SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

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FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

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Date of Report (Date of earliest event reported): October 31, 2001

AFFILIATED MANAGERS GROUP, INC.
(Exact name of Registrant as specified in charter)

| Delaware | 001-13459 | 043218510 |
|---|---|---|
| (State or other jurisdiction of incorporation) | (Commission file number) | (IRS employer identification no.) |

Two International Place, 23rd Floor, Boston, MA 02110
(Address of principal executive offices) (Zip Code)

(617) 747-3300
(Registrant's telephone number, including area code)

Item 2. Acquisition or Disposition of Assets

On October 31, 2001, Affiliated Managers Group, Inc. ("AMG") acquired a majority equity interest in the business of Friess Associates, LLC and Friess Associates of Delaware, LLC (collectively, "Friess Associates"). In the transaction, AMG acquired 51% of Friess Associates for approximately $241.0 million, and agreed to acquire an additional 19% interest in three years from the majority selling equity-holder (subject to certain conditions). The remaining equity ownership of the firm is held by a broad group of Friess Associates professionals.

Friess Associates is a growth equity investment management firm with approximately $6.3 billion in assets under management at the time of AMG's investment. The firm is the advisor to the Brandywine family of no-load mutual funds, and also advises separate accounts for charitable foundations, major corporations and high net worth individuals. Friess Associates employs a fundamentally-driven approach to investing in growth equities, with a focus on stocks that trade at reasonable price-to-earnings ratios. Friess Associates was founded in 1974 and operates through offices in Delaware, Wyoming and Arizona. Friess Associates' current management team, including its founder, Foster Friess, Chief Investment Officer, Bill D'Alonzo, and senior investment professionals Jon Fenn and John Ragard, have agreed to continue to oversee the operations of the firm. Each of Messrs. Friess, D'Alonzo, Fenn and Ragard have entered into long-term employment agreements with the firm, and have entered into put option agreements (and related make-whole bonus agreements) with AMG pursuant to which AMG may be required to purchase their minority equity interests in Friess Associates.

AMG financed the transaction with working capital and borrowings under its existing $330 million senior revolving credit facility.

Item 7. Financial Statements, Pro Forma Financial Information and Exhibits

(a) Financial Statements of Businesses Acquired.

AMG will file the applicable financial statements within 60 days.

(b) Pro Forma Financial Statements.

AMG will file the applicable pro forma information within 60 days.

(c) Exhibits.

| Number | Description |
|---|---|
| 10.21 | Purchase Agreement dated as of August 28, 2001 by and among the Registrant, Friess Associates, Inc., Friess Associates of Delaware, Inc., the Stockholders of Friess Associates, Inc., the Stockholders of Friess Associates of Delaware, Inc., NCCF Support, Inc. and The Community Foundation of Jackson Hole (excluding schedules and exhibits, which the Registrant agrees to furnish supplementally to the Commission upon request) |
| 10.22 | Management Owner Purchase Agreement dated as of August 28, 2001 by and among the Registrant and the management owner parties thereto (excluding schedules and exhibits, which the Registrant agrees to furnish supplementally to the Commission upon request) |
| 10.23 | Employment Agreement dated August 28, 2001 by and among FA (WY) Acquisition Company, Inc., Friess Associates, LLC and Foster S. Friess |
| 10.24 | Form of Employment Agreement dated August 28, 2001 by and among FA (DE) Acquisition Company, LLC and Friess Associates of Delaware, LLC, or FA (WY) Acquisition Company, Inc. and Friess Associates, LLC, and each of Messrs. William F. D'Alonzo, Jon S. Fenn and John P. Ragard, as applicable |
| 10.25 | Form of Put Option Agreement dated August 28, 2001 with respect to Messrs. William F. D'Alonzo, Jon S. Fenn, Foster S. Friess and John P. Ragard |
| 10.26 | Form of Make-Whole Bonus Agreement dated August 28, 2001 with respect to Messrs. William F. D'Alonzo, Jon S. Fenn, Foster S. Friess and John P. Ragard |
| 10.27 | Friess Associates, LLC Amended and Restated Limited Liability Company Agreement dated as of August 28, 2001 by and among the persons identified therein (excluding schedules and exhibits, which the Registrant agrees to furnish supplementally to the Commission upon request) |
| 10.28 | Friess Associates of Delaware, LLC Amended and Restated Limited Liability Company Agreement dated as of August 28, 2001 by and among the persons identified therein (excluding schedules and exhibits, which the Registrant agrees to furnish supplementally to the Commission upon request) |

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Company has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

AFFILIATED MANAGERS GROUP, INC.

