

Exhibit 5

part F

any time when more than one (1) Manager is in office, a majority of the total number of Managers shall constitute a quorum for the transaction of business. The vote of a majority of Managers present at a meeting at which a quorum is present shall be the act of the Manager. If a quorum shall not be present at any meeting of the Manager, the Managers present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

9.6 *No Liability.* No Manager shall be liable under a judgment, decree or order of a court or in any other manner, for a debt, obligation or other liability of the Company.

9.7 *Certain Powers of the Manager.* Without limiting the generality of Section 9.1 above, the Manager shall have the right and power and authority, except as otherwise stated in Article 7 or otherwise in this Agreement, or required under the Act, on behalf of the Company to:

9.7.1 authorize, execute and engage in contracts, transactions, investments and dealings on behalf of the Company, including contracts, transactions, investments and dealings with any Member;

9.7.2 borrow money on behalf of the Company, and mortgage, pledge or otherwise encumber any assets of the Company;

9.7.3 collect all amounts due to the Company;

9.7.4 call meetings of Members;

9.7.5 issue Units in accordance with the restrictions of Article 3 and the other provisions of this Agreement;

9.7.6 pay all expenses incurred in forming the Company;

9.7.7 determine and make distributions, in cash or otherwise, in respect of Interests, in accordance with the provisions of this Agreement and the Act;

9.7.8 establish a record date with respect to all actions to be taken hereunder that require a record date to be established;

9.7.9 establish or set aside any reasonable reserve or reserves for contingencies and for any other reasonable and proper Company purpose;

9.7.10 appoint (and dismiss from appointment) attorneys and agents on behalf of the Company, and employ or otherwise engage (and dismiss from employment or other

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engagement) any and all persons providing legal, accounting or financial services to the Company, and such employees, consultants, independent contractors, or agents as the Manager deems necessary or desirable for the management and operation of the Company, including, without limitation, any Member;

9.7.11 incur and pay all expenses and obligations incident to the formation, operation and management of the Company, including, without limitation, the services referred to in the preceding paragraph, taxes, interest, travel, rent, insurance, supplies, salaries and wages of the Company's employees and agents;

9.7.12 acquire and enter into any contract of insurance necessary or desirable for the protection or conservation of the Company and its assets or otherwise in the interest of the Company as the Manager shall determine;

9.7.13 open accounts and deposit, maintain and withdraw funds in the name of the Company in banks, savings and loan associations, brokerage firms or other financial institutions;

9.7.14 bring, defend, arbitrate, prosecute or compromise on behalf of the Company actions and proceedings at law or equity before any court or governmental, administrative or other regulatory agency, body or commission or otherwise;

9.7.15 prepare and cause to be prepared reports, statements and other relevant information for distribution to Members as may be required or determined to be necessary or desirable by the Manager from time to time;

9.7.16 prepare and file all necessary returns and statements and pay all taxes, charges, assessments and other impositions applicable with respect to the Company or its income or assets;

9.7.17 prosecute, protest, defend and/or protect all proprietary rights (including all trade names, trademarks and service marks, and all licenses and permits and applications with respect thereto) of the Company and all rights of the Company in connection therewith;

9.7.18 execute and deliver, for and on behalf of the Company, promissory notes, evidences of indebtedness, agreements, assignments, deeds, leases, loan agreements, mortgages and other security instruments, in each case as the Manager deems necessary or appropriate for the objects and purposes of the Company;

9.7.19 create offices of the Company, designate the duties of such offices, and select officers; and

9.7.20 execute all other documents or instruments, perform all duties and powers and do all things for and on behalf of the Company in all matters necessary, desirable, or incidental to the foregoing.

The express grant of any power or authority in this Agreement to the Manager shall not in any way limit or exclude any other power or authority of the Manager that is not specifically or expressly set forth in this Agreement.

9.8. *Exculpation From Liability For Certain Acts.* No Manager shall be liable to the Company or any Member for damages attributable to any breach of duty owed by a Manager (by virtue of being a Manager) to the Company or the other Members, except to the extent (i) required under the Act or (ii) such breach of duty is based upon a knowing violation of applicable law or this Agreement or (iii) such breach of duty is based upon violation of applicable law or this Agreement arising out of such Person's gross negligence or willful misconduct as determined conclusively in a final order of a court of competent jurisdiction. The Managers shall not be liable to the Company or any Member for any loss, damage or claim incurred by reason of any act or omission performed or omitted by a Manager in good faith on behalf of the Company and in a manner reasonably believed to be within the scope of authority conferred on the Manager by or pursuant to this Agreement. The Managers shall be fully protected in relying in good faith upon the records of the Company and upon such information, opinions, reports or statements presented to the Company by any Person as to matters the Manager reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits, losses, or any other facts pertinent to the existence and amount of assets from which distributions to Members might properly be paid.

9.9. *Indemnification.* The Company shall, to the fullest extent permitted by law, indemnify and defend any Manager against and hold each Manager harmless from any losses, judgments, liabilities and expenses (including reasonable attorney fees) incurred by any Manager by reason of any act or omission (other than any act or omission carried out in willful misconduct, gross negligence or knowing violation of this Agreement or the Act) performed or omitted in good faith on behalf of the Company and in a manner reasonably believed by such Manager to be within the scope of the authority of the Manager. The Company may also indemnify its employees and other agents who are not a Manager to the fullest extent permitted by law, provided that the indemnification in any given situation is approved by the Manager.

9.10. *Interested Manager.* No contract or transaction between the Company and any Manager, or between the Company and any other limited liability company, corporation, partnership, association or other organization in which a Manager is a manager or an officer, or has a financial interest, shall be void or voidable solely for this reason, or solely because the Manager or officer is

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present at or participates in the meeting of the Manager, or solely because his votes are counted for such purpose, if: (a) the material facts as to his relationship or interest and as to the contract or transaction are disclosed or are known to the Members entitled to vote thereon without counting the vote of any Member who is an interested Manager, (b) the contract or transaction is fair as to the Company as of the time it is authorized, approved or ratified, by the Manager; or (c) the transaction is one described in Section 7.3 hereof.

9.11 *Compensation to Manager.* The Company shall pay a management fee to the Manager equal to \$100 per month.

9.12 *Heritage Management.* During the term of this Agreement, Antoin S. Rezko shall not voluntarily disassociate himself from controlling management of Heritage. For purposes of this provision, "controlling management" shall mean holding a majority of interests in Heritage or holding majority voting rights in Heritage.

9.13 *Sale Upon Disagreement.* In the event that the Members do not agree on a material matter related to management of the Company and are unable to resolve such dispute, then the Company shall proceed with offering the Property, in its entirety, for sale and liquidate the Company in compliance with the provisions of this Agreement upon completion of such sale. The sale of the Property is contingent upon (i) a bona fide offer for the purchase of the Property being delivered to the Company within four (4) months of a Member providing written notice to the Manager and all other Members that the provisions of this subsection are being invoked, (ii) the intended purchaser of the Property tendering the specified earnest money within forty-five (45) days of the date that the purchase offer was accepted by the parties, (iii) the other items to complete the sale of the Property being completed as soon as reasonably practicable, and (iv) offering the Member holding more than 50 percent of the Voting Units the opportunity ("First Right of Refusal") to purchase the Property on the same terms and conditions as set forth in the offer for purchase. The Manager shall provide the Member having the First Right of Refusal with a copy of the bona fide offer for purchase within three (3) days of receipt and the Member with the First Right of Refusal has thirty (30) days from such receipt within which to provide written notice to the Manager of the Member's exercising the First Right of Refusal, and the sale shall be completed as soon as reasonably practicable. A failure to provide such notice to the Manager within the specified time shall be deemed an election on the part of the Member not to exercise its First Right of Refusal. The material terms and conditions of the sale of the Property, including the sale price and closing date for the transaction, must be agreed upon by the Members. If there is a disagreement among the Members regarding the material terms and conditions, then the Members shall attempt to agree upon the terms and conditions resulting in one Member selling of its Interest in the Company to the other Member. If the Members cannot agree upon the terms and conditions of the sale of a Member's Interest in the Company, then each of the Members shall forward a bona fide offer to the other Member specifying the terms and conditions upon which the Member shall purchase all of the other Member's Interest, and the Member who forwards the highest value for the other Member's Interests shall purchase the other Member's

Interests.

