, such Person(s) are referred to hereinafter as the "Transferee" and such Partnership Interest referred to hereinafter as the "Subject Partnership Interest") as a result of such Involuntary Transfer shall hold such interest subject to the rights of the Partnership as set forth in this Section 17.

17.2 Upon receipt of the notice referred to in the preceding subparagraph or upon discovery by the General Partner of such Involuntary Transfer by the General Partner, the Partnership shall have the irrevocable option, exercisable at the sole discretion of the General Partner, but not the obligation, for a period of sixty (60) days following receipt of such notice or such discovery, to purchase all or any part of the Subject Partnership Interest, pursuant to the terms set forth in this Section 17. All exercises of such option shall be in writing, shall specify the portion of the Subject Partnership Interest to be purchased, and shall be effective upon receipt thereof by the Transferee.

17.3 The closing for any such sale of the Subject Partnership Interest to the Partnership shall be held at the offices of the Partnership no later than forty-five (45) days after the receipt by the Transferee of the notice exercising the Partnership's irrevocable option to purchase such Subject Partnership Interest. The purchase price of any Subject Partnership Interest purchased pursuant to this Section 17 shall be the fair market value of the Subject Partnership Interest, taking into account all potential discounts for lack of control, lack of marketability and other relevant valuation factors that would be applicable to a sale of the Subject Partnership Interest to a party unrelated and unaffiliated with any existing Partner or assignee, as determined by a reasonably qualified appraiser selected by the Partnership.

17.4 The valuation date for the determination of the purchase price shall be the first day of the month following the month in which notice is given pursuant to Section 17.2 above.

17.5 The purchase price shall be paid by the Partnership by making and delivering to the Transferor or the Transferee, as the case may be, of an unsecured ten (10) year nonrecourse promissory note. Interest on such note shall be payable at the long-term applicable federal rate under Internal

Revenue Code Section 1274. The first installment will be due and payable on the first day of the calendar year following the closing, and subsequent annual installments, with accrued interest, will be due and payable on the first day of each succeeding calendar year until the entire amount of the obligation is paid. The Partnership shall have the right to prepay all or any part of the note at any time without penalty.

17.6 If the Partnership does not exercise its option to purchase all or part of the Subject Partnership Interest under this Section 17, the remaining Partners within the same sixty day exercise period shall have the right but not the obligation to purchase as set forth in this Section 17 in proportion to their Partnership Interests in the manner so set forth. However, to the extent that one or more of the Partners declines to exercise such Partner's right, the remaining Partners shall be offered the right but not the obligation, on a pro-rata basis, to purchase the remaining portion of the Subject Partnership Interest. Such Partners may provide written notice of exercise prior to the expiration of the period notwithstanding that the Partnership may still exercise its option, and such notice may provide that the portion sought to be purchased is the maximum portion available to be purchased by such Partner, with such notice to be effective only if and to the extent that the Partnership does not preempt such Partner by exercising its option.

17.7 In the event the Partnership and the Partners do not purchase all of the Subject Partnership Interest involved in an Involuntary Transfer, the Transferee shall become an assignee of the Subject Partnership Interest, except as admitted as a Substitute Limited Partner in accordance with the terms of this Agreement, provided, however, if a third party obtains a charging order, its rights shall be limited accordingly.

17.8 For purposes of this Section 17, the term "Partner or Assignee" shall include the beneficiaries of a trust that is a Partner or assignee of a Partnership Interest, and the term "Partnership Interest" shall include the beneficial interests of the beneficiaries of a trust that is a Partner or assignee of a Partnership Interest.

17.9 Neither the Transferee of an Involuntary Transfer nor the Transferor will have the right to vote on Partnership matters during the period when the option to purchase granted under this Section 17 may be exercised nor during the period subsequent to exercise and prior to the closing thereunder, and in regard to such voting and any particular voting threshold percentages described in this Agreement such Partnership Interest shall be deemed not to exist.

18. Dissolution and Winding up of Partnership.

18.1 Dissolution of Partnership. The Partnership shall be dissolved upon the first to occur of any of the following events:

18.1.1 December 31, 2058.

18.1.2 The happening of an Event of Withdrawal of a General Partner authorized hereunder to carry on the business of the Partnership, unless

18.1.2.1 at the time there is at least one other General Partner authorized hereunder to carry on the business of the Partnership and such General Partner does carry on the business of the Partnership; or

18.1.2.2 within ninety (90) days of the Event of Withdrawal, (a) all of the then Partners agree in writing to continue the business of the Partnership and to elect one or more additional General Partners under the procedures of Section 16.6, and (b) one or more additional General Partners are elected under the procedures of Section 16.6.

18.1.3 The Partnership becoming insolvent or bankrupt.

18.1.4 The unanimous vote to dissolve of all Partners.

18.2 Winding Up of Partnership. Upon the dissolution of the Partnership pursuant to Section 18.1, the General Partner, or if there is no General Partner, a substitute General Partner elected by vote of 51% of the Interests owned by the Limited Partners, shall take full account of the Partnership's assets and liabilities and the assets shall be liquidated as promptly as is consistent with obtaining their fair value, and the proceeds of such liquidation therefor shall be applied and distributed as provided in Section 10.3.

18.3 Survival of Obligations. Except as otherwise provided in this Agreement, no dissolution of the Partnership shall relieve, release or discharge any Partner or any of his successors, assigns, heirs or legal representatives, from any previous breach or default of, or any obligation previously incurred or accrued under, any provision of this Agreement, and any and all such liabilities, claims, demands or causes of action arising from any such breaches, defaults and obligations shall survive such dissolution and termination.

18.4 Termination. Upon compliance with Section 18.2, the General Partner shall file or cause to be filed a certificate of cancellation of the Certificate and the Partnership shall then be terminated.

19. Amendment of the Certificate and Agreement.

19.1 When Required. This Agreement and the Certificate shall be amended by the General Partner without any additional consent of the Limited Partners when required by law whenever:

19.1.1 There is a change in the name of the Partnership or the amount or character of the contribution of any Partner including, but not limited to, withdrawal or reduction, pursuant to this Agreement.

19.1.2 A person ceases to be, is substituted as, or becomes a General or Limited Partner.

19.1.3 There is a false or erroneous statement in the Certificate, provided the amendment does not adversely affect the interest of the Limited Partners and the General Partner has obtained an opinion of its counsel to that effect.

19.1.4 In the opinion of counsel for the Partnership, it is necessary or appropriate to satisfy a requirement of the Code with respect to partnerships, provided such amendments do not adversely affect the interests of the Limited Partners, and the General Partner has obtained an opinion of its counsel to that effect, and any amendment in this regard shall have retroactive effect to the date of this Agreement.

19.2 Limitation. Except as provided in Section 19.1, amendments shall only be made with the approval of Limited Partners as provided in Section 19.3. No amendment shall be made under Section 19 which would adversely affect the federal income tax treatment to be afforded Partners or adversely affect the liabilities of the Limited Partners or change the method of the allocation of Profits and Losses or preferences or distributive shares without full disclosure to the Partners and unless all of the Partners consent to such amendment.

19.3 Consent of Limited Partners. The General Partner shall obtain the written consent or approval or vote of Limited Partners owning in the aggregate at least Eighty (80%) percent of the Limited Partnership Interests with respect to any amendment other than an amendment allowed or permitted by Sections 19.1 and 19.2.

20. Conflict of Interest Waiver. The Partners and the Partnership acknowledge that the law firm of Tescher & Spallina, P.A. has represented the Partnership in connection with the drafting of this Agreement and the formation and structuring of the Partnership, and that said law firm also represents one or more of the Partners and owners of interests in entity Partners both in context of this Partnership and other matters (namely, SIMON L. BERNSTEIN, SHIRLEY BERNSTEIN, SHIRLEY BERNSTEIN FAMILY FOUNDATION, INC., and BERNSTEIN HOLDINGS, LLC). The Partnership and the Partners acknowledge that they have been advised that there are material income tax consequences and economic ramifications from being a Partner in the Partnership, that they fully understand the tax consequences and economic ramifications of a Partner's investment in the Partnership, and that they have been encouraged to consult with separate and independent counsel to advise them on Partnership and Partner issues including this Agreement and the formation of the Partnership. The Partnership and the Partners hereby waive any conflicts of interest with respect to the foregoing law firm's representation of the Partnership and the afore described Partners and owners of interests in entity Partners, in connection with the services set forth in this Section.

21. Miscellaneous.

21.1 Notices. Any notices, payments, demand, offer or communication required or permitted to be given by any provision of this Agreement shall be deemed to have been delivered and given for all purposes (a) if the same is delivered personally, or (b) whether or not the same is actually received, if sent by registered or certified mail, postage and charges prepaid, addressed as follows:

21.1.1 If to a General Partner, at BERNSTEIN HOLDINGS, LLC, 950 Peninsula Corporate Circle, Suite 310, Boca Raton, Florida 33487, or such other address as the General Partner may from time to time specify by written notice to the other Partners.

21.1.2 If to a Limited Partner, at BERNSTEIN FAMILY INVESTMENTS, LLLP, 950 Peninsula Corporate Circle, Suite 310, Boca Raton, Florida 33487, or to such other address as such Partner may from time to time specify by written notice to the General Partner, which other address shall be noted by the General Partner on the records of the Partnership.

21.1.3 If to any other Person, at the address of such person as shown by the Partnership's records.

21.2 Captions. Captions contained in this Agreement are for reference purposes only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any of its provisions.

21.3 Severability. Every provision of this Agreement is severable. If any term or provision is held to be illegal or invalid for any reason, such illegality or invalidity shall not affect the validity of the remainder of this Agreement or any other provision.

21.4 Right to Rely Upon the Authority of the General Partner. No person dealing with a General Partner shall be required to determine his authority to make any commitment or undertaking on behalf of the Partnership, nor to determine any fact or circumstance bearing upon the existence of his authority. In addition, no purchaser of any asset owned by the Partnership shall be required to determine the sole and exclusive authority of the General Partner to sign and deliver on behalf of the Partnership any such instrument of transfer, or to see to the application or distribution of revenues or proceeds paid or credited to the Partnership, unless such purchasers shall have received written notice from the Partnership affecting the same.

21.5 Litigation. The General Partner shall prosecute, defend and settle such actions at law or in equity as they may deem in their sole and absolute discretion to be necessary to enforce or protect the interest of the Partnership. The Partnership and the General Partner shall respond to any final decree, judgment or decision of a court of competent jurisdiction or board or authority having jurisdiction in the matter.

21.6 Applicable Law. The laws of the State of Florida shall govern the validity of this Agreement, the construction of its terms and the interpretation of the rights and duties of the parties.

21.7 Counterpart Execution. This Agreement may be executed in any number of counterparts with the same effect as if all parties had signed the same document. All counterparts shall be construed together and shall constitute but one Agreement.

21.8 Binding Effect. Each and every covenant, term, provision and agreement contained in this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the respective parties.