By: /s/ Darrell W. Crate
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Name: Darrell W. Crate
Title: Executive Vice President, Chief Financial Officer and Treasurer

DATE: November 15, 2001

Exhibit 10.21

EXECUTION COPY

# PURCHASE AGREEMENT

by and among

AFFILIATED MANAGERS GROUP, INC.,

FRIESS ASSOCIATES, INC.,

FRIESS ASSOCIATES OF DELAWARE, INC.,

THE STOCKHOLDERS OF FRIESS ASSOCIATES, INC.,

THE STOCKHOLDERS OF FRIESS ASSOCIATES OF DELAWARE, INC.,

NCCF SUPPORT, INC.

and

THE COMMUNITY FOUNDATION OF JACKSON HOLE

DATED AS OF AUGUST 28, 2001

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SCHEDULES









# PURCHASE AGREEMENT

This PURCHASE AGREEMENT (the "Agreement") is entered into as of August 28, 2001, by and among (i) Affiliated Managers Group, Inc., a Delaware corporation ("AMG"), (ii) Friess Associates, Inc., a Delaware corporation ("FAI"), (iii) Friess Associates of Delaware, Inc., a Delaware corporation ("FAID" and, collectively with FAI, the "Friess Companies"), (iv) NCCF Support, Inc., a Georgia non-profit corporation ("NCCF"), and The Community Foundation of Jackson Hole, a Wyoming non-profit corporation ("CFJH" and, collectively with NCCF, the "Charities"), (v) Foster S. Friess ("FF") and Lynnette E. Friess ("LF"), in their capacity as holders of capital stock of FAI (collectively in such capacity, the "FAI Stockholders"), and (vi) FF and LF, in their capacity as holders of capital stock of FAID (collectively in such capacity, the "FAID Stockholders"; the FAI Stockholders and the FAID Stockholders, collectively, the "Stockholders").

W I T N E S S E T H:

WHEREAS, the Friess Companies and the WY LLC (as defined below) are engaged in the business of providing Investment Management Services;

WHEREAS, (i) the FAI Stockholders, own of record and beneficially all of the issued and outstanding capital stock of FAI, and (ii) the FAID Stockholders own of record and beneficially all of the issued and outstanding capital stock of FAID;

WHEREAS, Friess Associates, LLC is a Delaware limited liability company (the "WY LLC") engaged in the business of providing Investment Management Services, a majority of the issued and outstanding membership

interests in which (the "WY LLC Interests") are owned of record and beneficially by FAI, with all other issued and outstanding WY LLC Interests owned of record and beneficially collectively by the Management Owners (other than FF) and the Charities;

WHEREAS, in connection with the transactions contemplated hereby, FAID has formed Friess Associates of Delaware, LLC, a Delaware limited liability company (the "DE LLC" and, collectively with the WY LLC, the "LLCs") a majority of the issued and outstanding membership interests in which (the "DE LLC Interests" and, collectively with the WY LLC Interests, the "LLC Interests") are owned of record and beneficially by FAID, with all other issued and outstanding DE LLC Interests owned of record and beneficially by FF;

WHEREAS, on June 1, 2001, (i) FAI contributed substantially all of its assets and certain of its liabilities to the WY LLC and (ii) FAID contributed certain of its assets and liabilities to the WY LLC;

WHEREAS, in connection with the Closing (as defined herein), FAID will contribute substantially all of its assets and certain of its liabilities to the DE LLC;

WHEREAS, in connection with the transactions contemplated hereby, AMG has formed FA (WY) Acquisition Company, Inc., a Delaware corporation and a wholly-owned subsidiary of AMG ("FA (WY) Acquisition"), and FA (DE) Acquisition Company, LLC, a Delaware limited liability company and a wholly-owned subsidiary of AMG ("FA (DE)

Acquisition"), and on the terms and subject to the conditions set forth herein, AMG has agreed to cause (i) FA (WY) Acquisition to purchase from FAI (A) at the Closing, certain of the WY LLC Interests owned by FAI and (B) at the Subsequent Closing, certain additional WY LLC Interests owned by FAI, (ii) FA (WY) Acquisition to purchase from the Charities at the Closing, all of the WY LLC Interests owned by the Charities, (iii) FA (DE) Acquisition to purchase from FAID (A) at the Closing, certain of the DE LLC Interests owned by FAID and (B) at the Subsequent Closing, certain additional DE LLC Interests owned by FAID, and (iv) FA (DE) Acquisition to purchase from FF at the Closing, all of the DE LLC Interests owned by FF;

WHEREAS, on the terms and subject to the conditions set forth in that certain Management Owner Purchase Agreement of even date herewith (the "Management Owner Purchase Agreement"), AMG has agreed to cause FA (WY) Acquisition to purchase from the Management Owners (other than FF) at the Closing all of the WY LLC Interests owned by such Management Owners;