**ARTICLE 10
LIMITATIONS ON DISPOSITION OF MEMBERS' INTERESTS**

10.1 *Restriction on Transfers; Investment Representations and Warranties.*

10.1.1 Except as otherwise permitted by this Article 10 or elsewhere in this Agreement, no Member shall Transfer all or any portion of Units or any interest therein without providing the other Member with a right of first refusal to purchase such Units or interests. For purposes of this provision, in the event a Member desires to Transfer all or any portion of Units or any interest therein (hereinafter the "Selling Member") and receives a bona fide offer for such a Transfer, such Selling Member shall provide the other Member with a copy of such bona fide offer within three (3) business days of receiving such offer. The other Member will then have thirty (30) days from receipt of such offer from the Selling Member to provide a binding, written commitment to the Selling Member to purchase the portion of Units or any interest therein that is the subject of the bona fide offer on the same terms and conditions in that bona fide offer. Failure to provide such notice to the Selling Member within the specified time shall be deemed an election on the part of the other Member not to exercise its right of first refusal provided herein.

10.1.2 Each Member hereby represents and warrants to the Company that its acquisition of its Interest is made as principal for its own account, for investment purposes only, and not with a view to the resale or distribution of such Interest. Each Member agrees that it will not sell, assign, give, hypothecate, pledge, transfer, or otherwise dispose of any or all of its Interest to any Person who or which does not similarly represent and warrant and agree as provided in this Section 10.1.1.

10.2 *Permitted Transfers.*

10.2.1 Subject to the conditions and restrictions set forth in Section 10.2.2, a Member may at any time Transfer all or any portion of his Units to (a) to any member of the transferor's family, or to a custodian, trustee, family limited partnership or other fiduciary for the account of such Member or member of his family or to trusts for the benefit of the family of such Member, as the case may be; provided, that in each case such transfer is made pursuant to a bona fide estate planning transaction, (b) any Affiliate of a Member (including of the transferor), or (c) the transferor's executor, administrator, trustee, or personal representative to whom such Units are transferred at death or involuntarily by operation of

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law. For purposes of this Article 10, a Member's "family" shall include only such Member's spouse, natural or adoptive lineal ancestors or descendants, brothers or sisters.

10.2.2 A Transfer shall not be treated as a Permitted Transfer under Section 10.2.1 unless and until the following conditions are satisfied:

10.2.2.1 Except in the case of a Transfer of Units at death or involuntarily by operation of law, the transferor and transferee shall execute and deliver to the Company such documents and instruments of conveyance as may be necessary or appropriate in the opinion of counsel to the Company to effect such Transfer and to confirm the agreement of the transferee to be bound by the provisions of this Article 10. In the case of a Transfer of Units at death or involuntarily by operation of law, the Transfer shall be confirmed by presentation to the Company of legal evidence of such Transfer, in form and substance satisfactory to counsel to the Company. In all cases, the Company shall be reimbursed by the transferor or transferee for all costs and expenses that it reasonably incurs in connection with such Transfer.

10.2.2.2 The transferor and transferee shall furnish the Company with the transferee's taxpayer identification number, sufficient information to determine the transferee's initial tax basis in the Units transferred, and any other information reasonably necessary to permit the Company 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 Company shall not be required to make any distribution otherwise provided for in this Agreement with respect to any transferred Units until it has received such information.

10.2.2.3 Except in the case of a Transfer of Units at death or involuntarily by operation of law, either (a) such Units shall be registered under the Securities Act of 1933, as amended, and any applicable state securities laws, or (b) such Transfer will be exempt from all applicable registration requirements and will not violate any applicable laws regulating the Transfer of securities and, the transferor shall provide an opinion of counsel, which opinion and counsel shall be reasonably satisfactory to the Manager, to such effect.

10.2.2.4 Except in the case of a Transfer of Units at death or involuntarily by operation of law, such Transfer will not cause the Company to be deemed to be an "investment company" under the Investment Company Act of 1940 as amended, and the transferor shall provide an opinion of counsel, which opinion and counsel shall be reasonably satisfactory to the Manager to such effect and the Manager shall provide to such counsel any information available to them relevant to such opinion.

10.3 *Sale of the Company.*

10.3.1 If all the Members approve a Sale of the Company (the "Approved Company Sale"), each Member shall consent to and raise no objections against the Approved Company Sale. If the Approved Company Sale is structured as a (i) merger or consolidation, each Member shall waive any dissenters rights, appraisal rights or similar rights in connection with such merger or consolidation or (ii) sale of Units, each Member shall agree to sell all of his Units and rights to acquire Units on the terms and conditions approved by the Members. Each Member shall take all necessary or desirable actions in connection with the consummation of the Approved Company Sale as requested by the Company.

10.3.2 The obligations of the Members with respect to the Approved Company Sale are subject to the satisfaction of the following conditions: (i) upon the consummation of the Approved Company Sale, each Member shall receive the same form of consideration and the same portion of the aggregate consideration such Member would have received if such aggregate consideration had been distributed by the Company in complete liquidation pursuant to the rights and preferences set forth in this Agreement as in effect immediately prior to the consummation of the Approved Company Sale and; (ii) each holder of then currently exercisable rights to acquire a class of Units shall be given an opportunity to exercise such rights prior to the consummation of the Approved Company Sale and participate in such sale as holders of such class of Units.

10.3.3 All Members will bear their pro-rata share (based upon the number of Units sold) of the costs of any sale of Units pursuant to an Approved Company Sale to the extent such costs are incurred for the benefit of all such Members and are not otherwise paid by the Company or the acquiring party. Costs incurred by the Members on their own behalf will not be considered costs of the Approved Company Sale.

10.3.4 In the event of a Sale of the Company to an Affiliate of any Member (an "Affiliated Sale") and upon the consummation of such an Affiliated Sale, the aggregate cash consideration to be received by the Members holding Preferred Units as of the closing date of the Affiliated Sale is reasonably expected to provide such Members an amount of cash in excess of the sum of all Unpaid Preferred Return Balances plus all Net Invested Capital Balances, notwithstanding any other provision of this Agreement, the consent of the Members holding Preferred Units shall not be required and such a transaction shall be an Approved Sale for purposes of Section 10.1.1 upon the approval of the Members holding more than 50% of the Voting Units.

10.4 *Restrictions on Transfers.* Unless otherwise approved by the Manager, no Transfer of Units shall be made except upon terms which would not, in the opinion of counsel chosen by and mutually acceptable to the Manager and the transferor Member, result in the termination of the Company within the meaning of Section 708 of the Code or cause the application of the rules of Sections 168(g)(1)(B) and 168(h) of the Code or similar rules to apply to the Company. If the immediate Transfer of such Unit would, in the opinion of such counsel, cause a termination within the meaning of Section 708 of the Code, then if, in the opinion of such counsel, the following action would not precipitate such termination, the transferor Member shall be entitled (or required, as the case may be) (i) immediately to Transfer only that portion of his Units as may, in the opinion of such counsel, be transferred without causing such a termination and (ii) to enter into an agreement to Transfer the remainder of his Units, in one or more Transfers, at the earliest date or dates on which such Transfer or Transfers may be effected without causing such termination. The purchase price for the Units shall be allocated between the immediate Transfer and the deferred Transfer or Transfers pro rata on the basis of the percentage of the aggregate Units being transferred, each portion to be payable when the respective Transfer is consummated, unless otherwise agreed by the parties to the Transfer. In the case of a Transfer by one Member to another Member, the deferred purchase price shall be deposited in an interest-bearing escrow account unless another method of securing the payment thereof is agreed upon by the transferor Member and the transferee Member. In determining whether a particular proposed Transfer will result in a termination of the Company, counsel to the Company shall take into account the existence of prior written commitments to Transfer made pursuant to this Agreement and such commitments shall always be given precedence over subsequent proposed Transfers.