21.9 Right to Rely Upon Authority of Person Signing Agreement. In the event that a Limited Partner is an estate, a trust with or without disclosed beneficiaries, partnership, limited partnership, joint venture, corporation, or any entity other than a natural person, the Partnership and the General Partner shall (a) not be required to determine the authority of the Person signing this Agreement or any amendment to make any commitment or undertaking on behalf of such entity, nor to determine any fact or circumstance bearing upon the existence of his authority; (b) not be required to see to the application or distribution of revenues or proceeds paid or credited to the Person signing the Agreement or any amendment on behalf of such entity; (c) be entitled to rely upon the authority of the Person signing this Agreement or any amendment with respect to voting of the Partnership Interests of such entity and with respect to the giving of consent on behalf of such entity or any other Person in connection with any matter for which consent is permissible or required under this Agreement; and (d) be entitled to rely upon the authority of any general partner, joint venturer, co-or successor trustee or president, vice president, or other officer, as the case may be of any such entity the same as though such Person were the Person originally executing this Agreement or any amendment on behalf of such entity.

21.10 Rights of Nonrecourse Creditors. A creditor who makes a nonrecourse loan to the Partnership shall not have or acquire, at any time as a result of making any loan or advance, any direct or indirect interest in the profits, capital, or property of the Partnership other than, if applicable, as a secured creditor.

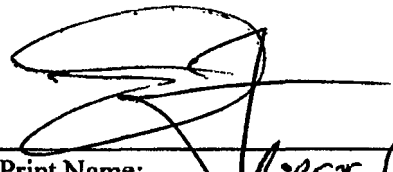
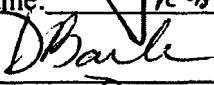
21.11 Number and Gender. Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders.


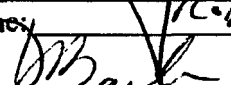
21.12 Entire Agreement. This Agreement constitutes the entire Agreement of the parties with respect to matters set forth in this Agreement and supersedes any prior understanding or agreement, oral or written, with respect thereto.

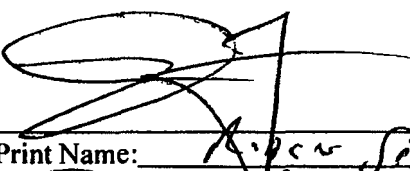
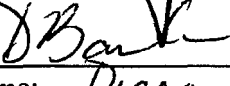
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IN WITNESS WHEREOF, this Agreement of Limited Partnership has been executed as of the date set forth in the preamble.

Witnessed by (as to all):


Print Name: Robert Sperry

Print Name: Diana Banks


Print Name: Robert Sperry

Print Name: Diana Banks


Print Name: Robert Sperry

Print Name: Diana Banks

GENERAL PARTNER:

BERNSTEIN HOLDINGS, LLC, a Florida limited liability company


By: 
SIMON L. BERNSTEIN, Manager

LIMITED PARTNERS:

SIMON L. BERNSTEIN TRUST
AGREEMENT dated May 20, 2008

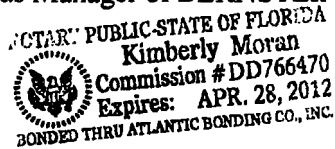
By: 
SIMON L. BERNSTEIN, Trustee

SHIRLEY BERNSTEIN TRUST
AGREEMENT dated May 20, 2008

By: 
SHIRLEY BERNSTEIN, Trustee

STATE OF FLORIDA :
: SS.
COUNTY OF PALM BEACH:

The foregoing instrument was acknowledged before me this 20 day of May, 2008,
by SIMON L. BERNSTEIN, Trustee of the SIMON L. BERNSTEIN TRUST AGREEMENT dated May
20, 2008, and as Manager of BERNSTEIN HOLDINGS, LLC.



Kimberly Moran
Signature - Notary Public

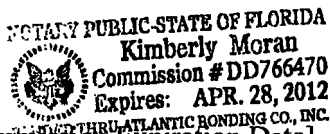
[Seal with Commission Expiration Date]

Print, type or stamp name of Notary Public

Personally Known ✓ or Produced Identification _____
Type of Identification Produced _____

STATE OF FLORIDA :
: SS.
COUNTY OF PALM BEACH:

The foregoing instrument was acknowledged before me this 20 day of May, 2008,
by SHIRLEY BERNSTEIN, Trustee of the SHIRLEY BERNSTEIN TRUST AGREEMENT dated May
20, 2008.



Kimberly Moran
Signature - Notary Public

[Seal with Commission Expiration Date]

Print, type or stamp name of Notary Public

Personally Known ✓ or Produced Identification _____
Type of Identification Produced _____

F:\WPDATA\dr\Bernstein, Shirley & Simon\Bernstein Family Investments, LLLP\Bernstein Investments, LLLP Partnership Agreement.wpd

SCHEDULE "A"

<u>Name:</u>	<u>% Interest</u>	<u>Cash</u>
<u>General Partner:</u>		
BERNSTEIN HOLDINGS, LLC	<u>1</u> %	<u>\$10.00</u>
<u>Limited Partners:</u>		
SIMON L BERNSTEIN, Trustee of the SIMON L. BERNSTEIN TRUST AGREEMENT dated May 20, 2008	<u>49.5</u> %	<u>\$495.00</u>
SHIRLEY BERNSTEIN, Trustee of the SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008	<u>49.5</u> %	<u>\$495.00</u>

NOTE: The foregoing valuations and percentage interests are subject to adjustment based on variations in value of contributed property from the values scheduled here and the actual fair market value of such contributed property on the date of transfer to the Partnership.

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL
IN RE: ESTATE OF PROBATE DIVISION
SHIRLEY BERNSTEIN File No. 502011CP000653XXXX SB
Deceased.

INVENTORY

The undersigned personal representative of the estate of SHIRLEY BERNSTEIN, deceased, who died on December 8, 2010, and whose social security number is XXX-XX-9749, submits this inventory of all the property of the estate, that has come into the hands, possession, control, or knowledge of these personal representatives:

REAL ESTATE IN FLORIDA – Exempt (Protected) Homestead:

Description

NONE

REAL ESTATE IN FLORIDA – Non-Exempt Homestead:

Description

Estimated Fair Market Value

NONE

(Whether homestead property is exempt from the claims of creditors, whether it is properly devised and whether it is a probate asset may have to be determined by appropriate proceedings.)

OTHER REAL ESTATE IN FLORIDA:

Description

Estimated Fair Market Value

NONE

\$

Total Real Estate in Florida – Except Exempt (Protected) Homestead

\$



Estate of Shirley Bernstein
File No. 502011CP000653XXXX SB
INVENTORY

PERSONAL PROPERTY WHEREVER LOCATED:

<u>Description</u>	<u>Estimated Fair Market Value</u>
Furniture, furnishings, household goods and personal effects	\$ <u>25,000.00 (est.)</u>
TOTAL OF ALL PERSONAL PROPERTY AND FLORIDA REAL ESTATES \$ <u>25,000.00</u>	

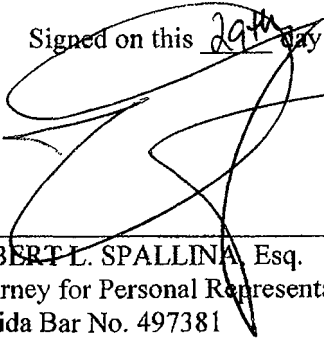
All real estate located outside the State of Florida owned by the decedent of which the personal representative is aware, if any, is described on a schedule attached hereto. [If none, so indicate]


NONE

NOTICE: Each residuary beneficiary in a testate estate or heir in an intestate estate has the right to request a written explanation of how the inventory value of any asset was determined, including whether the personal representative obtained an independent appraisal for that asset and from whom the appraisal was obtained. Any other beneficiary may request this information regarding all assets distributed to or proposed to be distributed to that beneficiary.

Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true to the best of my knowledge and belief.

Signed on this 29th day of August, 2011.


ROBERT L. SPALLINA, Esq.
Attorney for Personal Representative
Florida Bar No. 497381
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Telephone: (561) 997-7008


SIMON BERNSTEIN, Personal Representative



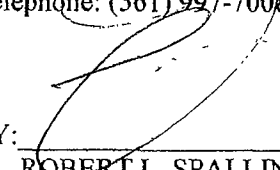
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Inventory was furnished by U.S. certified mail to:

Florida Department of Revenue
5050 W. Tennessee St., Bldg. K
Tallahassee, FL 32399-0100

on this 8 day of SEP, 2011.

TESCHER & SPALLINA, P.A.
Attorneys for the Personal Representative
of the Estate of Shirley Bernstein
4855 Technology Way, Suite 720
Boca Raton, Florida 33431
Telephone: (561) 997-7008

BY: 
ROBERT L. SPALLINA, ESQ.
Florida Bar No. 497381



LIMITED LIABILITY COMPANY

OPERATING AGREEMENT

of

BERNSTEIN HOLDINGS, LLC

a Florida limited liability company

OPERATING AGREEMENT OF BERNSTEIN HOLDINGS, LLC

This Limited Liability Company Agreement (the "Agreement") is made and entered into as of the 20 day of May, 2008, by and among BERNSTEIN HOLDINGS, LLC (the "Company"); and SIMON L. BERNSTEIN, Trustee of the SIMON L. BERNSTEIN TRUST AGREEMENT dated May 20, 2008, SHIRLEY BERNSTEIN, Trustee of the SHIRLEY BERNSTEIN TRUST AGREEMENT dated May 20, 2008, SIMON L. BERNSTEIN and SHIRLEY BERNSTEIN, Co-Trustees and ROBERT L. SPALLINA, Independent Trustee of the ELIOT BERNSTEIN FAMILY TRUST dated May 20, 2008, SIMON L. BERNSTEIN and SHIRLEY BERNSTEIN, Co-Trustees, and ROBERT L. SPALLINA, Independent Trustee of the JILL IANTONI FAMILY TRUST dated May 20, 2008, and SIMON L. BERNSTEIN and SHIRLEY BERNSTEIN, Co-Trustees, and ROBERT L. SPALLINA, Independent Trustee of the LISA S. FRIEDSTEIN FAMILY TRUST dated May 20, 2008, and any subsequent transferee as the Members ("Members"). The Members are herein sometimes referred to individually as a "Member" and collectively as "Members."

WITNESSETH:

WHEREAS, Articles of Organization for **BERNSTEIN HOLDINGS, LLC** were filed with the Florida Department of State on February 6, 2008.

WHEREAS, the Members desire to reduce their agreements to writing, to set forth the rights and obligations of the Members and the Manager.

NOW, THEREFORE, the Members and the Company hereby agree as follows:

ARTICLE I

DEFINITIONS

The following terms used in this Agreement shall have the following meanings:

(a) "**Act**" shall mean the Florida Limited Liability Company Act at F.S § 608.401, *et seq* and all amendments to the Act.

(b) "**Articles of Organization**" shall mean the Articles of Organization of **BERNSTEIN HOLDINGS, LLC**, as filed with the Department of State of Florida on February 6, 2008, and as may be amended from time to time.