WHEREAS, as a condition precedent to AMG's willingness to enter into this Agreement and consummate the transactions contemplated hereby, and as a material component of the sale of the Friess Companies' business provided for herein, (i) each of the Majority Management Owners has entered into an Employment Agreement with either the DE LLC and FA (DE) Acquisition, or the WY LLC and FA (WY) Acquisition, in each case dated as of the date hereof (collectively, the "Employment Agreements"), and (ii) each of the other Management Owners has entered into a Non-Solicitation/Non-Disclosure Agreement with either the DE LLC and FA (DE) Acquisition, or the WY LLC and FA (WY) Acquisition, in each case dated as of the date hereof (collectively, the "Non-Solicitation Agreements");

WHEREAS, (i) FAID, each of the FAID Stockholders, and FA (DE) Acquisition have executed and delivered the Restated DE LLC Agreement, and (ii) FAI, each of the Management Owners and FA (WY) Acquisition have executed and delivered the Restated WY LLC Agreement, each such agreement to become effective as of (and subject to) the Closing;

WHEREAS, to induce the other parties to enter into this Agreement, AMG, the Friess Companies, the Charities and the Stockholders have agreed to make certain representations, warranties and covenants as set forth herein. Capitalized terms used herein have the meanings given to such terms in Section 14.1 hereof.

NOW, THEREFORE, in order to consummate the transactions contemplated hereby, and in consideration of the mutual agreements set forth herein and other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:



SECTION 1. PURCHASE OF CERTAIN OF FAI'S WY LLC INTERESTS; AND CERTAIN OF FAID'S DE LLC INTERESTS; PURCHASE OF THE CHARITIES' WY LLC INTERESTS AND FF'S DE LLC INTERESTS.

1.1 GENERAL. Upon the terms contained in this Agreement (including without limitation the conditions contained in Section 9), and on the basis of the representations, warranties and covenants herein set forth, AMG hereby agrees:

(i) To cause FA (WY) Acquisition to purchase from FAI, and FAI hereby agrees to sell to FA (WY) Acquisition, at the Closing all of the WY LLC Interests owned by FAI (the "FAI WY LLC Purchase"), other than those LLC Points and the Capital Account (each as defined in the Restated WY LLC Agreement) associated therewith of the WY LLC that will be owned by FAI as of immediately following the Closing as set forth on Schedule A to the Restated WY LLC Agreement (such retained LLC Points and Capital Account being referred to hereinafter as the "Retained WY LLC Interest");

(ii) To cause FA (WY) Acquisition to purchase from each Charity, and each Charity hereby agrees to sell to FA (WY) Acquisition, at the Closing all of the WY LLC Interests owned by such Charity (collectively, the "Charities WY LLC Purchase" and, collectively with the FAI WY LLC Purchase, the "WY LLC Purchase");

(iii) To cause FA (DE) Acquisition to purchase from FAID, and FAID hereby agrees to sell to FA (DE) Acquisition, at the Closing all of the DE LLC Interests owned by FAID (the "FAID DE LLC Purchase"), other than those LLC Points and the Capital Account (each as defined in the Restated DE LLC Agreement) associated therewith of the DE LLC that will be owned by FAID as of immediately following the Closing as set forth on Schedule A to the Restated DE LLC Agreement (such retained LLC Points and Capital Account being referred to hereinafter as the "Retained DE LLC Interest" and, collectively with the Retained WY LLC Interest, the "Retained LLC Interests");

(iv) To cause FA (DE) Acquisition to purchase from FF, and FF hereby agrees to sell to FA (DE) Acquisition, at the Closing all of the DE LLC Interests owned by FF (the "FF DE LLC Purchase" and, collectively with the FAID DE LLC Purchase, the "DE LLC Purchase"; the DE LLC Purchase, collectively with the WY LLC Purchase, the "Purchase").

1.2 PURCHASE PRICE; DELIVERY OF LLC INTERESTS.

(a) Upon the terms contained in this Agreement (including without limitation the conditions contained in Section 9), at the Closing:

(i) AMG shall cause FA (WY) Acquisition to deliver by wire transfer to FAI (subject to Section 1.6 below) and the Charities, at bank accounts to be designated in writing by FAI to AMG at least two (2) business days prior to the Closing Date, an aggregate amount equal to the WY LLC Closing Purchase Price, in immediately available funds, in full consideration for the sale to AMG of (A) all of the WY LLC Interests owned by FAI (other than the Retained WY LLC Interest) and (B) all of the WY



LLC Interests owned by each of the Charities; the WY LLC Closing Purchase Price shall be paid to FAI and each of the Charities in the specific respective percentages set forth in SCHEDULE 1.2 hereto (PROVIDED that the amount to be paid to each Charity shall be reduced by 6/70ths of the aggregate expenses (including, without limitation, legal, accounting and investment banking fees) incurred by FAI and the Charities in connection with the transactions contemplated hereby (with such reduction amounts to be notified by FAI to AMG and the Charities in writing at least two (2) business days prior to the Closing Date), and the amount of each such reduction shall instead be paid directly to FAI in satisfaction of the Charities' obligations to FAI in respect of such expenses); and