10.5 *Prohibited Transfers.* Any purported Transfer of Units that is not effected in accordance with the terms and conditions of this Article 10 shall be null and void and of no force or effect whatever; provided that, if the Company is required to recognize a Transfer that is not a Permitted Transfer (or if the Company, in its sole discretion, elects to recognize a Transfer that is not a Permitted Transfer), the interest transferred shall be strictly limited to the transferor's rights to distributions as provided by this Agreement with respect to the transferred Units, which distributions may be applied (without limiting any other legal or equitable rights of the Company) to satisfy any debts, obligations, or liabilities for damages that the transferor or transferee of such Units may have to the Company. In the case of a Transfer or attempted Transfer of Units that is effected in accordance with the terms and conditions of this Article 10, the parties engaging or attempting to engage in such Transfer shall be liable to indemnify and hold harmless the Company and the other Members from all cost, liability, and damage that any of such indemnified Persons may incur (including, without limitation, increment tax liability and lawyers' fees and expenses) as a result of such Transfer or attempted Transfer and efforts to enforce the indemnity granted hereby.

10.6 *Rights of Unadmitted Assignees.* A Person who acquires one or more Units but who is not admitted as a substituted Member pursuant to Section 10.8 shall hold only a Distributional

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Interest shall and be entitled only to allocations and distributions with respect to such Interests in accordance with this Agreement, shall have no right to any information or accounting of the affairs of the Company, shall not be entitled to inspect the books or records of the Company, and shall not have any of the rights of a Member under the Act or this Agreement, including the right to vote on any matter.

10.7 *Admission of Transferees as Members.* Subject to the other provisions of this Article 10, a transferee of Units may be admitted to the Company as a Member only upon satisfaction of the conditions set forth below in this Section 10.7:

10.7.1 The Manager consents to such admission, which consent may be given or withheld in the sole and absolute discretion of the Manager;

10.7.2 The Units with respect to which the transferee is being admitted were acquired in accordance with the other terms and conditions of this Article 10;

10.7.3 The transferee becomes a party to this Agreement as a Member and executes such documents and instruments as the Manager may reasonably request as may be necessary or appropriate to confirm such transferee as a Member in the Company and such transferee's agreement to be bound by the terms and conditions of this Agreement;

10.7.4 The transferee shall have delivered to the Manager a letter containing a representation and an agreement in the form set forth in Section 10.1.1 of this Agreement;

10.7.5 if the Transferee is not an individual, the Transferee shall have provided the Manager with satisfactory evidence of the Transferee's authority to become a Member under the terms and provisions of this Agreement; and

10.7.6 The transferee pays or reimburses the Company for all reasonable legal, filing, and publication costs that the Member incurs in connection with the admission of the transferee as a Member with respect to the Transferred Units.

10.8 *Covenants; Representations Regarding Transfers; Legend.*

10.8.1 Each Member hereby represents, covenants and agrees with the Company for the benefit of the Company and all Members, that (i) he is not currently making a market in Units and will not in the future make a market in Units, (ii) he will not Transfer his Units on an established securities market, a secondary market (or the substantial equivalent thereof) within the meaning of Code Section 7704(b) (and any regulations, proposed regulations, revenue rulings, or other official pronouncements of the Internal Revenue Service or Treasury Department that may be promulgated or published hereunder), and (iii) in the event such Regulations, revenue rulings, or other

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pronouncements treat any or all arrangements which facilitate the selling of partnership interests and which are commonly referred to as "matching services" as being a secondary market or substantial equivalent thereof, he will not Transfer any Units through a matching service that is not approved in advance by the Company. Each Member further agrees that he will not Transfer any Units to any Person unless such Person agrees to be bound by this Section 10.8 and to Transfer such Units only to Persons who agree to be similarly bound. The Company shall, from time to time and at the request of a Member, consider whether to approve a matching service and shall notify all Members of any matching service that is so approved.

10.8.2 Each Member hereby agrees that the following legend shall be placed upon any document or instrument evidencing ownership of Units:

THE UNITS REPRESENTED BY THIS DOCUMENT HAVE NOT BEEN REGISTERED UNDER ANY FEDERAL OR STATE SECURITIES LAWS AND THE TRANSFERABILITY OF SUCH UNITS IS RESTRICTED. SUCH UNITS MAY NOT BE SOLD, ASSIGNED OR TRANSFERRED, NOR WILL ANY ASSIGNEE, VENDEE, TRANSFEREE OR ENDORSEE THEREOF BE RECOGNIZED AS HAVING ACQUIRED ANY SUCH INTERESTS BY THE ISSUER FOR ANY PURPOSES, UNLESS (1) A REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933, AS AMENDED, WITH RESPECT TO SUCH UNITS SHALL THEN BE IN EFFECT AND SUCH TRANSFER HAS BEEN QUALIFIED UNDER ALL APPLICABLE STATE SECURITIES LAWS, OR (2) THE AVAILABILITY OF AN EXEMPTION FROM SUCH REGISTRATION AND QUALIFICATION SHALL BE ESTABLISHED TO THE SATISFACTION OF COUNSEL TO THE ISSUER OF THE UNITS.

THE UNITS REPRESENTED BY THIS DOCUMENT ARE SUBJECT TO FURTHER RESTRICTIONS AS TO THEIR SALE, TRANSFER, HYPOTHECATION, OR ASSIGNMENT AS SET FORTH IN THE OPERATING AGREEMENT BETWEEN THE ISSUER OF THE UNITS AND ITS MEMBERS. A COPY OF SUCH OPERATING AGREEMENT WILL BE FURNISHED WITHOUT CHARGE BY THE COMPANY TO THE HOLDER HEREOF UPON WRITTEN REQUEST.

10.9 *Distribution and Allocations in Respect to Transferred Interests.* If any Unit is sold, assigned, or Transferred during any Fiscal Year in compliance with the provisions of this Article 10, income, loss, deduction, credit, each item thereof, and all other items attributable to the Transferred Unit for such Fiscal Year shall be divided and allocated between the transferor and the transferee by taking into account their varying Interests during such Fiscal Year in accordance with Code Section 706(d), using any conventions permitted by law and selected by the Manager. All distributions on or before the date of such Transfer shall be made to the transferor, and all distributions thereafter shall

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be made to the transferee. Solely for purposes of making such allocations and distributions, such Transfer shall be recognized not later than the end of the calendar month during which it is given notice of such Transfer, provided that, if the Company is given notice of a Transfer at least ten business days prior to the Transfer, the Company shall recognize such Transfer as the date of such Transfer, and provided further that, if the Company does not receive a notice stating the date Units were Transferred and such other information as the Manager may reasonably require within 30 days after the end of the Fiscal Year during which the Transfer occurs, then all such times shall be allocated, and all distributions shall be made, to the Person who, according to the books and records of the Company was the owner of the Units on the last day of the Fiscal Year during which the Transfer occurs. Neither the Company nor any Manager shall incur any liability for making allocations and distributions in accordance with the provisions of this Section 10.10, whether or not any Manager or the Company has knowledge of any Transfer of ownership of any Unit.