(c) "**Capital Contribution**" shall mean any contribution to the capital of the Company in cash or the fair market value of property by a Member whenever made, net of any liabilities secured by such contributed property.

(d) “**Capital Account**” as of any given date shall mean the Capital Contribution to the Company by a Member as adjusted up to such date pursuant to Article VIII.

(e) “**Code**” shall mean the Internal Revenue Code of 1986 or corresponding provisions of subsequent superseding federal revenue laws.

(f) “**Company**” shall refer to **BERNSTEIN HOLDINGS, LLC**, a limited liability company formed under the laws of the State of Florida.

(g) “**Distributable Cash**” shall mean all cash, revenues and funds received by the Company from Company operations, less the sum of the following to the extent paid or set aside by the Company: (i) all principal and interest payments on indebtedness of the Company and all other sums paid to lenders; (ii) all cash expenditures incurred in the normal operation of the Company’s business; and (iii) such Reserves as the Managers deem reasonably necessary for the proper operation of the Company’s business.

(h) “**Entity**” shall mean any general partnership, limited liability partnership, limited partnership, limited liability limited partnerships, limited liability company, corporation, joint venture, trust, business trust, cooperative, association, foreign trust or foreign business organization.

(i) “**Gifting Member**” shall mean any Member who gifts, bequeaths or otherwise transfers for no consideration (by operation of law or otherwise, except with respect to bankruptcy) all or any part of its Membership Interest.

(j) “**Initial Capital Contribution**” shall mean the initial contribution to the capital of the Company pursuant to this Agreement.

(k) “**Interest**” shall mean “Percentage Interest” unless otherwise specifically agreed or in the case of special allocations.

(l) “**Majority Interest**” shall mean the Interests of Members, which in the aggregate exceed 50% of all Interests.

(m) “**Manager**” shall mean one or more managers designated as such pursuant to this Agreement or by subsequent vote of the Members. References to the Manager in the singular or as him, her, it, itself, or other like references shall also, where the context so requires, be deemed to include the plural or the masculine or feminine reference, as the case may be. Any Person may be named a Manager pursuant to this Agreement

(n) “**Member**” shall mean each of the parties who executes a counterpart of this Agreement as a Member and each of the parties who may hereafter become Members. To the extent a Manager has purchased a Membership Interest in the Company, he will have all the rights of a Member with respect to such Membership Interest, and the term “Member” as used herein shall include a Manager to the extent he has purchased such Membership Interest in the Company. If a Person is a Member immediately prior to the purchase or other acquisition by such Person of an Transferee Interest, such Person shall

have all the rights of a Member with respect to such purchased or otherwise acquired Membership Interest or Transferee Interest, as the case may be.

(o) “**Membership Interest**” shall mean a Member’s entire interest in the Company including such Member’s Transferee Interest and, the right to participate in the management of the business and affairs of the Company, including the right to vote on, consent to, or otherwise participate in any decision or action of or by the Members granted pursuant to this Agreement and the Act.

(p) “**Net Income**” and “**Net Losses**” shall mean the income, gain, loss, deductions and credits of the Company in the aggregate or separately stated, as appropriate, determined in accordance with sound accounting principles employed under the cash method of accounting at the close of each fiscal year on the Company’s tax return filed for federal income tax purposes.

(q) “**Operating Agreement**” (or “**Agreement**”) shall mean this Operating Agreement of **BERNSTEIN HOLDINGS, LLC**, as originally executed and as amended from time to time.

(r) “**Percentage Interest**” shall mean, for any Member, the percentage interest that the Capital Account of the Member bears to the total Capital Accounts of all of the Members of the Company, as set forth at Section 9.1 herein, and Exhibit A, as may be changed from time to time by the unanimous vote of the Members.

(s) “**Person**” shall mean any individual or Entity, and the heirs, executors, administrators, legal representatives, successors, and assigns of such “Person” where the context so permits.

(t) “**Reserves**” shall mean funds set aside or amounts allocated to reserves which shall be maintained in amounts reasonably deemed sufficient by the Managers for working capital and to pay taxes, insurance, debt service or other costs or expenses incident to the ownership or operation of the Company’s business.

(u) “**Selling Member**” shall mean any Member or Transferee which sells, assigns, pledges, hypothecates or otherwise transfers for consideration all or any portion of its Membership Interest or Transferee Interest.

(v) “**Transferee**” shall be person who has not been admitted by the Company as a Member Partner, but, by virtue of a Transfer of an Interest in the Company to said person, said person is entitled to a pro rata share of one or more of the Company’s items of income, losses, credits, and distributions of the Company’s assets pursuant to this Agreement and the Act, but said person shall not have, and is not entitled to any right to participate in the management or affairs of the Company, including, the right to vote on, consent to or otherwise participate in any decision of the Members or Manager.

(w) “**Transferring Member**” shall collectively mean a Selling Member and a Gifting Member.

(x) “**Treasury Regulations**” shall include proposed, temporary and final regulations promulgated under the Code.

ARTICLE II

FORMATION OF COMPANY

2.1 *Organization.*

BERNSTEIN HOLDINGS, LLC, has been organized as a Florida limited liability company by executing and delivering the Articles of Organization to the Florida Department of State in accordance with and pursuant to the Act.

2.2 *Name.*

The name of the Company is **BERNSTEIN HOLDINGS, LLC**, and all business of the Company shall be conducted under that name unless a majority of the Members agree to the filing and use of a fictitious name.

2.3 *Principal Place of Business.*

The initial principal place of business of the Company shall be 950 Peninsula Corporate Circle, Suite 310, Boca Raton, Florida 33487. The Company may locate its places of business and registered office at any other place or places as the Manager may deem advisable.

2.4 *Registered Office and Registered Agent.*

The Company's initial registered office shall be at the office of its registered agent in Florida, and the name of its initial registered agent shall be Donald R. Tescher, Esq. 2101 Corporate Blvd., Suite 107, Boca Raton, Florida, 33431. The registered office and registered agent may be changed by filing the address of the new registered office and/or the name of the new registered agent with the Florida Department of State pursuant to the Act.

2.5 *Term.*

The term of the Company has filed Articles of Organization with the Florida Department of State, and shall have perpetual existence, unless the Company is earlier dissolved in accordance with either the provisions of this Agreement or the Act.

ARTICLE III

BUSINESS OF COMPANY

The business of the Company shall be to engage in management of investments, and closely-held business or real estate ventures, and such lawful activities as are reasonably necessary or useful to the furtherance of the forgoing purpose (the "Business").

ARTICLE IV

NAMES AND ADDRESSES OF MEMBERS

The names of the Members are listed on Exhibit A attached hereto and incorporated herein, and the addresses of the members are 950 Peninsula Corporate Circle, Suite 310, Boca Raton, Florida 33487, as amended from time to time.

ARTICLE V

RIGHTS AND DUTIES OF MANAGERS

5.1 *Management.*

5.1.1 *General.* The business and affairs of the Company shall be managed by its Managers. The Managers shall direct, manage, and control the business of the Company. Except for situations in which the approval of the Members is expressly required by this Agreement or by nonwaivable provisions of the Act, the Managers shall have exclusive, sole, full and complete authority, power and discretion to manage and control the business, affairs and properties of the Company, to make all decisions regarding those matters, and to perform any and all other acts or activities customary or incident to the management of the Company's business. At any time when there is more than one Manager, any one Manager may take any action permitted to be taken by the Managers, unless the approval of more than one of the Managers is expressly required pursuant to this Agreement or the Act. The Managers may create a Board of Directors, and may also appoint individuals with or without titles, including the titles of General Manager, Executive Director, President, Vice President, Treasurer, Secretary, and Assistant Secretary, to act on behalf of the Company with such power and authority as the Managers or Board of Directors may delegate to any such Person.

5.1.2 *Initial Managers/Designation of Managers/Voting.* The Members agree that the initial Manager of the Company is SIMON L. BERNSTEIN. Unless otherwise specifically agreed herein, business decisions of the Company shall be made by said Manager. The Members shall vote their Interests such that only the aforementioned person is Manager of the Company. In all events, an individual shall be a Manager only while she or he is a Member who owns voting Interests (and is not a mere Transferee), either directly or indirectly. After proper notice, in the event of death or mental disability or incompetence of the Manager, the Members shall vote on and elect a new Manager.

5.2 *Certain Powers of Managers.*

Without limiting the generality of Section 5.01, the Manager (or, if more than one Manager, then the Managers) shall have power and authority, on behalf of the Company to do the following:

(a) To acquire or lease property from any Person as the Managers may determine, whether or not such Person is directly or indirectly affiliated or connected with any Manager or Member;

(b) To borrow money for the Company from banks, other lending institutions, the Managers, Members, or affiliates of the Managers or Members on such terms as the Managers deem appropriate, and in connection therewith, to hypothecate, encumber and grant security interests in the assets of the Company to secure repayment of the borrowed sums. No debt shall be contracted or liability incurred by or on behalf of the Company except by the Managers, or to the extent permitted under the Act, by agents or employees of the Company expressly authorized to contract such debt or incur such liability by the Managers;

- (c) To purchase liability and other insurance to protect the Company's property and business;
- (d) To hold and own Company real and personal properties in the name of the Company;
- (e) To invest Company funds in time deposits, short-term governmental obligations, commercial paper or other investments;
- (f) To sell or otherwise dispose of all or substantially all of the assets of the Company as part of a single transaction or plan as long as such disposition is not in violation of or a cause of a default under any other agreement to which the Company may be bound;
- (g) To execute on behalf of the Company all instruments and documents, including, without limitation, checks; drafts; notes and other negotiable instruments; mortgages or deeds of trust; security agreements; financing statements; documents providing for the acquisition, mortgage or disposition of the Company's property; assignments, bills of sale; leases; and any other instruments or documents necessary to the business of the Company;
- (h) To employ accountants, legal counsel, managing agents or other experts to perform services for the Company;
- (i) To enter into any and all other agreements on behalf of the Company, in such forms as the Managers may approve; and
- (j) To do and perform all other acts as may be necessary or appropriate to the conduct of the Company's business.

Unless authorized to do so by this Agreement or by the Manager of the Company, no attorney-in-fact, employee or other agent of the Company shall have any power or authority to bind the Company in any way, to pledge its credit or to render it liable for any purpose. No Member shall have any power or authority to bind the Company unless the Member has been authorized by the Manager to act as an agent of the Company in accordance with the previous sentence.

5.3 *Liability for Certain Acts.*

Each Manager shall perform his duties as Manager in good faith, in a manner he or she reasonably believes to be in the best interests of the Company, and with such care as an ordinarily prudent person in a like position would use under similar circumstances. A Manager shall not be liable to the Company or to any Member for any loss or damage sustained by the Company or any Member, unless the loss or damage shall have been the result of fraud, deceit, gross negligence, willful misconduct, unlawful acts, or a wrongful taking by the Manager.