(ii) AMG shall cause FA (DE) Acquisition to deliver by wire transfer to FAID and FF (subject to Section 1.6 below), at bank accounts to be designated in writing by FAID to AMG at least two (2) business days prior to the Closing Date, an aggregate amount equal to the DE LLC Closing Purchase Price, in immediately available funds, in full consideration for the sale to AMG of (A) all of the DE LLC Interests owned by FAID (other than the Retained DE LLC Interest) and (B) all of the DE LLC Interests owned by FF; the DE LLC Closing Purchase Price shall be paid to FAID and FF in the specific respective amounts set forth in SCHEDULE 1.2 hereto;

(b) If, as of the Closing, the WY LLC has received Consents with respect to Advisory Contracts having an aggregate Contract Value (as of the Closing) constituting less than one hundred percent (100%) of the Base Fees, then the payments delivered to FAI, each of the Charities, FAID and FF pursuant

to Section 1.2(a) above will be reduced to an amount equal to the product of (i) the amount that would have otherwise been payable to FAI, each of the Charities and FAID at the Closing without regard to this Section 1.2(b) in accordance with the percentages set forth in SCHEDULE 1.2 hereto, multiplied by (ii) the Consenting Percentage (expressed as a decimal) (and the aggregate amounts of the WY LLC Closing Purchase Price and the DE LLC Closing Purchase Price will be commensurately reduced). The "Consenting Percentage" shall be equal to (i) the sum of the Contract Values as of the Closing for those Advisory Contracts with respect to which the WY LLC has received Consents from Clients, divided by (ii) the Base Fees; PROVIDED, HOWEVER, that Advisory Contracts with Related Clients shall be excluded from clause (i) of such calculation to the extent their aggregate Contract Values exceeds two hundred and seventy five million dollars ($275,000,000). The aggregate amount of any reduction to the WY LLC Closing Purchase Price and the DE LLC Closing Purchase Price pursuant to this Section 1.2(b) is hereinafter referred to as the "Reduction Amount."

(c) Within ten (10) business days following the date which is forty-five (45) days after the Closing Date (the "Closing True-Up Date"), AMG hereby agrees to cause FA (WY) Acquisition and FA (DE) Acquisition to deliver by wire transfer, to the same Persons who received payments from them on the Closing Date pursuant to Section 1.2(a) hereof (with such aggregate payment to be made to such Persons in the same respective proportions as their respective receipt of the aggregate payments made on the Closing Date pursuant to Section 1.2(a) hereof, and to be paid to the same bank accounts used for the making of such Closing Date payments (except to the extent that any such Person shall have designated another bank account to AMG in writing at least two (2) business days prior to the Closing True-Up Date)), an



aggregate amount equal to the Post-Closing True-Up Payment (if any); PROVIDED, however, that the Post-Closing True-Up Payment shall in no event exceed the Reduction Amount. Promptly (and in any event within five (5) business days) following the Closing True-Up Date, FAI and FAID shall deliver to AMG (i) an UPDATED SCHEDULE 3.7 containing all of the information required by Section 3.7(a) (set forth as of the Closing True-Up Date instead of as of the Base Date) with respect to each of the Applicable Closing Excluded Contracts and (ii) the calculation of the Post-Closing True-Up Payment (if any) in reasonable detail, certified by FAI and FAID (which certification shall constitute a representation and warranty to AMG under this Agreement) as being true and correct and having attached thereto such evidence of the underlying information resulting in such Post-Closing True-Up Payment as is reasonably satisfactory to AMG.

(d) At the Closing, upon the terms contained in this Agreement (including without limitation the conditions contained in Section 10), (i) FAI shall deliver to FA (WY) Acquisition all of the WY LLC Interests owned by FAI (other than the Retained WY LLC Interest, which is reflected on Schedule A to the Restated WY LLC Agreement), (ii) each Charity shall deliver to FA (WY) Acquisition all of the WY LLC Interests owned by such Charity, (iii) FAID shall deliver to FA (DE) Acquisition all of the DE LLC Interests owned by FAID (other than the Retained DE LLC Interest, which is reflected on Schedule A to the Restated DE LLC Agreement), and (iv) FF shall deliver to FA (WY) Acquisition all of the DE LLC Interests owned by FF, in each case including any certificates representing such interests duly endorsed for transfer to FA (WY) Acquisition or FA (DE) Acquisition or, if there are no certificates representing such interests, other customary written evidence of transfer, in either case in form and substance reasonably satisfactory to AMG and the Friess Companies, together with such other customary transfer documentation as AMG has reasonably requested.