10.10 *Termination of Restrictions.* The restrictions set forth in this Article 10 will continue with respect to each Unit until the earliest of (i) the 20th anniversary of the date of this Agreement and (ii) the consummation of a Sale of the Company.

10.11 *Waiver of Redemption of Distributional Interest.* Members hereby agree that no Member shall have a right to have his or her Distributional Interest redeemed by the Company upon Dissociation pursuant to Section 35-60 of the Act.

**ARTICLE 11
DISSOLUTION AND TERMINATION**

11.1 *Events of Dissolution.* The Company shall be dissolved, and shall terminate and wind up its affairs, upon the first to occur of the following:

11.1.1 the Dissociation of all Members in the Company; the Dissociation of less than all Members of the Company shall not cause the dissolution of the Company;

11.1.2 the consent of the Members holding at least 75% of the Voting Units then outstanding; and

11.1.3 the sale of substantially all the assets of the Company;

11.1.4 the entry of a decree of judicial dissolution or an administrative dissolution under the Act; and

11.1.5 any other event requiring the dissolution of the Company under Section 35-1 of the Act.

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Notwithstanding the foregoing, if the Members (and any dissociated Member whose Dissociation caused such dissolution) elect to waive such dissolution as provided under Section 35-3 of the Act, the Company may carry on its business as if no dissolution occurred.

11.2 *Liquidation.* If the Company shall be dissolved by reason of the occurrence of any of the circumstances described in Section 11.1, no further business shall be conducted by the Company except for taking such action as shall be necessary for the winding up of its affairs and the distribution of its assets to the Members. Upon such dissolution of the Company, the Manager shall take the following steps:

11.2.1 Unless otherwise approved by the Members in accordance with Article 7, dispose of all other Company properties and assets at the best cash price obtainable therefor under the circumstances.

11.2.2 Pay all Company debts and liabilities, in the order of priority as provided under applicable law, or otherwise make adequate provision therefore.

11.2.3 Determine by independent appraisal the fair market value of the Company properties and assets to be distributed in kind (if permitted under Article 7), and credit or charge (as the case may be) the Capital Account of each Member with the amount that would have been credited or charged to such Member in accordance with Article 4 if such properties and assets had been sold at fair market value.

11.2.4 Credit or charge (as the case may be) each Member's Capital Account with such Member's share of all Company Profits and Company Losses that were not previously reflected in any Capital Accounts and that were realized or incurred during the Fiscal Year or Fiscal Years which include the dissolution and termination, up to and including the date of distribution, net of all distributions that were not previously reflected in any Capital Accounts and that were made to such Member during such Fiscal Years up to but not including such date.

11.2.5 Distribute to each of the Members the balance, if any, of the properties and assets of the Company pursuant to Sections 6 1.

11.2.6 Notwithstanding Sections 11.2.1 through 11.2.5, if any Member shall be indebted to the Company for any reason whatsoever, the liquidator may apply any cash allocated to such Member in accordance with this Section 11.2 to the payment of such indebtedness. If such cash is not sufficient to liquidate such indebtedness in its entirety then, until payment in full of such indebtedness by such Member, the liquidator shall retain such Member's distributive share of the Company properties and assets and, after applying the cost

of operation of such properties and assets during the period of such liquidation against the income therefrom, shall apply the balance of such income toward the liquidation of such indebtedness; provided, however, that if upon the expiration of six months after notice of such outstanding indebtedness has been given to such Member, such amount has not been paid or otherwise liquidated in full, the liquidator may sell the assets allocable to such Member at private or public sale at the best cash price immediately obtainable under the circumstances, and so much of the proceeds of such sale as shall be necessary to liquidate such indebtedness shall then be so applied, and the balance (if any) of such proceeds shall be distributed to such Member.

11.2.7 The liquidator shall comply with all requirements of the Act, or other applicable law, pertaining to the winding up of a limited liability company.

11.3 *Filings.* Upon dissolution and complete winding up of the Company, the liquidator shall file any and all certificates and other documents required under the Act including, but not limited to, Articles of Dissolution as required by Section 35-20 of the Act.

11.4 *Termination.* The Company shall terminate when all of the assets of the Company have been distributed in the manner provided for in Section 11.2 of this Agreement, and the Articles shall have been canceled in the manner required by the Act.

ARTICLE 12 BOOKS AND RECORDS

12.1 *Books and Records; Accounting.* The Manager shall keep or cause to be kept at the address of the Company (or at such other place the Manager shall determine) accurate and proper books and records regarding the status of the business and financial conditions of the Company. The Fiscal Year of the Company shall be the calendar year.

12.2 *Access to Records, Financial Statements.* Each Member shall have the right to review all Company records, agreements, tax returns, financial statements, balance sheet, and financial projections of the Company that may be prepared from time to time by or at the request of the Manager or an officer of the Company. The Company shall prepare and furnish to each Member promptly after the close of each fiscal quarter an unaudited statement showing the operations of the Company for such quarter and the balance in each Member's Capital Account. The Manager has the authority to select the Company's accountants and determine whether or not to obtain an audit of the Company's books and records.

12.3 *Annual Reports.* Within ninety (90) days after the end of each Fiscal Year, the Manager shall cause to be prepared and each Member furnished with unaudited financial statements

accompanied by a report thereon of the Company's accountants stating that such statements are prepared and fairly stated in all material respects in accordance with generally accepted accounting principles, and, to the extent inconsistent therewith, in accordance with this agreement, including: (i) a copy of the balance sheet of the Company as of the last day of such Fiscal Year; (ii) a statement of income or loss for the Company for the Company for such Fiscal Year; (iii) a statement of the Members' Capital Accounts and changes therein for such Fiscal Year; and (iv) a statement of Company cash flow for such Fiscal Year.

12.4 *Bank Account(s)*. All funds of the Company shall be deposited in the name of the Company in such bank or banks as may be agreed upon by the Manager and checks drawn on such account(s) shall require the signature of a Manager. All funds received from the operation and business of the Company shall be promptly deposited in the account(s) maintained in its name and all debts, expenses and charges shall be paid by checks drawn on such account(s). There shall be no commingling of the funds of the Company with the funds of any other entity.

ARTICLE 13 TAX MATTERS

13.1 *Company Tax Returns.*

13.1.1 The Manager shall cause to be prepared and timely filed all tax returns required to be filed for the Company, and shall cause to be timely paid all taxes owed by the Company. The Company shall make an election under Code Section 754. The Manager may, in its discretion, make or refrain from making, any other foreign, federal, state or local income or other tax elections for the Company that it deems necessary or advisable.

13.1.2 Heritage Development Partners, LLC is hereby designated as the Company's "Tax Matters Partner" under Code Section 6231(a)(7) and shall have all the powers and responsibilities of such position as provided in the Code. The Manager is specifically directed and authorized to take whatever steps the Manager, in its discretion, deem necessary or desirable to perfect such designation, including filing any forms or documents with the Internal Revenue Service and taking such other action as may from time to time be required under the regulations issued under the Code. Each Member hereby agrees to cooperate with the Tax Matters Partner with respect to all matters within its authority as Tax Matters Partner. Expenses incurred by the Tax Matters Partner, in its capacity as such, will be borne by the Company.

13.2 *Schedules K-1 and Forms 1065.* The Manager shall, as promptly as practicable and in any event within 90 days after the end of each Fiscal Year, cause to be prepared and mailed to each Member of record an Internal Revenue Service Form K-1, Internal Revenue Service Form 1065, and

any other forms which are necessary or advisable for the Members to satisfy their federal tax reporting obligations.