5.4 *No Exclusive Duty to Company.*

A Member or Manager shall not be required to manage the Company as his or her sole and exclusive function and may have other business interests and engage in activities in addition to those relating to the Company. Neither the Company nor any Member shall have any right, by virtue of this

Agreement, to share or participate in such other investments or activities of a Manager or to the income or proceeds derived therefrom.

5.5 *Bank Accounts.*

The Manager may from time to time open bank accounts in, the name of the Company, and the Manager shall be the sole signatory thereon, unless Members owning a Majority Interest determine otherwise.

5.6 *Indemnity of the Managers, Employees and Other Agents.*

The Company shall, to the maximum extent permitted under the Act, indemnify and make advances for expenses to Managers, its employees, and other agents.

5.7 *Resignation.*

Any Manager of the Company may resign at any time by giving written notice to the Members of the Company. The resignation of any Manager shall take effect upon receipt of notice thereof or at such later date specified in such notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. The resignation of a Manager who is also a Member shall not affect the Manager's rights as a Member and shall not constitute a withdrawal of a Member.

5.8 *Removal.*

A Manager shall not be subject to removal by vote of the Members except, if at all, pursuant to the provisions of this Agreement, as it may be amended by agreement of all of the Members.

5.9 *Vacancies.*

To the extent not expressly provided for in Section 5.1.2 "Voting Agreement of Members," and only to said extent, if any: Any vacancy occurring for any reason in the number of Managers of the Company may be filled by the affirmative vote of Members holding a majority of the Percentage Interests present at an election at a meeting of Members called for that purpose or by the Members' unanimous written consent. A Manager elected to fill a vacancy shall be elected for the unexpired term of their predecessor in office and shall hold office until the expiration of such term and until their successor shall be elected and qualified or until the Manager's earlier death, resignation or removal. A Manager chosen to fill a position resulting from an increase in the number of Managers shall hold office until his successor shall be elected and qualified, or until his earlier death, resignation or removal.

5.10 *Salaries.*

Each Manager shall receive annual compensation (the "Management Fee") if such compensation is agreed to by a majority of the Percentage Interest of the Members in writing, and and shall be entitled to reimbursement of reasonable and necessary expenses advanced on behalf of the Company.

ARTICLE VI

RIGHTS AND OBLIGATIONS OF MEMBERS

6.1 *Limitation of Liability.*

Each Member's liability to the Company shall be limited as set forth in this Agreement, the Act and other applicable law.

6.2 *Company Liability.* A Member will not be personally liable for any debts, obligations, liabilities or losses of the Company, whether arising in contract, tort, or otherwise, solely by reason of being a Member, beyond his respective Capital Contributions or any obligation of the Member under Sections 8.1 and 8.2 hereunder, except as provided in Section 6.7 or as otherwise required by law.

6.3 *List of Members.*

Upon the written request of any Member, the Managers shall provide a list showing all of the names, addresses and Membership Interests and Transferee Interests in the Company.

6.4 *Approval of Sale of All Assets.* The Managers shall have the right, to approve the sale, exchange or other disposition of all, or substantially all, of the Company's assets which is to occur as part of a single transaction or plan.

6.5 *Company Books.*

The Managers shall maintain and preserve, during the term of the Company, the accounts, books, and other relevant Company documents described in Section 9.9. Upon reasonable written request, each Member and Transferee shall have the right, at any time during ordinary business hours, as reasonably determined by the Manager, to inspect and copy, at the requesting Member's or Transferee's expense, the Company documents required to be maintained under Section 608.4101 of the Act, and such other documents which the Managers, in their reasonable discretion, deem appropriate.

6.6 *Priority and Return of Capital.*

Except as may be expressly provided in Article IX, no Member or Transferee shall have priority over any other Member or Transferee, either as to the return of Capital Contributions or as to Net Profits, Net Losses or distributions; provided that this Section shall not apply to loans which a Member has made to the Company.

6.7 *Liability of a Member to the Company.*

A Member who receives a distribution or return in whole or in part of its contribution is liable to the Company only to the extent provided by the Act.

ARTICLE VII

MEETINGS OF MANAGERS AND MEMBERS

7.1 *Meetings.*

Meetings of the Managers, for any purpose or purposes, may be called by any Manager. Meetings of the Members for any purpose or purposes, may be called by any Members holding at least 51% of the Percentage Interests of the Members.

7.2 *Place of Meetings.*

The Managers may designate any location within the U.S., either within or outside the State of Florida, as the place of meeting for any meeting of the Members. If no designation is made, or if a special meeting be otherwise called, the place of meeting shall be the principal place of business of the Company.

7.3 *Notice of Meetings.*

Except as provided in Section 7.04, written notice stating the place, day and hour of the meeting and the purpose or purposes for which the meeting is called shall be delivered not less than five (5) nor more than thirty (30) days before the date of the meeting, either personally or by mail, by or at the direction of the Managers or Member or Members calling the meeting, to each Member or Manager entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered two (2) calendar days after being deposited in the United States mail, certified mail return receipt requested, addressed to the Member or to the Manager at its address as it appears on the books of the Company, with postage therein prepaid. Notice may also be given by telegram, teletype or facsimile, or other form of electronic communication. Managers and Members may participate in and hold meetings whereby all conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other. Participation by communications equipment shall constitute presence as the meeting, unless a Member or Manager is participating in the meeting for the express purpose of objecting to the transaction of any business on the ground the meeting is not lawfully called or convened.

7.4 *Meeting of All Members and Meetings of All Managers.* If all of the Members or all of the Managers shall meet at any time and place, and consent to the holding of a meeting at such time and place, such meeting shall be valid without call or notice, and at such meeting lawful action may be taken.

7.5 *Record Date.*

For the purpose of determining Members entitled to notice of or to vote at any meeting of Members or any adjournment thereof, or Members entitled to receive payment of any distribution, or in order to make a determination of Members for any other purpose, the date on which notice of the meeting is mailed or the date on which the resolution declared such distribution is adopted, as the case may be, shall be the record date for such determination of Members. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this Section, such determination shall apply to any adjournment thereof.

7.6 *Quorum.*

Members holding at least fifty percent (50%) of all Percentage Interests, represented in person or by proxy, shall constitute a quorum at any meeting of Members, and if there is more than one Manager then serving, then a majority of the number of the then-serving Managers shall constitute a

quorum at a meeting of the Managers, who shall be represented in person, and shall constitute a quorum at any meeting.

7.7 *Manner of Acting.*

If a quorum is present, the affirmative vote of a majority of all of the Members represented at the meeting, who must hold a majority Percentage Interest in the Company, shall be the act of the Members, unless the vote of a greater or lesser proportion or number is otherwise required by the Act, or by this Agreement. Unless otherwise expressly provided herein or required under applicable law, only Members who have a Membership Interest may vote or consent upon any matter and their vote or consent, as the case may be, shall be counted in the determination of whether the matter was approved by the Members.

7.8 *Proxies.*

At all meetings of Members, a Member may vote in person or by proxy executed in writing by the Member or by a duly authorized attorney-in-fact. Such proxy shall be filed with the Managers of the Company before or at the time of the meeting. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy. Managers shall not be able to vote by Proxies.

7.9 *Action by Members Without a Meeting.*

Action required or permitted to be taken at a meeting of Members may be taken without a meeting if the action is evidenced by one or more written consents describing the action taken, signed by each Member entitled to vote and delivered to the Managers of the Company for inclusion in the minutes or for filing with the Company records. Action taken under this Section is effective when all Members entitled to vote have signed the consent, unless the consent specifies a different effective date.

7.10 *Waiver of Notice.*

When any notice is required to be given to any Member, a waiver thereof in writing signed by the person entitled to such notice, whether before, at, or after the time stated therein, shall be equivalent to the giving of such notice.

ARTICLE VIII

CONTRIBUTIONS TO THE COMPANY AND CAPITAL ACCOUNTS

8.1 *Members' Initial Capital Contributions.*

Each Member shall contribute such amount as is set forth on the books and records of the Company. No interest shall accrue on any Capital Contribution and the Member shall not have the right to withdraw or be repaid any Capital Contribution except as provided in this Agreement.

8.2 *Additional Contributions.*

A Member may, but shall not be obligated to, make such additional Capital Contributions as shall be determined by the Managers. Such additional Capital Contributions shall be reflected in the Account of the Contributing Member and shall not be a part of any other Member's Capital Account absent written agreement of the Members. After the making of any such determination, the Managers shall give written notice to each Member of the amount of required additional contribution, if any, and each Member may deliver to the Company its pro rata share thereof (in proportion to the *respective* Percentage Interest of the Member on the date such notice is given) no later than thirty (30) days following the date such notice is given. None of the terms, covenants, obligations or rights contained in this Section 8.2 is or shall be deemed to be for the benefit of any person or entity other than the Members and the Company, and no such third person shall under any circumstances have any right to compel any actions or payments by the Managers and/or the Members.

8.3 *Capital Accounts.*

(a) A separate Capital Account will be maintained for each Member. Each Member's Capital Account will be increased by (1) the amount of money contributed by such Member to the Company; (2) the fair market value of property contributed by such Member to the Company (net of liabilities secured by such contributed property that the Company is considered to assume or take subject to under Code Section 752); (3) allocations to such Member of Net Profits and Net Losses; and (4) allocations to such Member of income described in Code Section 705(a)(1)(B). Each Member's Capital Account will be decreased by (1) the amount of money distributed to such Member by the Company; (2) the fair market value of property distributed to such Member by the Company (net of liabilities secured by such distributed property that such Member is considered to assume or take subject to under Code Section 752); (3) allocations to such Member of expenditures described in Code Section 705(a)(2)(B); and (4) allocations to the account of such Member of Company loss and deduction as set forth in such Regulations, taking into account adjustments to reflect book value.

(b) In the event of a permitted sale or exchange of a Membership Interest or a Transferee Interest in the Company, the Capital Account of the transferor shall become the Capital Account of the Transferee to the extent it relates to the transferred Membership Interest or Transferee Interest in accordance with Section 1.704-1(b) (2) (iv) of the Treasury Regulations.

(c) The manner in which Capital Accounts are to be maintained pursuant to this Section 8.3 is intended to comply with the requirements of Code Section 704(b) and the Treasury Regulations promulgated thereunder. If the Company determines that the manner in which Capital Accounts are to be maintained pursuant to the preceding provisions of this Section 8.3 should be modified in order to comply with Code Section 704(b) and the Treasury Regulations, then notwithstanding anything to the contrary contained in the preceding provisions of this Section 8.3, the method in which Capital Accounts are maintained shall be so modified; provided, however, that any change in the manner of maintaining Capital Accounts shall not materially alter the economic agreement between or among the Members as set forth in this Agreement.

(d) Except as otherwise required in the Act (and subject to Sections 8.1 and 8.2), no Member or Transferee shall have any liability to restore all or any portion of a deficit balance in such Member's or Transferee's Capital Account.

8.4 *Withdrawal or Reduction of Members' Contributions to Capital.*

(a) A Member or Transferee Interest Holder shall not receive out of the Company's property any part of its Capital Contribution until all liabilities of the Company, except liabilities to Members on account of their Capital Contributions, have been paid or there remains property of the Company sufficient to pay them.