(e) Prior to the Closing Date, (i) AMG and FAI (on its own behalf and on behalf of the Charities) shall mutually agree upon a written allocation of the WY LLC Closing Purchase Price among the assets and liabilities of the WY LLC (the "WY LLC Purchase Price Allocation") and (ii) AMG and FAID (on its own behalf and on behalf of FF) shall mutually agree upon a written allocation of the DE LLC Closing Purchase Price among the assets and liabilities of FAID that will be contributed by FAID to the DE LLC in connection with the Closing (the "DE LLC Purchase Price Allocation" and, collectively with the WY LLC Purchase Price Allocation, the "Purchase Price Allocation"). Each of the WY LLC Purchase Price Allocation and the DE LLC Purchase Price Allocation will be made in accordance with applicable federal income tax law and any analogous provision of foreign, state or local law. Each of AMG, FAI, FAID, the Charities and the Stockholders agrees to file all Tax Returns and make all other necessary filings consistent with the Purchase Price Allocation. The portion of any Post-Closing True-Up Payment that relates to the WY LLC Closing Purchase Price will be allocated in the manner provided for in the WY LLC Purchase Price Allocation, and the portion of any Post-Closing True-Up Payment that relates to the DE LLC Closing Purchase Price will be allocated in the manner provided for in the DE LLC Purchase Price Allocation.

1.3 TIME AND PLACE OF CLOSING. The closing of the Purchase (the "Closing") shall be held at the offices of Simpson Thacher & Bartlett, 425 Lexington Avenue, New York, New York at 10:00 a.m. local time on the date of the Closing (the "Closing Date"), which shall



be the last day of the calendar month in which each of the conditions set forth in Sections 9 (other than Section 9.11) and 10 (other than Section 10.4) hereof was fulfilled or waived at least two (2) business days prior thereto (or, if such last day is not a business day, on the next succeeding business day), or at such other place or time as may be mutually agreed upon in writing by AMG and the Friess Companies.

1.4 FURTHER ASSURANCES. The Friess Companies, the Stockholders and the Charities shall, from time to time after the Closing, at the reasonable request of AMG and without further consideration, execute and deliver further customary instruments of transfer and assignment and take such other customary actions as AMG reasonably requests to fully implement the provisions of this Agreement.

1.5 TRANSFER TAXES. All transfer taxes, fees and duties under applicable law incurred in connection with the Purchase will be borne and paid by the Friess Companies, and the Friess Companies shall promptly reimburse the LLCs, AMG, FA (WY) Acquisition and FA (DE) Acquisition for any such tax, fee or duty which any of them is required to pay under applicable law.

1.6 CONTINUATION OF EXISTING FRIESS INVESTMENTS; INVESTMENT OF TRANSACTION PROCEEDS.

(a) FAI, FAID and the Stockholders jointly and severally represent and warrant (for the benefit of AMG) that, as of the date of this Agreement, FAI, FAID, FF and those other Persons identified on SCHEDULE 1.6(a) hereto (collectively, the "Applicable Friess Investors") have in the aggregate one hundred and twenty million dollars ($120,000,000) of their own funds invested in the Mutual Funds sponsored and managed by the WY LLC (such invested funds, together with all appreciation/depreciation, capital gains/losses, dividends, interest and other earnings thereon from and after the date hereof (other than any such capital gains, dividends or interest withdrawn from the Mutual Funds by the Applicable Friess Investors to the extent of Tax liabilities incurred by them in respect of the realization of such capital gains, dividends or interest, to the extent permitted by Section 1.6(c) below, calculated based upon the assumption that such Applicable Friess Investor (or, in the case of any S-Corporation or entity treated as a partnership for tax purposes, the majority owners of such S-Corporation or entity) is subject to the highest marginal federal, state and local income tax rate in the jurisdiction of his principal residence or domicile for tax purposes (any such withdrawal, a "Tax Withdrawal")), the "Applicable Existing Invested Funds") (with each Friess Investor owning as of the date hereof that amount of Applicable Existing Invested Funds set forth opposite such Friess Investor's name on SCHEDULE 1.6(a) hereto).

(b) FAI, FAID and the Stockholders jointly and severally covenant and agree (for the benefit of AMG) that, at the Closing, FAI, FAID and the Stockholders in the aggregate shall invest an additional one hundred and fifty five million dollars ($155,000,000) in the Mutual Funds sponsored and managed by the WY LLC (i) out of that portion of the Closing Purchase Price payable to them at the Closing, and (ii) to the extent such portion of the Closing Purchase Price payable to them at the Closing is in the aggregate insufficient to make the entirety of such investment at the Closing, then out of other funds available to them (such funds to be invested by



FAI, FAID and the Stockholders at the Closing, together with all appreciation/depreciation, capital gains/losses, dividends, interest and other earnings thereon from and after the Closing (other than any Tax Withdrawals, the "APPLICABLE INVESTED FUNDS"); each of FAI, FAID and the Stockholders hereby authorizes and instructs AMG to cause FA (WY) Acquisition and FA (DE) Acquisition (as applicable) to deliver directly by wire transfer for the benefit of such Applicable Friess Investor, to Mutual Fund accounts to be designated in writing by FAI to AMG at least two (2) business days prior to the Closing Date (and in lieu of delivering such funds to FAI, FAID and FF as otherwise provided in Section 1.2(a) above), that portion of the WY LLC Closing Purchase Price or DE LLC Closing Purchase Price (as applicable) constituting such Applicable Friess Investor's portion of the Applicable New Invested Funds to be invested in

the Mutual Funds sponsored and managed by the WY LLC at the Closing (up to the entirety of that portion of the Closing Purchase Price in the aggregate payable to FAI, FAID and FF at the Closing).