13.3 *Taxation as Partnership.* The Members agree that the Company will seek to be treated as a partnership for United States federal income tax purposes. The Manager shall operate the Company in a manner intended to preserve, to the extent practical, the Company's treatment as a partnership for United States federal income tax purposes.

13.4 *Withholding.* Each Member certifies that they are U.S. persons within the meaning of code Section 7701(a)(30). Any Person who may subsequently become a Member shall either (i) provide a certificate of non-foreign status to all Members or (ii) be subject to withholding on all distributions as may be required under the Code.

ARTICLE 14 MISCELLANEOUS

14.1 *Reimbursements.* Subject to the restrictions set forth in Section 7.2 herein, the Company shall reimburse the Members and the Managers for all expenses incurred and paid by any of them in the organization of the Company and as authorized by the Company, in the conduct of the Company's business, including, but not limited to, expenses of maintaining an office, telephones, travel, office equipment and secretarial and other personnel as may reasonably be attributable to the Company. Such expenses shall not include any expenses incurred in connection with a Member's or Manager's exercise of its rights as a Member or a Manager apart from the authorized conduct of the Company's business. The sole determination of the Manager of which expenses are allocated to and reimbursed as a result of the Company's activities or business and the amount of such expenses shall be conclusive. Such reimbursement shall be treated as expenses of the Company and shall not be deemed to constitute distributions to any Member of profit, loss or capital of the Company.

14.2 *Successors.* This Agreement shall be binding as to the executors, administrators, estates, heirs and legal successors, or nominees or representatives, of the Members. Except as otherwise provided in this Agreement, no persons other than the Members and their respective executors, administrators, estates, heirs and legal successors, or their nominees or representatives, shall obtain any rights by virtue of this Agreement.

14.3 *Counterparts.* This Agreement may be executed in several counterparts with the same effect as if the parties executing the several counterparts had all executed one counterpart.

14.4 *Integration.* This Agreement constitutes the entire agreement among the Members pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements and undertakings of the Members in connection therewith.

14.5 *Entire Agreement.* This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof. It supersedes any prior agreement or understandings between them relating to the subject matter hereof, and it may not be modified or amended except in a writing executed by all parties hereto.

14.6 *Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois without giving effect to the principles of conflict of laws thereof.

14.7 *Severability.* This Agreement shall be construed to the maximum extent possible to comply with all of the terms and conditions of the Act. If, notwithstanding the previous sentence, a court of competent jurisdiction concludes that any provisions or wording of this Agreement is invalid or unenforceable under the Act or other applicable law, the invalidity or unenforceability of such provisions or wording will not invalidate the entire Agreement. In such a case, this Agreement will be construed so as to limit any term or provision so as to make it valid or enforceable within the requirements of applicable law and, in the event such term or provisions cannot be so limited, this Agreement will be construed to omit such invalid or unenforceable provisions or term. If it is determined that any provision relating to the distributions and allocations of the Company or to any fee payable by the Company is invalid or unenforceable, this Agreement shall be construed or interpreted so as (a) to make it enforceable or valid and (b) to make the distributions and allocations as closely equivalent to those set forth in this Agreement as permissible under applicable law.

14.8 *Headings.* The Headings in this Agreement are included for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

14.9 *Waiver.* No consent or waiver, express or implied, by any Member to or of any breach or default by the other in the performance of obligations hereunder shall be deemed or construed to be a consent or waiver of any other obligations of such Member hereunder. Failure on the part of any Member to complain of any act or failure to act of any other Member or to declare any other Member in default, irrespective of how long such failure continues, shall not constitute a waiver by such Company, of its rights hereunder.

14.10 *Filings.* Following the execution and delivery of this Agreement, the Manager shall promptly prepare any documents required to be filed and recorded under the Act, and the Manager shall promptly cause each such document to be filed and recorded in accordance with the Act and, to the extent required by local law, to be filed and recorded or notice thereof to be published in the appropriate place in each jurisdiction in which the Company may hereafter establish a place of business. The Manager shall also promptly cause to be filed, recorded and published such statements or other instruments required by any provision of any applicable law of the United States or any state or other jurisdiction which governs the conduct of its business from time to time.

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14.11 *Notices.* Notices, requests, reports, payments, calls or other communications required to be given or made to any Member hereunder shall be in writing and shall be delivered personally or mailed, certified mail, return receipt requested, or delivered by overnight courier service to such Member at such Member's address last shown on the Company's books and records, or such other address as any party hereto designates by written notice to the Company, and shall be deemed to have been given upon delivery, if delivered personally, three days after mailing, if mailed, or one business day after delivery to the courier, if delivered by overnight courier service. Addresses shown under the signatures of each Member shall be considered the last known address of such Member unless and until the Company is otherwise notified by such Member.

14.12 *Mediation.* With respect to any controversy or claim which arises under the terms of this Agreement and which is not resolved through negotiation, the Company and each Member agrees to seek resolution of such controversy or claim through mediation in accordance with the current Commercial Mediation Rules of the American Arbitration Association before resorting to arbitration, litigation, or some other form of dispute resolution.

14.13 *Arbitration.* With respect to any controversy or claim which arises under the terms of this Agreement and which is not resolved through negotiation or mediation, the Company and each Member agrees to seek resolution of such controversy or claim through arbitration in accordance with the current Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award entered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The costs of arbitration shall be allocated among the parties as directed by the arbitrator(s).

14.14 *Equitable Remedies.* The rights and remedies of the Members hereunder shall not be mutually exclusive, i.e., the exercise of rights granted under any provisions hereof shall not preclude the exercise of any other provisions hereof. The Members confirm that damages at law may be an inadequate remedy for a breach or threatened breach of this Agreement and agree that, in the event of a breach or threatened breach of any provision hereof, the respective rights and obligations hereunder shall be enforceable by specific performance, injunction or other equitable remedy, but nothing herein contained is intended to, nor shall it, limit or affect any rights at law or by statute or otherwise of any party aggrieved as against the other for a breach or threatened breach of any provision hereof, it being the intention by this subsection to make clear the agreement of the Members that the respective rights and obligations of the Members hereunder shall be enforceable in equity as well as at law or otherwise.

14.15 *Company Losses Due to Member's Litigation.* In the event the Company is made a party to any litigation or otherwise incurs any losses or expenses as a result of or in connection with any Member's obligations or liabilities which do not arise out of or relate to the business of the Company, and which are not covered by the Company's insurance coverage, such Member shall reimburse the Company for all such expenses incurred, including attorneys' fees, and the interest of

M.A



such Member in this Company may be charged therefore.

14.16 *Title to Company Assets.* The assets of the Company shall be owned by the Company as an entity, and no Member shall have any direct ownership interest in such assets or any portion thereof.

14.17 *Execution of Additional Documents.* Each Member hereby agrees to execute such other and further statements of interest and holdings, designations, powers of attorney and other instruments reasonably necessary for the Company to comply with any applicable laws, rules or regulations.

14.18 *Confidentiality.* Any mediators or mediators appointed pursuant to this Agreement shall be under a duty to maintain in confidence, to the greatest extent reasonably possible, any and all information relating to the Company and/or its Members or creditors.

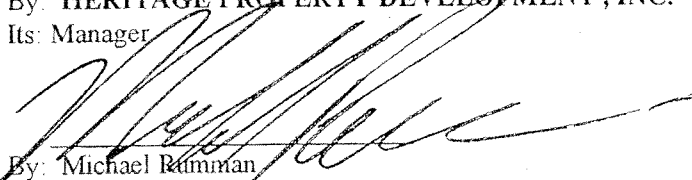
Signature Page Follows

M.A.


IN WITNESS WHEREOF, the parties hereto have executed and delivered this Operating Agreement of Limited Liability Company as of the date first above written.