(b) A Member or Transferee Interest Holder, irrespective of the nature of its Capital Contribution, has only the right to demand and receive cash in return for its Capital Contribution.

(c) Notwithstanding anything to the contrary in this Agreement, a Member may withdraw from the Company only at the time or upon the occurrence of an event specified in this Agreement or in the Articles of Organization. No such event is specified in either the Articles of Organization or in this Agreement at the date hereof. A Member which violates the withdrawal prohibition in this Section shall be liable for breach of this Agreement and shall become a Transferee. A withdrawing Member shall not have a right to receive the fair value of receive the withdrawing member's Interest in the Company as of the date of the resignation but rather, shall have only such rights as a Transferee would have to receive distributions as are made by the Company in the discretion of the Managers.

ARTICLE IX

ALLOCATIONS, INCOME TAX, DISTRIBUTIONS, ELECTIONS AND REPORTS

9.1 *Allocations of Income and Losses from Operations.*

The Net Income and Net Losses of the Company for each fiscal year, and each Member or Transferee's share of Cash Flow, will be allocated in accordance with the Percentage Interests schedule set forth in Exhibit A attached hereto, and, except as provided therein, the Percentage Interests of Members shall be proportionate to the amount of their Capital Accounts as determined hereinabove.

9.2 *Special Tax Provisions As to Extraordinary Allocations, if Any, to Capital*

Allocations of Net Income and Net Losses other than those set forth above shall be made based upon the determinations of the tax accountants and attorneys employed by the Company, giving regard to the intention expressed hereinabove and otherwise herein, with respect to special or priority allocations if any, and with regard to federal partnership tax and capital accounting principles described in Section 8.3 hereinabove.

9.3 *Distributions.*

Within the discretion of the Managers as to amounts, if any, and as to timing, the Managers may distribute Cash Flow to the Members, in accordance with their Percentage Interests .

9.4 *Limitation upon Distributions.*

(a) No distributions or return of contributions shall be made and paid if, after the distribution or return of distribution is made either

- (1) the Company would be insolvent; or
- (2) the net assets of the Company would be less than zero.

(b) The Managers may base a determination that a distribution or return of contribution may be made under Section 9.4(a) in good faith reliance upon a balance sheet and profit and loss statement of the Company represented to be correct by the person having charge of its books of account or certified by an independent public or certified public accountant or firm of accountants to fairly reflect the financial condition of the Company.

9.5 *Tax Accounting Principles.*

The income and losses of the Company shall be determined in accordance with sound tax accounting principles applied on a consistent basis using generally accepted tax accounting principles as applied consistent with the Code.

9.6 *Interest on and Return of Capital Contributions.*

No Member shall be entitled to interest on its Capital Contribution or to a return of its Capital Contribution, except as otherwise provided in this Agreement.

9.7 *Loans to Company.*

Nothing in this Agreement shall prevent any Member from making secured or unsecured loans to the Company by agreement with the Company, provided that such loans are arms-length transactions, containing terms customary in the lending industry at the time such loans were made.

9.8 *Accounting Period.*

The Company's accounting period shall be the calendar year ("Fiscal Year").

9.9 *Records, Audits and Reports.*

At the expense of the Company, the Managers shall maintain records and accounts of the operations and expenditures of the Company. At a minimum, the Company shall keep at its principal place of business the following records:

(a) A current list of the full name and last known address of each Member and Transferee setting forth the amount of cash each Member and Transferee has contributed, a description and statement of the agreed value of the other property or services, each Member and Transferee has contributed or has agreed to contribute in the future, and the date on which each became a Member or Transferee, and their respective Percentage Interest in the Company;

(b) A copy of the Articles of Organization of the Company and all amendments thereto together with executed copies of any powers of attorney pursuant to which any amendment has been executed;

(c) Copies of the Company's federal, state, and local income tax returns and reports, if any, for the three most recent years;

(d) Copies of the Company's currently effective written Agreement, all amendments thereto, and copies of any financial statements of the Company for the three most recent years;

(e) Notices of and minutes of every Member and Managers meeting,

(f) Any written consents obtained from Members for actions taken by Members without a meeting; and

(g) Unless contained in the Articles of Organization or the Agreement, a writing prepared by the Managers setting out the following:

(1) The times at which or events on the happening of which any additional contributions agreed to be made by each Member and Transferee are to be made.

(2) Any right of a Member or Transferee to receive distributions of include a return on all or any part of the Member or Transferee's contributions.

(3) Any power of a Member or Transferee to grant the right to become an assignee of any part of the Member's or Transferee's interest, and the terms and condition of the power.

9.10 *Returns and Other Elections.*

The Managers shall cause the preparation and timely filing of tax returns required to be filed by the Company pursuant to the Code and all other tax returns deemed necessary and required in each jurisdiction in which the Company does business. Copies of such returns, and pertinent information therefrom, shall be furnished to the Members within a reasonable time after the end of the Company's fiscal year upon the Members' written request. All elections permitted to be made by the Company under federal or state laws shall be made by the Managers in their sole discretion. It is the intention of the Members that the Company shall be taxed as a "Partnership" for federal, state, and local income tax purposes.

9.11 *Tax Matters Partner.*

SIMON L. BERNSTEIN is designated the "Tax Matters Partner" (as defined in Code Section 6231), and is authorized and required to represent the Company (at the Company's expense), either directly, or through accounting or tax representatives, in connection with all examinations for the Company's affairs by tax authorities, including, without limitation administrative and judicial proceedings, and to expend Company funds for professional services and costs associated therewith. The

Members agree to cooperate with each other and to do or refrain from doing any and all things reasonably required to conduct such proceedings.

ARTICLE X

TRANSFERABILITY

10.1 *General.*

10.1.1. *Transferees Not Members, Generally.* Except as otherwise set forth in Section 10.1.2, or with the consent of all of the Members, neither a Member nor a Transferee shall have the right, as to all or any part of its Membership Interest or Transferee Interest to:

(a) sell, assign, pledge, hypothecate, transfer, exchange or otherwise transfer for consideration (collectively, “sell” or, as context requires “selling”); or

(b) gift, bequeath or otherwise transfer for no consideration (whether or not by operation of law, except in the case of bankruptcy) (collectively, “gift”).

Absent the written consent of all Members to the contrary or otherwise provided by law, the Interest of the Transferee shall be a Non-Voting Interest.

10.1.2 *Transferees Who are Lineal Descendants of a Member.* Any Transferees who are lineal descendants of both SIMON L. BERNSTEIN and SHIRLEY BERNSTEIN, either directly, or indirectly, as beneficiaries of a Trust, or other entity beneficially owned solely for or by that Member (including, but not limited to a revocable trust established by a Member for the sole lifetime benefit of the Member or the Member’s descendants) shall be Members upon their written agreement to be bound by the terms of this Agreement and shall be subject to the voting agreements described in Article V, hereinabove.

10.2 *Right of First Refusal.*

(a) If a Selling Member desires to sell all or any portion of its Membership Interest in the Company to a third party purchaser, the Selling Member shall obtain from such third party purchaser a bona fide written offer to purchase such Interest, stating the terms and conditions upon which the purchase is to be made and the consideration offered; provided, however, the offer shall include a “tag along” or “take along” provision, pursuant to which, all Members have the right to sell a pro-rata portion (determined in accordance with the Percentage Interests of all of the Members) of their Interests to the third party. The Selling Member or Transferee shall give written notification to the remaining Members, by certified mail or personal delivery, of its intention to so transfer such Interest, furnishing to the remaining Members a copy of the written offer to purchase such Interest.

(b) Each of the remaining Members, on a basis pro rata to their Percentage Interests or on a basis pro rata to the Percentage Interests of those remaining Members exercising their rights of first refusal, shall have the right to exercise a right of first refusal to purchase all (but not less than all) of the Interest proposed to be purchased by the third party and sold by the Selling Member and the “tag along Members” upon the same terms and conditions as stated in the aforesaid written offer to purchase

by giving written notification to the Selling Member and the “tag along Members”, by certified mail or personal delivery, of the intention to do so within thirty (30) days after receiving written notice from the Selling Member. Subject to the following paragraph, the failure of the remaining Members to so notify the Selling Member and the “tag along Members” of their desire to exercise this right of first refusal within said thirty (30) day period shall result in the termination of the right of the first refusal and the Selling Member and the “tag along Members” shall be entitled to consummate the sale of its Interest in the Company to such third party purchaser, provided that the sale shall be consummated within sixty (60) days following the expiration of the aforesaid thirty (30) day period. In the event the remaining Members (or any one or more of the remaining Members) give written notice to the Selling Member and the “tag along Members” of their desire to exercise this right of first refusal and to purchase all of the Interests of the Selling Member and the “tag along Members” offered upon the same terms and conditions as are stated in the aforesaid written offer to purchase, the remaining Members shall have the right to designate the time, date and place of closing, provided that the date of closing shall be within sixty (60) days after written notification to the Selling Member of the remaining Member or Members’ election to exercise their right of the first refusal. In the event that two (2) or more Members give written notice of their desire to exercise their right of first refusal, absent an agreement between all the Members so exercising such right, each such Member exercising their right of first refusal shall be entitled to purchase that percentage of the selling Member’s share according to the proportion that their Percentage Interests bears to the total Percentage Interests exercising such right of first refusal. The Members shall communicate with each other during the pendency of any offer made in accordance with the terms of this Section 10.2 in order to effectuate the intent of this Section.

(c) As a condition to the Company recognizing the effectiveness of either the sale or gift of an Interest in the Company (including, in both cases, a Transferee Interest), the remaining Members may require the Selling Member, Gifting Member and/or the proposed purchaser, donee or successor-in-interest, as the case may be, to execute, acknowledge and deliver to the remaining Members such instruments of transfer, assignment and assumption and such other certificates, representations and documents, and to perform all such other acts which the remaining Members’ may deem necessary or desirable to:

- (1) verify the purchase, gift or transfer, as the case may be;
- (2) confirm that the person desiring, to acquire an Interest in the Company, or to be admitted as a Member, has accepted, assumed and agreed to be subject and bound by all of the terms, obligations and conditions of the Agreement (whether such Person is to be admitted as a new Member or as a Transferee);
- (3) maintain the status of the Company as a partnership for federal tax purposes; and
- (4) assure compliance with any applicable state and federal laws including securities laws and regulations.

(d) Any sale or gift of a Membership Interest or Transferee Interest in compliance with this Article X shall be deemed effective upon the last day of the calendar month in which all the terms and conditions hereof relating thereto have been satisfied. The admission of a Member in compliance with this Article X shall be deemed effective as of the last day of the calendar month in

which the remaining Members' consent thereto was given. The Selling Member hereby indemnifies the Company and the remaining Members against any and all loss, damage, or expense (including, without limitation, tax liabilities or loss of tax benefits) arising directly or indirectly as a result of any transfer or purported transfer in violation of this Article X.