(c) From and after the date hereof until the tenth (10th) anniversary of the Closing (the "Applicable Investment Period"), FAI, FAID and the Stockholders each agree (for the benefit of AMG) that none of FAI, FAID or the Stockholders shall redeem, withdraw or otherwise remove any of the Applicable Invested Funds owned by such Person (and, for the avoidance of doubt, all appreciation/depreciation, capital gains/losses, dividends, interest and other earnings on the initial amount of the Applicable Invested Funds also shall constitute Applicable Invested Funds hereunder) from the Mutual Funds sponsored and managed by the WY LLC or permit to occur a redemption, withdrawal or other removal of any Applicable Invested Funds from the Mutual Funds sponsored and managed by the WY LLC by any other Applicable Friess Investor, and FAI, FAID and the Stockholders shall at all times during the Applicable Investment Period cause the Applicable Invested Funds to remain invested in the Mutual Funds sponsored and managed by the WY LLC, PROVIDED that transfers of funds among the Mutual Funds sponsored and managed by the WY LLC shall be permitted to be made by the Friess Investors; and PROVIDED, FURTHER, that, in the event that any Mutual Fund in which Applicable Invested Funds are invested ceases to be a Mutual Fund sponsored and managed by the WY LLC, then unless otherwise consented to in writing by AMG at the time such Mutual Fund ceases to be sponsored and managed by the WY LLC, all Applicable Invested Funds invested in such Mutual Fund shall be transferred by the Applicable Friess Investors to one or more other Mutual Funds that continue to be sponsored and managed by the WY LLC; PROVIDED, HOWEVER, that the sole consequence under this Agreement or otherwise if any or all of the Applicable Invested Funds are nonetheless redeemed, withdrawn or otherwise removed after the Closing by the Applicable Friess Investor shall be as provided in Section 1.6(d) below.

(d) FAI, FAID and the Stockholders jointly and severally covenant and agree (for the benefit of AMG) that, in the event that at any time during the Applicable Investment Period (and, for the avoidance of doubt, the amount of time elapsed during the Applicable Investment Period shall have no bearing on the following calculations) and for any reason, any of the Applicable Invested Funds are redeemed, withdrawn or otherwise removed from the Mutual Funds sponsored and managed by the WY LLC (other than pursuant to a transfer of such Applicable Invested Funds to another Mutual Fund sponsored and managed by the WY LLC), promptly (and in any event within two (2) business days) following such redemption, withdrawal or other removal of such Applicable Invested Funds, FAI, FAID and the Stockholders shall pay to AMG, by wire transfer of immediately available funds to a bank account designated in writing



by AMG to FAI, an amount equal to the product of (i) the Applicable Price Component, multiplied by (ii) a fraction, the numerator of which is the amount of Applicable Invested Funds so redeemed, withdrawn or otherwise removed, and the denominator of which is the amount of Applicable Invested Funds invested in the Mutual Funds sponsored and managed by the WY LLC as of immediately prior to such redemption, withdrawal or other removal of Applicable Invested Funds. The "Applicable Price Component" shall be an amount equal to the sum of (i) $9,379,219, plus (ii) from and after the Subsequent Purchase Closing, that portion of the Subsequent Purchase Price paid in respect of the Applicable Invested Funds. For the avoidance of doubt, no AMG Indemnified Party shall have any right of setoff against Applicable Invested Funds with respect to indemnification claims such AMG Indemnified Party may have pursuant to Section 13 of this Agreement.

SECTION 2. CONTRIBUTIONS OF ASSETS AND RESTATEMENT OF LLC AGREEMENTS.

2.1 DE LLC ASSET TRANSFER. On the business day immediately prior to the Closing Date, FAID and the DE LLC shall, and the FAID Stockholders shall cause them to, enter into the DE LLC Asset Transfer Agreement in the form attached hereto as EXHIBIT 2.1 (the "DE LLC Asset Transfer Agreement"), as well as each of the other agreements, documents and instruments contemplated thereby. Prior to the commencement of business on the Closing Date, FAID and the DE LLC shall, and the FAID Stockholders shall cause them to, perform each of the transactions contemplated by the DE LLC Asset Transfer Agreement as well as each of the other agreements, documents and instruments contemplated thereby (the "DE LLC Asset Transfer").