COMPANY: RIVERSIDE DISTRICT DEVELOPMENT LLC,
an Illinois limited liability company

By: HERITAGE PROPERTY DEVELOPMENT, INC.
Its: Manager


By: Michael Rumman
Its: President

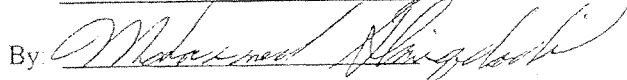
MEMBERS: HERITAGE DEVELOPMENT PARTNERS, LLC,
an Illinois limited liability company

By: HERITAGE PROPERTY DEVELOPMENT, INC.
Its: Manager


By: Michael Rumman
Its: President

GENERAL MEDITERRANEAN HOLDING SA,
a Luxemborg corporation

MOHAMMED AL-MIQDADI ALA MOHAMMAD HAZHIM

By: 

Its: AUTHORIZED REPRESENTATIVE - DIRECTOR OF PROJECT DEVELOPMENT

RIVERSIDE DISTRICT DEVELOPMENT LLC OPERATING AGREEMENT

SCHEDULE 1

Ownership of Members as of January 1, 2006

<u>Member</u>	<u>Preferred Units</u>	<u>Common Units</u>	<u>Voting Units</u>	<u>Initial Net Invested Capital Balance</u>
Heritage Development Partners, LLC	None	1,000	49	\$-0-
General Mediterranean Holding, SA	100	1,000	51	\$133,983,384
Total	100	2,000	100	

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ADDITIONAL MEMBER SIGNATURE PAGE

The undersigned hereby executes the Operating Agreement, dated as of _____ 2006 ("Agreement"), by and among Riverside District Land Development LLC, an Illinois limited liability company (the "Company"), and the Members listed on the signature pages thereto. Each of the parties other than the Company may be referred to individually as a "Member" and collectively as the "Members".

Date: _____

Name

Address

Signature

RIVERSIDE DISTRICT DEVELOPMENT LLC
(on behalf of itself and the Members)

By: _____
Authorized Manager

M.A



Tab No. 16

**FIRST AMENDMENT TO
OPERATING AGREEMENT
OF
HERITAGE DEVELOPMENT PARTNERS, LLC**

This First Amendment to the Operating Agreement of Heritage Development Partners, LLC (this "Amendment") is made as of April 6, 2006 by the Member who has executed this Amendment below.

WHEREAS, the Members of Heritage Development Partners, LLC (the "Company") have heretofore executed the Heritage Development Partners, LLC effective January 1, 2006 (the "Agreement");

WHEREAS, Schedule 1 of the Agreement provides that the sole Units of the Company consisted of 72,000 Class B Units owned by MT Property Holdings, LLC ("MT");

WHEREAS, MT Property Holdings, LLC desires to amend Schedule 1 of the Operating Agreement to reflect the Company's sale of 1.892 Class A Units and the reduction of MT's Units to 98.108 Class B Units;

WHEREAS, Section 14.2 of the Agreement provides that a majority of the holders of Class B Units may amend the Agreement; and

WHEREAS, MT Property Holdings, LLC owns all of the outstanding Class B Units of the Company.

NOW, THEREFORE, the Agreement is hereby amended as follows:

Schedule 1 of the Agreement shall be replaced in its entirety and replaced with the schedule appearing on the following page:

**SCHEDULE 1
TO THE
HERITAGE DEVELOPMENT PARTNERS, LLC OPERATING AGREEMENT**

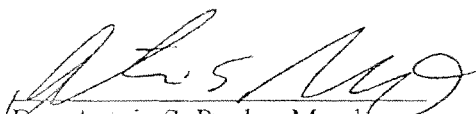
Ownership of Members as of April 6, 2006

Member	Class A Units	Class B Units	Capital Contribution
MT Property Holdings, LLC	None	98.108	\$1,000.00
Royal Heritage Investments LLC	1.000	None	\$1,250,000.00
Roosevelt-Clark, L.L.C.	0.392	None	\$490,000.00
Ali and Darlene Baghdadi	0.500	None	\$625,000.00
TOTAL	1.892	98.108	\$2,366,000

IN WITNESS WHEREOF, the undersigned has executed this First Amendment to the Operating Agreement of Heritage Development Partners, LLC effective as of the day and year first written above.

MT PROPERTY HOLDINGS, LLC


By: Michael Rumman, Member


By: Antoin S. Rezko, Member

HERITAGE DEVELOPMENT PARTNERS, LLC
OPERATING AGREEMENT

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**OPERATING AGREEMENT of
HERITAGE DEVELOPMENT PARTNERS, LLC**

This Operating Agreement is entered into by and among the Persons whose names are set forth on the signature pages hereof and any Person who hereafter becomes a party hereto pursuant to the provisions hereof, and is made effective as of January 1, 2006.

RECITALS

Heritage Development Partners, LLC (the "Company") was organized pursuant to the Illinois Limited Liability Company Act (the "Act") upon the filing of the Articles of Organization (the "Articles") with the office of Secretary of State of the State of Illinois August 15, 2005, as amended on October 19, 2005.

Subsequent to its formation, the Company admitted Michael Rumman and Antion S. Rezko as its initial members (collectively, the "Initial Members") who caused the Company to enter into various transactions, including the acquisition of membership interests in Riverside District Development, LLC, an Illinois limited liability company.

The Initial Members, as of the date of first written above, along with the additional Persons when are set forth in this signature pages hereto, desire to operate the Company in accordance with and subject to the terms and conditions set forth in this Agreement.

NOW THEREFORE, for good and valuable consideration, the persons set forth in the signature pages hereto, intending to be legally bound, agree as follows:

**ARTICLE I
DEFINITIONS**

The following terms used herein shall have the following meanings (unless otherwise expressly provided herein, or unless the context clearly indicates otherwise):

1.1 "Act" means the Illinois Limited Liability Company Act, 805 ILCS 180/1-1, et seq., as amended from time to time (or any corresponding provisions of succeeding law).

1.2 "Affiliate of the Company" means any Person directly or indirectly, Controlling, Controlled by or under common Control with the Company or any other Affiliate of the Company.

1.3 “**Affiliate of a Member**” means, in respect of a Member, any other Person, directly or indirectly, Controlling, Controlled by or under common Control with that Person.

1.4 “**Agreement**” means this Operating Agreement of Heritage Development Partners, LLC, as from time to time amended.

1.5 “**Annual Tax Distribution**” means that distribution provided in Section 6.2.

1.6 “**Articles**” means the Articles of Organization filed with the Office of the Secretary of State of Illinois, and all amendments thereto.

1.7 “**Bankruptcy**” means with respect to a Person: (a) a filing by the Person of a voluntary petition in bankruptcy, the filing of a pleading in any court of record admitting in writing its inability to pay its debts as they come due or the filing against a Member of an involuntary petition in bankruptcy that is not dismissed within thirty (30) days, (b) the making by the Person of a general assignment for the benefit of creditors, (c) the filing by the Person of an answer admitting the material allegations of, or its consenting to, or defaulting in answering, a bankruptcy petition filed against it in any bankruptcy proceeding, (d) the entry of an order, judgment, decree by any court of competent jurisdiction adjudicating the Person a bankrupt or appointing a trustee of its assets, or (e) any levy of execution being made upon the Interest of the Person in the Company.

1.8 “**Book Value**” means, with respect to any property, the Company’s adjusted basis for federal income tax purposes, adjusted from time to time as required or permitted under Treasury Regulations Section 1.704-1(b)(2)(iv)(d)-(g).

1.9 “**Capital Account**” means the account maintained for each Member in accordance with the provisions of the Code and the regulations promulgated thereunder, including but not limited to the rules regarding maintenance of capital accounts set forth in Treasury Regulations Section 1.704-1.