10.3 Permitted Transfer to Descendants/Mandatory Offer at Death.

10.3.1 No Mandatory Offer At Death. If a Member's Interest is Transferred to a lineal descendant of the Member, to a Trust or other entity beneficially owned solely for or by that Member or the lineal descendant of that Member, the Transferee shall not be required to sell or offer to sell his or her Interest, shall be eligible to become a Member pursuant to Sections 10.1.1 and 10.1.2 above, and shall be subject to the voting agreements described in Article V, above. If Members of the Company are trusts for the lifetime benefit of the lineal descendants of a Member either directly or indirectly, then the successors in interest to the Interests in the Company pursuant to the terms of such trusts shall be considered as Members hereof (regardless of indirect ownership as trust beneficiaries) as long as the beneficial interests are owned by the lineal descendants of the Member, and said persons shall be subject to the voting agreements described in Article V, above.

10.3.2 Mandatory Offer At Death. Except with transfers described in 10.3.1., above, the death of any Member or Transferee who owns an Interest shall constitute an offer by the Member's Estate, Trust, or other legal successor in interest, to sell all of the Member's Interest to the Company (the "Offer") at its fair market value (determined as of the date of death). The Company shall have one hundred eighty (180) days in which to accept the Offer at an agreed price, which acceptance shall be made by delivery of written notice thereof to the legal representative of the estate of the Member or Transferee, by certified mail or personal delivery, within said one hundred eighty (180) day period. If the Company does not elect to purchase the Interest within said one hundred eighty (180) day period, the remaining Members shall have the right, but are not required to, purchase the remaining part, or all, as the case may be, of the Interest at its fair market value (as determined herein) determined as of the date of death, in proportion to their existing Interests. Such right to purchase shall be exercised by delivery of written notice thereof, by certified mail or personal delivery, during the thirty (30) days immediately after the one hundred eighty (180) day period (the "30 Day Period"). If any such Member does not desire to purchase his/her or its full proportionate part of the Interest offered for sale, but the remaining Members desire to purchase all of the Interest offered for sale, said Members shall then have the right to purchase said Interest proportionally in accordance with their respective Interests and the Members shall communicate with each other during the 30 Day Period in order to effectuate the intent of this Section 10.3. Except as provided in Section 10.1.2 and 10.1.3, to the extent that any part, or all, of an Interest is not purchased under the provisions of this Section 10.3, the deceased's Member's Interest shall become a Transferee's Interest, if not owned beneficially or directly by another Member hereof. The purchase price shall be as agreed by the parties, and, unless otherwise agreed, shall be paid in cash at the closing, which shall occur no later than thirty (30) days after the end of the 30 Day Period. For purposes of this Agreement, the "fair market value" of an Interest is equal to its Percentage Interest multiplied by the value of the Company (as agreed by the parties). If the value of the Company is not agreed to by the parties, then for purposes of this Agreement "fair market value" of a Member's Interest shall be determined without reduction for minority, lack of marketability or other entity/Company level discounts, based upon a reasonable appraisal procedure to determine the fair market value of the Company's assets. The appraisal procedure shall be agreed upon by the Member and Company. If the

parties cannot agree to an appraisal procedure, then an MAI appraiser shall be selected by the Personal Representative of the deceased Member's estate, and if the Company does not agree as to that appraiser, then the Company shall select its own appraiser and each MAI appraiser then shall select a third MAI appraiser and the average of all three (3) appraisals shall be the fair market value of the Interest. As set forth hereinabove, fair market value" of a Member's Interest shall be determined without reduction for minority, lack of marketability or other entity/Company level discounts.

10.4 *Transferee Not Member in Absence of Unanimous Consent.*

(a) Except as provided in Section 10.1.2 and 10.1.3, if all of the remaining Members do not approve by unanimous written consent of the proposed, sale or gift of the Transferring Member's Membership Interest to a transferee or donee which is not a Member immediately prior to the sale or gift, then the proposed transferee or donee shall have no right to participate in the management of the business and affairs of the Company or to become a Member. The transferee or donee shall be merely a Transferee entitled solely to economic rights to profits, losses and distributions and shall have no voting rights under this Agreement or in matters relating to the Company and its business; provided, however, any sale of a Transferee's interest in the Company should be subject to Section 10.2. No transfer of a Member's Interest in the Company (including any transfer of the Transferee Interest or any other transfer which has not been approved by unanimous written consent of the Members) shall be effective unless and until written notice (including the name and address of the proposed transferee or donee and the date of such transfer) has been provided to the Company and the nontransferring Member(s).

(b) Upon and contemporaneously with any sale or gift of a Transferring Member's Interest in the Company which does not at the same time transfer the balance of the rights associated with the Transferee Interest transferred by the Transferring Member (including, without limitation, the rights of the Transferring Member to participate in the management of the business and affairs of the Company), all remaining rights and interest which were owned by the Transferring Member immediately prior to such sale or gift or which were associated with the transferred Interest shall immediately lapse until the remaining Members, by unanimous written consent, reinstate such rights to the Transferee who did not previously obtain the unanimous written consent, reinstating such rights to a successor or transferee of such Transferee.

ARTICLE XI

ADDITIONAL MEMBERS

From the date of the formation of the Company, any Person or Entity acceptable to the Members by their unanimous vote thereof may become a Member in this Company for such consideration as the Members by their unanimous votes shall determine, subject to the terms and conditions of this Agreement. No new Members shall be entitled to any retroactive allocation of profits losses, income or expense deductions incurred by the Company. The Manager(s) may, at their option, at the time a Member is admitted, close the Company books (as though the Company's tax year has ended) or make pro rata allocations of income, loss, and expense deductions to a new Member for that portion of the Company's tax year in which a Member was admitted in accordance with the provisions of Code Section 706(d) and the Treasury Regulations promulgated thereunder.

ARTICLE XII

DISSOLUTION AND TERMINATION

12.1 *Dissolution.*

(a) The Company shall be dissolved upon the occurrence of any of the following events:

- (i) by the unanimous written consent of all Members; or
- (ii) the sale, transfer or assignment of substantially all of the assets of the Company; or
- (iii) as otherwise required by law.

12.2 *Winding Up, Liquidation and Distribution of Assets.*

(a) Upon dissolution, an accounting shall be made by the Company's independent accountant of the accounts of the Company and of the Company's assets, liabilities and operations, from the date of the last previous accounting until the date of dissolution. The Managers shall immediately proceed to wind up the affairs of the Company.

(b) If the Company is dissolved and its affairs are to be wound up, the Managers shall:

(1) Sell or otherwise liquidate all of the Company's assets as promptly as practicable (except to the extent the Managers may determine to distribute any assets to the Members in kind),

(2) Allocate any profit or loss resulting from such sales to the Member's and Transferees' Capital Accounts in accordance with Article IX hereof.

(3) Discharge all liabilities of the Company, including liabilities to Members and Transferees who are creditors, to the extent other-wise permitted by law, other than liabilities to Members and Transferees for Distributions, and establish such Reserves as may be reasonably necessary to provide for contingent liabilities of the Company (for purposes of determining the Capital Accounts of the Members and Transferees, the amounts of such Reserves shall be deemed to be an expense of the Company),

(4) Distribute the remaining assets in the following order:

(i) If any assets of the Company are to be distributed in kind, the net fair market value of such assets as of the date of dissolution shall be determined by independent appraisal or by agreement of all of the Members. Such assets shall be deemed to have been sold as of the date of dissolution for their fair market value, and

the Capital Accounts of the Members and Transferees shall be adjusted pursuant to the provisions of Article IX and Section 8.3 of this Agreement to reflect such deemed sale.

(ii) To the Members and Transferees, pro rata, in accordance with the positive balance (if any) of each Member's and Transferee's Capital Account (as determined after taking into account all Capital Account adjustments for the Company's taxable year during which the liquidation occurs) shall be distributed to the Members and Transferee either in cash or in kind, as determined by the Managers, with any assets distributed in kind being valued for this purpose at their fair market value as determined pursuant to Section 12.2(b)(i).

(iii) Thereafter, to the Members and Transferee's pro rata, in accordance with their respective Percentage Interests.

(c) Notwithstanding anything to the contrary in this Agreement, upon a liquidation within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Treasury Regulations, if any Member has a Deficit Capital Account (after giving effect to all contributions, distributions, allocations and other Capital Account adjustments for all taxable years, including the year during which such liquidation occurs), such Member shall have no obligation to make any Capital Contribution, and the negative balance of such Member's Capital Account shall not be considered a debt owed by such Member to the Company or to any other Person for any purpose whatsoever.

(d) Upon completion of the winding up, liquidation and distribution of the assets, the Company shall be deemed terminated.

(e) The Manager(s) shall comply with all requirements of applicable law pertaining to the winding up of the affairs of the Company and the final distribution of its assets.

12.3 *Articles of Dissolution.*

When all debts, liabilities and obligations of the Company have been paid and discharged or adequate provisions have been made therefor and all of the remaining property and assets of the Company have been distributed among its members in accordance with their respective rights and interests, a Articles of Dissolution of the Company shall be filed with the Florida Department of State.

12.4 *Effect of Filing Articles of Dissolution.*

Upon the filing of Articles of Dissolution with the Florida Department of State, and upon issuance of the Certificate of Dissolution by the Department of the State, the existence of the Company shall cease, except for the purpose of suits, of the proceedings and appropriate action as provided in the Act. The Managers shall have authority to distribute any Company property discovered after dissolution, convey real estate and take such other action as may be necessary on behalf of and in the name of the Company.

12.5 *Return of Contribution Nonrecourse to Other Members.*

Except as provided by law or as expressly provided in this Agreement, upon dissolution, each Member and Transferee shall look solely to the assets of the Company for the return of its Capital Contribution. If the Company property remaining after the payment or discharge of the debts and liabilities of the Company is insufficient to return the cash contribution of one or more Members or Transferees, such Member(s) or Transferee(s) shall have no recourse against any other Member or Transferee, except as otherwise provided by law.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

13.1 *Notices.*

Any notice, demand, or communication required or permitted to be given by any provision of this Agreement shall be deemed to have been sufficiently given or served for all purposes if delivered personally or by express mail or courier service (with receipt acknowledged) to the party or to an executive officer of the party to whom the same is directed, if telecopied (with receipt acknowledged) to the party or an executive officer of the party to whom the same is directed or, if sent by registered or certified mail, postage and charges prepaid, addressed to the Member's and/or Company's address, as appropriate, which is set forth in this Agreement. Except as otherwise provided herein any such notice shall be deemed to be given two (2) business days after the date on which the same was deposited in the United States mail, addressed and sent as aforesaid, if sent by mail or upon confirmation of receipt if delivered by telecopier, personal delivery or courier service.

13.2 *Books of Account and Records.*

Proper and complete records and books of account shall be kept or shall be caused to be kept by the Managers in which shall be entered fully and accurately all transactions relating to the Company's business in such detail and completeness as is customary and usual for businesses of the type engaged in by the Company. Such books and records shall be maintained as provided in Section 9.9. The books and records shall at all times be maintained at the principal place of business of the Company. Additionally, the Managers shall promptly distribute to all Members, copies of the Company's financial statements on an annual basis.