2.2 WY LLC ASSET TRANSFER. FAI, FAID and the Stockholders covenant to AMG and agree that (i) as of June 1, 2001, FAI and the WY LLC entered into the Amended and Restated FAI-WY LLC Asset Transfer Agreement, as amended by Amendment No. 1 thereto dated as of the date hereof, each of which is attached hereto as EXHIBIT 2.2A (the "FAI-WY LLC Asset Transfer Agreement"), as well as each of the other agreements, documents and instruments attached thereto, and

(ii) as of June 1, 2001, FAID and the WY LLC entered into the FAID-WY LLC Asset Transfer Agreement attached hereto as EXHIBIT 2.2B (the "FAID-WY LLC Asset Transfer Agreement" and, collectively with the FAI-WY LLC Asset Transfer Agreement, the "WY LLC Asset Transfer Agreements"; the WY LLC Asset Transfer Agreements, collectively with the DE LLC Asset Transfer Agreement, the "Asset Transfer Agreements"), as well as each of the other agreements, documents and instruments attached thereto, (iii) prior to the commencement of business on June 1, 2001, FAI, FAID and the WY LLC performed each of the transactions contemplated by the FAI-WY LLC Asset Transfer Agreement and the FAID-WY LLC Asset Transfer Agreement (as applicable), as well as each of the other agreements, documents and instruments contemplated thereby (the "WY LLC Asset Transfer" and, collectively with the DE LLC Asset Transfer, the "Asset Transfers"), and (iii) each of the FAI-WY LLC Asset Transfer Agreement and the FAID-WY LLC Asset Transfer Agreement remains in full force and effect as of the date of this Agreement and as of the Closing, has not been materially breached by any party thereto as of either such date, no provision thereof has been



amended, waived or otherwise modified as of either such date from the form in which such agreement was originally entered into as of June 1, 2001 (except for the amendment thereto described in clause (i) of this sentence), and no additional documents or instruments have been executed in connection therewith without the written consent of AMG.

2.3 CHARITABLE CONTRIBUTIONS. FAI, FAID and the Stockholders covenant to AMG and agree that, on June 1, 2001, (a) FAI assigned (i) LLC Interests representing six percent (6%) of the issued and outstanding LLC Interests in the WY LLC to CFJH and (ii) LLC Interests representing two percent (2%) of the issued and outstanding LLC Interests in the WY LLC to NCCF and (b) FAID assigned LLC Interests representing four percent (4%) of the issued and outstanding LLC Interests in the WY LLC (representing FAID's entire interest in the WY LLC) to NCCF.

2.4 RESTATED LLC AGREEMENTS. The parties hereto agree that (i) the Amended and Restated Limited Liability Company Agreement of the WY LLC (the "Restated WY LLC Agreement"), executed and delivered as of the date hereof by FAI, each of the FAI Stockholders and FA (WY) Acquisition, and (ii) the Amended and Restated Limited Liability Company Agreement of the DE LLC (the "Restated DE LLC Agreement" and, collectively with the Restated WY LLC Agreement, the "Restated LLC Agreements"), executed and delivered as of the date hereof by FAID, each of the FAID Stockholders and FA (DE) Acquisition, each shall become effective as of the Closing.

SECTION 3. JOINT AND SEVERAL REPRESENTATIONS AND WARRANTIES OF THE FRIESS COMPANIES AND THE STOCKHOLDERS.

3.1 MAKING OF REPRESENTATIONS AND WARRANTIES. As a material inducement to AMG to enter into this Agreement and consummate the transactions contemplated hereby, the Friess Companies and the Stockholders, jointly and severally, hereby make to AMG, as of the date hereof and as of the Closing Date, the representations and warranties contained in this Section 3. From and after the Closing, none of the Friess Companies, the Charities nor any Stockholder shall have any right of indemnity or contribution from either of the LLCs (or any other rights against either of the LLCs) with respect to any breach of a representation or warranty hereunder.

3.2 ORGANIZATION AND QUALIFICATION OF THE FRIESS COMPANIES AND THE LLCS.

(a) FAI is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, with full power and authority to own or lease its properties and to conduct its business in the manner and in the places where such properties are owned or leased or such business is currently conducted. The copies of FAI's Articles of Incorporation, as amended to date (the "FAI Articles of Incorporation"), certified by the Department of State of the State of Delaware, and of FAI's by-laws, as amended to date, certified by FAI's Secretary, and heretofore delivered to AMG, are complete and correct, and no amendments thereto are pending. FAI is not in violation of any term of its FAI Articles of



Incorporation or by-laws. FAID is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, with full power and authority to own or lease its properties and to conduct its business in the manner and in the places where such properties are owned or leased or such

business is currently conducted. The copies of FAID's Articles of Incorporation, as amended to date (the "FAID Articles of Incorporation" and, collectively with the FAI Articles of Incorporation, the "Articles of Incorporation"), certified by the Department of State of the State of Delaware, and of FAID's by-laws, as amended to date, certified by FAID's Secretary, and heretofore delivered to AMG, are complete and correct, and no amendments thereto are pending. FAID is not in violation of any term of its FAID Articles of Incorporation or by-laws. Each of the Friess Companies is duly qualified or licensed to conduct business in each jurisdiction in which the nature of its business or the ownership or leasing of its properties requires such qualification, except where the failure to be so licensed or qualified could not have a Material Adverse Effect on the Friess Companies, the LLCs or AMG. FAI was incorporated in 1980 and FAID was incorporated in 1992.