1.10 “**Capital Contribution**” means, with respect to any Member executing this Agreement, the capital contribution such Member actually makes pursuant to Article 4 hereof.

1.11 “**Code**” means the Internal Revenue Code of 1986, as amended. Any reference to any specific provision of the Code or any regulations promulgated thereunder shall also refer to any successor provisions thereto.

1.12 “**Common Units**” means, collectively, the Non-Voting Common Units and the Voting Common Units.

1.13 “**Company**” means Heritage Development Partners, LLC, the Illinois limited liability company to be operated in accordance with the provisions of this Agreement.

1.14 "Company Business" is defined in Section 2.3.

1.15 "Company Expenses" means all costs and expenses incurred in connection with the business and affairs of the Company, including, without limitation, costs and expenses of acquiring, owning, operating and disposing of Company Investments, and fees and expenses of legal counsel, accountants, appraisers, investment bankers and third party consultants and advisors.

1.16 "Company Investment" means the interest of the Company in any business and other assets, owned, directly or indirectly, by the Company and acquired by the Company in one transaction or a series of related transactions, as determined by the Manager (as defined in Section 9.1).

1.17 "Company Loss" means, for any applicable fiscal period, all items of income, gain, deduction and loss of the Company (including any loss and net of any gain realized upon the refinancing or sale or other disposition of such Company Investment (or portion thereof) and Company Expenses primarily related to such Company Investment), where the aggregate of all such items during any applicable period results in a net loss to the Company, determined in accordance with Section 4.3.2 of this Agreement.

1.18 "Company Minimum Gain" means an amount equal to the Company minimum gain, as determined in accordance with Treasury Regulations Section 1.704-2(d).

1.19 "Company Profit" means, for any applicable fiscal period, all items of income, gain, deduction and loss of the Company (including any gain and net of any loss realized upon the refinancing or sale or other disposition of such Company Investment (or portion thereof) and Company Expenses primarily related to such Company Investment), where the aggregate of all such items during any applicable period results in net income to the Company, determined in accordance with Section 4.3.2 of this Agreement.

1.20 "Control" (including, with correlative meanings, the terms "Controlling," "Controlled by" and "under common Control with"), as applied to any Person, includes the possession, directly or indirectly, of ten percent (10%) or more of the Voting Power (or in the case of a Person which is not a corporation, 10% or more of the ownership interest, beneficial or otherwise) of such Person or the power otherwise to direct or cause the direction of the management and policies of that Person, whether through voting, by contract or otherwise.

1.21 "Deficit Capital Account" means, with respect to any Member, the deficit balance (if any) in such Member's Capital Account as of the end of the Fiscal Period or Fiscal Year, after giving effect to the following adjustments:

1.21.1 credit to such Capital Account any amount which such Member is treated as being obligated to restore under Treasury Regulations Section 1.704-1(b)(2)(ii)(c), as well as

any addition thereto pursuant to the penultimate sentence of Treasury Regulations Section 1.704-2(g)(1) and (i)(5), after taking into account any changes during the period in Company Minimum Gain and in the Member Minimum Gain; and

1.21.2 debit to such Capital Account the items described in Treasury Regulations Sections 1.704-1(b)(ii)(d)(4), (5) and (6).

This definition of "Deficit Capital Account" is intended to comply with Treasury Regulations Sections 1.704-1(b)(2)(ii)(d) and 1.704-2, and shall be construed in a manner consistent with those provisions.

1.22 "Dissociation" of a Member shall have the meaning provided under Section 35-45 of the Act.

1.23 "Distribution Interest" means the right to receive the shares of revenues from production and other income, receipts, or gain of the Company, or of any other distributions from the Company, with respect to an Interest in the Company. The holder of a Distributional Interest is not a Member, nor has any of the other rights herein conferred upon such Member, including the right to vote as a Member until such holder is admitted as a Member (if at all).

1.24 "Fiscal Period" means any interim accounting period within a Fiscal Year which is established by the Manager and which is required or permitted under the Code or Treasury Regulations.

1.25 "Fiscal Year" means the Company's annual accounting period established pursuant to Section 12.1 of this Agreement.

1.26 "Illinois Replacement Tax" means (a) the Illinois Personal Property Tax Replacement Income Tax, 35 ILCS 5/201 et seq., as amended from time to time, and (b) if the Company is subject to any other state tax (i.e., state tax other than Illinois Replacement Tax) the amount of which is dependent upon the tax character of some or all of the Members, the Manager may, in its discretion, treat such other state tax as Illinois Replacement Tax for all purposes of this Agreement.

1.27 "Illinois Replacement Tax Savings" means, with respect to a Fiscal Year for which the Company is subject to Illinois Replacement Tax, the amount (if any) of additional Illinois Replacement Tax that would have been imposed upon the Company for such Fiscal Year but for the fact that some of the Members are themselves subject to the Illinois Replacement Tax for such Fiscal Year.

1.28 "Independent Third Party" means any Person who, immediately prior to the contemplated transaction, does not own in excess of five percent of the Units on a fully-diluted basis

(a "5% Owner"), who is not Controlling, Controlled by or under common Control with any such 5% Owner and who is not the spouse or descendent (by birth or adoption) of any such 5% Owner or a trust for the benefit of any such 5% Owner and/or such other Persons.

1.29 "Interest" means the personal property ownership right of a Member, such personal property ownership right being evidenced by and composed of Units, in the Company entitling such Member to, among other things, an allocation of the Company's income, gains, losses, deductions and credits (for both book and tax purposes) and a share of distributions made by the Company. Each Member's allocation of the Company's income, gains, losses, deductions and credits (for both book and tax purposes) and share of the Company's distributions, as applicable, shall be determined in accordance with this Agreement based upon the number of Units owned by such Member.

1.30 "Interest Holder" means any Member, assignee or other transferee of a Member who is not admitted as a Member, but is a holder of a Distributional Interest.

1.31 "Manager" means the Person appointed as the manager of the Company under the Act and Article 9 of this Agreement.

1.32 "Member" means any Person that holds an Interest in the Company represented by Units and is admitted as a Member of the Company pursuant to this Agreement.

1.33 "Member Minimum Gain" means an amount, with respect to each Member Non-recourse Debt, equal to the Company Minimum Gain that would result if such Member Non-recourse Debt were treated as a Company non-recourse liability, as determined in accordance with Treasury Regulations Section 1.704-2.

1.34 "Member Non-Recourse Debt" shall have the same meaning as the term "partner non-recourse debt" set forth in Treasury Regulations Section 1.704-2(b)(4).

1.35 "Member Non-Recourse Deductions" shall have the same meaning as the term "partner non-recourse deductions" set forth in Treasury Regulations Section 1.704-2(i)(1) and 1.704-2(i)(2).

1.36 "Net Cash" means, for each Fiscal Year or a portion thereof, (a) all cash of the Company derived from Company operations, after deducting: (i) all cash expenditures incurred in connection with the operation of the Company's business; (ii) an amount necessary to pay all liabilities of the Company then due and owing including, without limitation, all loans to the Company and all advances made by any Member to the Company; and (iii) an amount determined by the Manager to be reasonably necessary or desirable as a reserve for the operation of the Company business, liabilities of the Company not yet due, and/or future or contingent liabilities of the Company, and (b) the net cash proceeds from all sales and other dispositions and all refinancing of

Company Investments, less any portion thereof used to establish reserves, all as determined by the Manager.

1.37 "Net Invested Capital Balance" means as to each Member, the cash contributed by such Member to the capital of the Company, less amounts distributed to such Member pursuant to Section 6.1.2 hereof.

1.38 "Non-Recourse Deductions" shall have the meaning set forth in Treasury Regulations Section 1.704-2(b)(1).