13.3 *Application of Florida Law.*

This Agreement and its interpretation shall be governed exclusively by its terms and by the laws of the State of Florida, and specifically the Act.

13.4 *Waiver of Action for Partition.*

Each Member and Transferee irrevocably waives during the term of the Company any right that it may have to maintain any action for partition with respect to the property of the Company.

13.5 *Amendments.*

This Agreement may not be amended except in writing by the affirmative vote of a majority of the Members of the Company which vote must include the affirmative vote of the Manager. Any amendment changing either the Percentage Interests of the Members or any provision within Article V requires the unanimous vote of the Members.

13.6 *Execution of Additional Instruments.*

Each Member hereby agrees to execute such other and further statements of interest and holdings, designations and other instruments necessary to comply with an laws, rules or regulations.

13.7 *Construction.*

Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.

13.8 *Headings.*

The headings in this Agreement are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of this Agreement or any provision thereof

13.9 *Waivers.*

The failure of any party to seek redress for default of or to insist upon the strict performance of any covenant of condition of this Agreement shall not prevent a subsequent act, which would have originally constituted a default, from having the effect of an original default.

13.10 *Rights and Remedies Cumulative.*

The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive the right to use any other remedy. Said rights and remedies are given in addition to any other legal rights that parties may have.

13.11 *Severability.*

If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

13.12 *Heirs, Successors and Assigns.*

Each and all of the covenants, terms, provisions and agreement herein contained shall be binding upon and inure to the benefit of the parties hereto and, to the extent permitted by this Agreement, their respective heirs, legal representatives, successors and assigns.

13.13 *Creditors.*

None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of the Company.

13.14 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

13.15 Conflict of Interest Waiver. The Members and the Company acknowledge that the law firm of Tescher & Spallina, P.A. has represented the Company in connection with the drafting of this Agreement and the formation and structuring of the Company, and that said law firm also represents one or more of the Members (namely, SIMON L. BERNSTEIN, SHIRLEY BERNSTEIN, SHIRLEY BERNSTEIN FAMILY FOUNDATION, INC., and BERNSTEIN FAMILY INVESTMENTS, LLLP). The Company and its Members acknowledge that they have been advised that there are material income tax consequences and economic ramifications from being a Member in the Company, that they fully understand the tax consequences and economic ramifications of a Member's investment in the Company, and that they have been encouraged to consult with separate and independent counsel to advise them on Company and Member issues including this Agreement and the formation of the Company. The Company and the Members hereby waive any conflicts of interest with respect to the foregoing law firm's representation of the Company and the afore described Members and owners of interests in entity Members, in connection with the services set forth in this Section.

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IN WITNESS WHEREOF, the parties hereto have caused their signatures, or the signatures of their duly authorized representatives, to be set forth below on the day and year first above written.

Witnesses:

MEMBERS:

SIMON L. BERNSTEIN TRUST
AGREEMENT dated May 20, 2008

By: 
SIMON L. BERNSTEIN, Trustee

SHIRLEY BERNSTEIN TRUST
AGREEMENT dated May 20, 2008

By: 
SHIRLEY BERNSTEIN, Trustee

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ELIOT BERNSTEIN FAMILY TRUST dated
May 20, 2008

By: 
SIMON L. BERNSTEIN, Co-Trustee

By: 
SHIRLEY BERNSTEIN, Co-Trustee

By: 
ROBERT L. SPALLINA, Independent Trustee

JILL IANTONI FAMILY TRUST dated May
20, 2008


By: 
SIMON L. BERNSTEIN, Co-Trustee

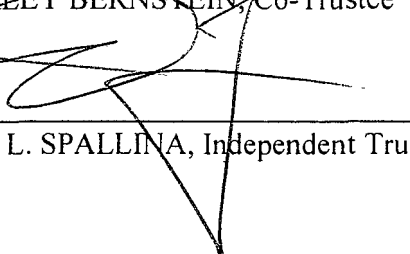
By: 
SHIRLEY BERNSTEIN, Co-Trustee

By: 
ROBERT L. SPALLINA, Independent Trustee

LISA S. FRIEDSTEIN FAMILY TRUST dated
May 20, 2008


By: 
SIMON L. BERNSTEIN, Co-Trustee

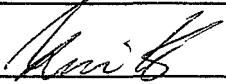
By: 
SHIRLEY BERNSTEIN, Co-Trustee

By: 
ROBERT L. SPALLINA, Independent Trustee

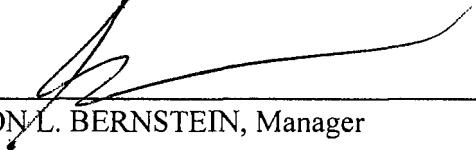
COMPANY:

BERNSTEIN HOLDINGS, LLC, a Florida
limited liability company





By: _____


SIMON L. BERNSTEIN, Manager

F:\WPDATA\drt\Bernstein, Shirley & Simon\Bernstein Family Investments, LLLP\Bernstein Holdings, LLC\Bernstein Holdings, LLC Operating Agreement wpd

**BERNSTEIN HOLDINGS, LLC
LIMITED LIABILITY COMPANY
OPERATING AGREEMENT**

EXHIBIT A

<u>Member(s)</u>	<u>Percentage Interest*</u>	<u>Capital Contributions</u>
SIMON L. BERNSTEIN, Trustee of the SIMON L. BERNSTEIN TRUST AGREEMENT u/t/d May 20, 2008	48.5%	\$48.50
SHIRLEY BERNSTEIN, Trustee of the SHIRLEY BERNSTEIN TRUST AGREEMENT u/t/d May 20, 2008	48.5%	\$48.50
SIMON L. BERNSTEIN and SHIRLEY BERNSTEIN, Co-Trustees ROBERT L. SPALLINA, Independent Trustee of the ELIOT BERNSTEIN Family Trust dated May 20, 2008	1%	\$1.00
SIMON L. BERNSTEIN and SHIRLEY BERNSTEIN, Co-Trustees ROBERT L. SPALLINA, Independent Trustee of the JILL IANTONI Family Trust dated May 20, 2008	1%	\$1.00
SIMON L. BERNSTEIN and SHIRLEY BERNSTEIN, Co-Trustees ROBERT L. SPALLINA, Independent Trustee of the LISA S. FRIEDSTEIN Family Trust dated May 20, 2008	1%	\$1.00

*proportionate to capital accounts of Members

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FL
IN RE: ESTATE OF PROBATE DIVISION
SHIRLEY BERNSTEIN File No. 502011CP000653XXXX SB
Deceased.

INVENTORY

The undersigned personal representative of the estate of SHIRLEY BERNSTEIN, deceased, who died on December 8, 2010, and whose social security number is XXX-XX-9749, submits this inventory of all the property of the estate, that has come into the hands, possession, control, or knowledge of these personal representatives:

REAL ESTATE IN FLORIDA – Exempt (Protected) Homestead:

Description

NONE

REAL ESTATE IN FLORIDA – Non-Exempt Homestead:

Description

Estimated Fair Market Value

NONE

(Whether homestead property is exempt from the claims of creditors, whether it is properly devised and whether it is a probate asset may have to be determined by appropriate proceedings.)

OTHER REAL ESTATE IN FLORIDA:

Description

Estimated Fair Market Value

NONE

\$

Total Real Estate in Florida – Except Exempt (Protected) Homestead

\$



Estate of Shirley Bernstein
File No. 502011CP000653XXXX SB
INVENTORY

PERSONAL PROPERTY WHEREVER LOCATED:

<u>Description</u>	<u>Estimated Fair Market Value</u>
Furniture, furnishings, household goods and personal effects	\$ <u>25,000.00 (est.)</u>
TOTAL OF ALL PERSONAL PROPERTY AND FLORIDA REAL ESTATES\$ \$ <u>25,000.00</u>	

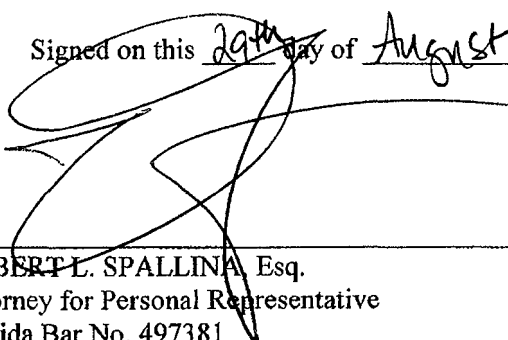
All real estate located outside the State of Florida owned by the decedent of which the personal representative is aware, if any, is described on a schedule attached hereto. [If none, so indicate]

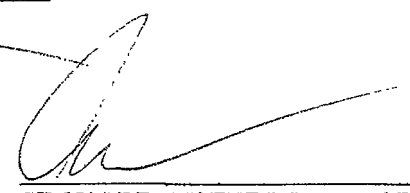
NONE

NOTICE: Each residuary beneficiary in a testate estate or heir in an intestate estate has the right to request a written explanation of how the inventory value of any asset was determined, including whether the personal representative obtained an independent appraisal for that asset and from whom the appraisal was obtained. Any other beneficiary may request this information regarding all assets distributed to or proposed to be distributed to that beneficiary.

Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true to the best of my knowledge and belief.

Signed on this 29th day of August, 2011.


ROBERT L. SPALLINA, Esq.
Attorney for Personal Representative
Florida Bar No. 497381
Tescher & Spallina, P.A.
4855 Technology Way, Suite 720
Boca Raton, FL 33431
Telephone: (561) 997-7008


SIMON BERNSTEIN, Personal Representative



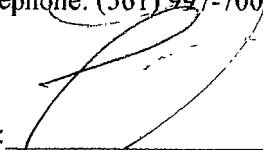
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Inventory was furnished by U.S.
certified mail to:

Florida Department of Revenue
5050 W. Tennessee St., Bldg. K
Tallahassee, FL 32399-0100

on this 8 day of SEP, 2011.

TESCHER & SPALLINA, P.A.
Attorneys for the Personal Representative
of the Estate of Shirley Bernstein
4855 Technology Way, Suite 720
Boca Raton, Florida 33431
Telephone: (561) 997-7008

BY: 
ROBERT L. SPALLINA, ESQ.
Florida Bar No. 497381



CFN 20080327651
CR BK 22841 PG 1818
RECORDED 09/04/2008 14:10:25
Palm Beach County, Florida
AMT 365,000.00
Deed Doc 1,277.50
Sharon R. Rock, CLERK & COMPTROLLER
Pgs 1818 - 1820; (3pgs)

This Instrument prepared by:

Robert L. Spallina, Esq.
Tescher & Spallina, P.A.
2101 Corporate Boulevard, Suite 107
Boca Raton, FL 33431
(561) 998-7847

THIS IS A BALLOON MORTGAGE AND THE FINAL PRINCIPAL PAYMENT OR THE PRINCIPAL BALANCE DUE UPON MATURITY IS \$365,000.00, TOGETHER WITH ACCRUED INTEREST, IF ANY, AND ALL ADVANCEMENTS MADE BY THE MORTGAGEE UNDER THE TERMS OF THIS SECOND MORTGAGE.