1.39 "Non-Recourse Liability" shall have the meaning set forth in Treasury Regulations Section 1.704-2(b)(3).

1.40 "Ownership Percentage" means, with respect to any Member as of any date, the ratio (expressed as a percentage) of the number of Units held by such Member on such date to the aggregate of all Units held by all Members on such date.

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

1.42 "Property" means certain real property located at Roosevelt Road and Clark Street in Chicago, Illinois currently owned by Riverside District Development, LLC.

1.43 "Quarterly Estimated Tax Distribution" is defined in Section 6.2.

1.44 "Redemption Amount" shall mean an amount sufficient to cause each holder of Class A Units to receive the sum of (x) an amount equal to a 20% per annum return on such holder's Capital Contributions made to the Company plus (y) a return of all Capital Contributions made to the Company by such holder.

1.45 "Sale of the Company" means the sale of the Company to an Independent Third Party or group of Independent Third Parties pursuant to which such party or parties acquire (i) Units of the Company possessing the voting power under normal circumstances to elect the Company's Manager (whether by merger, consolidation or sale or transfer of Units) or (ii) all or substantially all of the Company's assets determined on a consolidated basis.

1.46 "Securities Act" means the Securities Act of 1933, as amended from time to time.

1.47 "Tax Allowance Amount" means, with respect to any Member for any calendar quarter, an amount reasonably determined by the Manager, in good faith, to be the estimated income tax liability of such Member (or the owners of such Member that is a flow-through entity for federal income tax purposes) arising from its ownership of Units. The Tax Allowance Amount for each

Member shall be computed on the assumption that all Members are subject to taxation at the same combined federal and state income tax rates, which shall be the highest combined rates applicable to any Member, as determined by the Manager. The amount so determined by the Manager shall be the Tax Allowance Amount for such period and shall be final and binding on all Members.

1.48 "Tax Matters Partner" means the Person designated as such in Section 13.1.2 of this Agreement.

1.49 "Transfer" means, as a noun, any voluntary or involuntary transfer, sale, assignment, pledge or other disposition and, as a verb, voluntarily or involuntarily to transfer, sell, assign, pledge, or otherwise dispose of.

1.50 "Treasury Regulations" means the proposed, temporary and final regulations promulgated under the Code, as amended from time to time.

1.51 "Unreturned Capital" means, with respect to a Unit, the excess, if any, of the Capital Contribution made or deemed made in exchange for or on account of such Unit over all Distributions made by the Company with respect to such Unit pursuant to Section 6.1(i).

1.52 "Voting Power" of any Person, means the total number of votes, which may be cast by the holders of the total number of outstanding shares of stock, units or interests of any class or classes of such Person in any election of directors of such Person.

1.53 "Unit" means a reference to a Class A Units and Class B Units and represents an ownership Interest issued by the Company represented by Units, with rights, interests, duties and obligations set forth in this Agreement with respect to Units, and representing a Capital Contribution in cash or other property equal to the price per Unit or fraction thereof paid by a Member and set forth on Schedule I. Except as otherwise provided in this Agreement, Class A Units shall be non-voting Units.

1.54 "Withdrawal" means, with respect to any Member, the death or Bankruptcy of such Member or a complete assignment or disposition of such Member's entire Interest in the Company made during the lifetime (or other existence) of such Member, and with respect to a Manager (in its capacity of Manager), the death, Bankruptcy, or legal incapacity of the Manager, or the Manager's continued failure to perform its duties as a Manager.

ARTICLE 2 FORMATION OF THE COMPANY

2.1 *Formation.* The Company has been organized as an Illinois Limited Liability Company pursuant to the provisions of the Act and upon the terms and conditions set forth in this Agreement.

2.2 *Name.* The name of the Company is Heritage Development Partners, LLC, and appropriate certificates and affidavits shall be filed and recorded as may be necessary to secure said name. The name of the Company shall be subject to change by the Manager.

2.3 *Purpose; Powers.* The purpose of the Company is (i) to own a membership interest in Riverside District Development, LLC, an Illinois limited liability company and (ii) to carry on any and all other lawful business, purpose or activity, except for any purposes prohibited under the Act (the "Company Business"). The Company shall possess and may exercise all powers and privileges granted by the Act, any other law, or by the Agreement, including incidental powers thereto, to the extent that such powers and privileges are necessary, customary, convenient or incidental to the attainment of the Company's purposes.

2.4 *Term.* The term of the Company commenced on the date that the Articles was filed in the office of the Secretary of State of the State of Illinois and shall continue until the Company is dissolved in accordance with the provisions of either this Agreement or the Act.

2.5 *Principal Place of Business.* The principal place of business of the Company shall initially be located at 233 South Wacker Drive, 95th Floor, Chicago, IL 60606, or at such other location or locations as the Manager may from time to time designate.

2.6 *Registered Office and Registered Agent.* The Company's initial registered office shall be at the office of its registered agent at 233 South Wacker Drive, Chicago, Illinois 60606, and the name of its initial registered agent at such address shall be Michael Rumman. The registered office and registered agent may be changed from time to time by filing the address of the new registered office and/or the name of the new registered agent with the Office of the Secretary of State of the State of Illinois, and paying any fees required under the Act.

2.7 *Continuation of Company.* The Members hereby agree that the Company shall be organized, administered, operated and terminated in accordance with the provisions of this Agreement and the Act. The Members hereby further agree that the rights, duties, liabilities and obligations of the Members, and each Class thereof, shall be governed by the provisions of this Agreement and the Act.

2.8 *Qualification in Other Jurisdictions.* The Manager shall have the authority to cause the Company to be qualified, formed or registered under assumed or fictitious name statutes or similar laws in any jurisdiction in which the Company conducts business and in which such qualification, formation or registration is required by law or deemed advisable by the Manager. The Manager, or its authorized representative, as an authorized Person within the meaning of the Act, shall execute, deliver and file any certificates (and any amendments and/or restatements thereof) necessary for the Company to qualify to do business in a jurisdiction in which the Company may wish to do business.

ARTICLE 3
UNITS

3.1 *Units.* The Interests in the Company shall be designated as Units and shall be divided into two series, "*Class A Units*" and "*Class B Units*." The Units of each Member in the Company are personal property. All Units redeemed, purchased or otherwise acquired by the Company shall be canceled and thereupon restored to the status of authorized but unissued Units. Holders of Units shall have the respective rights, interests, duties, and obligations that are set forth in this Agreement. Except as otherwise provided in this Agreement, the Manager may, with the consent of the Members holding at least fifty percent (50%) of the Class A Units, issue new or additional Units or options or other securities to purchase or otherwise acquire or convert to new or additional Units, at any time and from time to time.

3.2 *Persons Deemed Members.* The Company may treat the Person in whose name any Unit shall be registered on the books and records of the Company as a Member and the sole holder of such Unit for all purposes whatsoever and, accordingly, shall not be bound to recognize any equitable or other claims to or interest in such Unit or the part of any other Person, whether or not the company shall have actual or other notice thereof.

3.3 *Subscriptions.* A prospective Member of the Company may enter into a Subscription Agreement for the purchase of Units, or fractions thereof. A Person may not be admitted as a Member until such Person has: (a) executed this Agreement, which may be pursuant to an Additional Member Signature Page in the form attached to this Agreement, (b) purchased Units, and (c) executed and delivered to the Company such other agreements (including, without limitation, purchase agreements and investment representations) as the Manager may require.

3.4 *Waiver of Dissenters' Rights.* The Members hereby waive any and all contractual appraisal rights or dissenters' rights, if any, with respect to their Units and any or all similar rights whether set forth in any other applicable law or in any agreement with respect to which the Company or a Member is a party or beneficiary.

3.5 *Expulsion.* Any Member may be expelled as required in Section 35-45(6) of the Act.