SECOND MORTGAGE

THIS SECOND MORTGAGE is made and executed the 8th day of July, 2008, by SIMON L. BERNSTEIN, whose address is 7020 Lions Head Lane, Boca Raton, Florida 33496, hereinafter referred to as the "Mortgagee" (which term shall include the Mortgagee's heirs, successors and assigns), to BERNSTEIN FAMILY REALTY, LLC, a Florida limited liability company whose post office address is 950 Peninsula Corporate Circle, Suite 3010, Boca Raton, Florida 33487, hereinafter referred to as the "Mortgagor" (which term shall include the Mortgagor's heirs, successors and assigns).

WITNESSETH, for good and valuable considerations, and in consideration of the aggregate sum in that certain promissory note of even date herewith (hereinafter referred to as the "Note"), Mortgagor does hereby grant, bargain, sell, alien, remise, release, convey and confirm unto Mortgagee, in fee simple, that certain property of which Mortgagor is now seized and possessed situate in Palm Beach County, State of Florida, legally described as follows, including all improvements now or hereafter placed thereon, which property and improvements are hereinafter referred to collectively as the "Property":

Lot 68, Block G, BOCA MADERA UNIT 2, according to the Plat thereof, recorded in Plat Book 32, Pages 59 and 60, of the Public Records of Palm Beach County, Florida.

TO HAVE AND TO HOLD the Property, together with the tenements, hereditaments and appurtenances thereof, unto Mortgagee in fee simple.

AND Mortgagor hereby covenants with Mortgagee that Mortgagor is indefeasibly seized of the Property in fee simple, that Mortgagor has full power and lawful right to convey the Property to Mortgagee in fee simple, that it shall be lawful for Mortgagee at all times peaceably and quietly to enter upon, hold, occupy and enjoy the Property, that the Property is free from all encumbrances, that Mortgagor will make such further assurance to perfect the fee simple title to the Property in Mortgagee as may reasonably be required, and that Mortgagor hereby fully warrants the title to the Property and will defend the same against the lawful claims of all persons whomsoever.

PROVIDED ALWAYS, that if Mortgagor shall pay unto Mortgagee the Note, of which the following in words and figures is a true copy:

See Attached Exhibit "A"

and shall perform, comply with and abide by all of the conditions and covenants of the Note and of this Second Mortgage, then this Second Mortgage and the estate thereby created shall cease and be null and void.

AND Mortgagor hereby covenants and agrees as follows:

1. To pay all the principal and interest and other sums of money payable under the Note and this Second Mortgage, or either of them, promptly on the days the same severally become due and any other Note or Second Mortgage securing the property described herein.
2. To pay all the taxes, assessments, levies, liabilities, obligations, and encumbrances of every nature on the Property, and if the same be not promptly paid, Mortgagee may at any time pay the same without waiving or affecting the option to foreclose or any right hereunder, and every payment so made shall bear interest from the date thereof at the rate of eighteen (18%) percent per annum. Mortgagor shall pay the annual real estate taxes no later than November 30th of each year and shall send Mortgagee proof of payment no later than December 31st of said year.
3. To pay all and singular the costs, charges and expenses, including reasonable attorney's fees, incurred or paid at any time by Mortgagee because of the failure on the part of Mortgagor to perform each and every covenant of the Note and this Second Mortgage, or either of them, and every such payment shall bear interest from the date of payment by Mortgagee at the rate of eighteen (18%) percent per annum.
4. To keep the Property insured in a sum not less than the greater of (a) \$365,000 or (b) the maximum insurable value of the improvements thereon, in a company or companies to be approved by Mortgagee, which policy or policies shall be held by and shall be payable to Mortgagee, and in the event any sum of money becomes payable under such policy or policies, Mortgagee shall have the option to receive and apply the same on account of the indebtedness hereby secured or to permit the Mortgagor to receive and use it or any part thereof for other purposes, without thereby waiving or impairing any equity, lien or right under or by virtue of this Second Mortgage, and may place and pay for such insurance or any part thereof without waiving or affecting the option to foreclose or any right hereunder, and each and every such payment shall bear interest from the date of payment by Mortgagee at the rate of ten (10%) percent per annum.
5. To permit, commit or suffer no waste, impairment or deterioration of the Property or any part thereof.
6. To perform, comply with, and abide by each and every condition and covenant set forth in the Note and in this Second Mortgage.
7. If any of said sums of money herein referred to be not promptly and fully paid within ten (10) days after the same severally become due and payable, or if each and every one of the conditions

and covenants of the Note and this Second Mortgage, or either of them, are not fully performed, the aggregate sum due under the Note shall become due and payable forthwith or thereafter at the option of the Mortgagee, as fully and completely as if the said aggregate sum of \$365,000 were originally stipulated to be paid on such day, anything in the Note or this Second Mortgage to the contrary notwithstanding. In addition to the above provisions, any payments made more than fifteen (15) days after their due date shall be subject to an automatic late charge of ten (10%) percent of the amount of said payment.

8. If all or any part of the described property or any legal or equitable interest therein is sold, transferred or encumbered by Mortgagor, excluding a transfer by devise, descent or by operation of law upon the death of Mortgagor, Mortgagee may, at Mortgagee's sole option, declare all the sums secured by this Second Mortgage to be immediately due and payable.

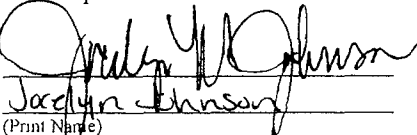
9. In the event Mortgagee finds it necessary to bring suit against Mortgagor due to an alleged default by Mortgagor hereunder, and Mortgagee prevails in said litigation, Mortgagee shall be entitled to recover from Mortgagor any and all costs and reasonable attorney's fees incurred by Mortgagee in said litigation.


IN WITNESS WHEREOF, the Mortgagor has caused these presents to be executed in its name, by its proper officers thereunto duly authorized, the day and year first above written.

Signed, Sealed & Delivered

BERNSTEIN FAMILY REALTY, LLC a Florida
limited liability company

in the presence of:


Jocelyn Johnson
(Print Name)



Juliana Goldman
(Print Name)

By: 
SIMON L. BERNSTEIN, Manager

STATE OF FLORIDA)
)
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me this 8th day of July, 2008, by SIMON L. BERNSTEIN, Manager for BERNSTEIN FAMILY REALTY, LLC.

NOTARY PUBLIC-STATE OF FLORIDA
Diana Banks
Commission # DD770917
Expires: MAY 11, 2012
BONDED THRU ATLANTIC BONDING CO, INC.



Signature of Notary Public

(Print, type or Stamp Commissioned Name of Notary Public)

Personally Known ☒ or Produced Identification _____

Type of Identification Produced _____

PROMISSORY NOTE

\$365,000.00

Effective as of July 1, 2008
Ashville, North Carolina

For value received, the undersigned promises to pay to the order of SIMON L. BERNSTEIN the principal sum of Three Hundred Sixty Five Thousand (\$365,000.00) Dollars, together with all interest thereon from the date hereof, to be paid in lawful money of the United States of America. Interest payments under this Note shall be calculated using the long-term Applicable Federal Rate for July 2008 of four and 55/100 (4.55%) percent, compounded semi-annually, and payable on each anniversary of this Note. Interest payments shall commence one year from the date hereof and shall be paid annually on the same date each year thereafter. The entire principal balance, and all accrued but unpaid interest, shall be due on the earlier of fifteen (15) years from the date hereof, or the death of SIMON L. BERNSTEIN.

This Note may be prepaid in whole or in part at anytime without penalty; provided that any partial prepayment shall be applied first to accrued interest and then to principal. This Note is secured by a Second Mortgage of even date herewith. Upon a default in the payment of this Note of principal and/or interest or in the performance of any of the terms of said Mortgage, and if such default shall remain uncured for thirty (30) days after written notice thereof has been given to Maker, then, at the option of the holder, the entire principal sum remaining unpaid, together with accrued interest, shall become immediately due and payable without further notice. This Note, while in default, shall accrue interest at the highest lawful rate of interest permitted by law. This Note shall be governed by the laws of the State of Florida.

All makers, endorsers, and/or guarantors now or hereafter becoming parties hereto jointly and severally waive presentment, demand, protest, notices of nonpayment, dishonor, and protest and all notices of every kind, and jointly and severally agree that in the event of default in the payment of any principal or interest due hereunder, which shall continue for a period of fifteen (15) days, or upon the occurrence of any other event deemed a default hereunder or any instrument or document securing the payment of this Note, the unpaid indebtedness, together with all accrued interest, shall thereupon, at the option of the holder, become immediately due and payable.

All makers, endorsers and/or guarantors now or hereafter becoming parties hereto jointly and severally agree, if this Note becomes in default and is placed in the hands of an attorney for collection, to pay the costs of collection, including reasonable attorneys' and accountants' fees, and similar costs in the event of appellate review, whether by appeal, certiorari, or other appellate remedies.

No single or partial exercise of any power hereunder shall preclude other or further exercises thereof or the exercise of any other power. No delay or omission on the part of the holder hereof in exercising any right hereunder shall operate as a waiver of such right or of any right under this Note. The release of any party liable for this Note shall not operate to release any other party liable hereon.

IN WITNESS WHEREOF, the undersigned has caused these presents to be signed at Ashville, North Carolina, effective as of the day and year first above written.

BERNSTEIN FAMILY REALTY, LLC, a Florida
limited liability company

By: 
SIMON BERNSTEIN, Manager

AFFIDAVIT OF OUT-OF STATE EXECUTION AND DELIVERY


STATE OF FLORIDA

COUNTY OF PALM BEACH


Before me this day personally appeared SIMON L. BERNSTEIN ("Affiant"), Manager of BERNSTEIN FAMILY REALTY, LLC, a Florida limited liability company (the "Company"), who being first duly sworn by me, deposes and says:


1. That Affiant is the Manager of the Company;
2. That on July 3, 2008, Affiant, on behalf of the Company, executed in the State of North Carolina that certain promissory note payable to SIMON L. BERNSTEIN in the original principal amount of Three Hundred Sixty Five Thousand (\$365,000.00) Dollars (the "Promissory Note"); and
3. That Affiant delivered the Promissory Note directly to SIMON L. BERNSTEIN at Ashville, North Carolina for delivery and acceptance.

FURTHER AFFIANT SAYETH NOT.


SIMON L. BERNSTEIN

The foregoing instrument was acknowledged before me this 8th day of July, 2008, by SIMON L. BERNSTEIN, Manager of the Company.

NOTARY PUBLIC-STATE OF FLORIDA
 Diana Banks
Commission #DD770917
Expires: MAY 11, 2012
BONDED THRU ATLANTIC BONDING CO., INC.


Signature - Notary Public

[Seal with Commission Expiration Date]

Diana Banks
Print, type or stamp name of Notary Public

Personally Known ✓ or Produced Identification _____
Type of Identification Produced _____