(b) The WY LLC is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Delaware with full power and authority under the Delaware Limited Liability Company Act, , 6 Del. C. ss.18-101, ET SEQ., as amended from time to time (the "Delaware Act") and the Existing WY LLC Agreement (and, after the effectiveness of the Restated WY LLC Agreement, the Restated WY LLC Agreement) to own or lease its properties and to conduct its business in the manner and in the places where such properties are owned or leased or such business is currently conducted or proposed to be conducted. FF and LF are Directors of the WY LLC (as defined in the Existing WY LLC Agreement) and managers of the WY LLC (within the meaning of the Delaware Act). The copy of the Existing WY LLC Agreement, certified by FF in his capacity as a Director of the WY LLC, and the WY LLC's Certificate of Formation, as amended to date (the "Existing WY Certificate of Formation"), certified by the Secretary of State of the State of Delaware, each as heretofore delivered to AMG, are complete and correct, and no amendments thereto are pending. The WY LLC is not in material violation of any term of the Existing WY LLC Agreement. The WY LLC is duly qualified to do business as a foreign limited liability company under the laws of each jurisdiction in which the ownership or leasing of its properties or the conduct of its business in the manner and in the places where such properties are owned or leased or such business is currently conducted or proposed to be conducted requires such qualification, except where the failure to be so licensed or qualified could not have a Material Adverse Effect on the Friess Companies, the LLCs or AMG. Complete and correct copies of each of the executed documents pursuant to which any of the Friess Companies, the Charities or the Management Owners obtained any ownership interests in the WY LLC have been heretofore delivered to AMG by the Friess Companies, and no amendments thereto are pending.

(c) The DE LLC is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Delaware with full power and authority under the Delaware Act and the Existing DE LLC Agreement (and, after the effectiveness of the Restated DE LLC Agreement, the Restated DE LLC Agreement) to own or lease its properties and to conduct its business in the manner and in the places where such properties are owned or leased or such business is currently conducted or proposed to be conducted (including without limitation, after giving effect to the Closing and the DE LLC Asset Transfer, the business



currently conducted by FAID). FF and LF are Directors of the DE LLC (as defined in the Existing DE LLC Agreement) and managers of the DE LLC (within the meaning of the Delaware Act). The copy of the Existing DE LLC Agreement, certified by FF in his capacity as a Director of the DE LLC, and the DE LLC's Certificate of Formation, as amended to date (the "Existing DE Certificate of Formation"), certified by the Secretary of State of the State of Delaware, each as heretofore delivered to AMG, are complete and correct, and no amendments thereto are pending. The DE LLC is not in material violation of any term of the Existing DE LLC Agreement. The DE LLC is duly qualified to do business as a foreign limited liability company under the laws of each jurisdiction in which the ownership or leasing of its properties or the conduct of its business in the manner and in the places where such properties are owned or leased or such business is currently conducted or proposed to be conducted (including without limitation, after giving effect to the Closing and the DE LLC, the business currently conducted by FAID) requires such qualification, except where the failure to be so licensed or qualified could not have a Material Adverse Effect on the Friess Companies, the LLCs or AMG.

3.3 CAPITAL STOCK OF FAI AND FAID.

(a) The authorized capital stock of FAI ("FAI Shares") consists exclusively of (i) 1,000 shares of FAI Class A Series 1 Common Stock, no par value, of which 1,000 shares are outstanding, and all of such outstanding shares are duly and validly authorized, issued and outstanding and are fully paid and non-assessable, and (ii) 1,000 shares of FAI Class A Series 2 Common Stock, no

par value, of which no shares are outstanding. The outstanding FAI Shares are owned exclusively by the FAI Stockholders in the respective amounts set forth on SCHEDULE 1.2 hereto. The authorized capital stock of FAID ("FAID Shares") consists exclusively of (i) 1,500 shares of FAID Common Stock, no par value, of which 1,500 shares are outstanding, and all of such outstanding shares are duly and validly authorized, issued and outstanding and are fully paid and non-assessable. The outstanding FAID Shares are owned exclusively by the FAID Stockholders in the respective amounts set forth on SCHEDULE 1.2 hereto. Except as set forth in SCHEDULE 3.3(a) hereto, there are no outstanding options, warrants, rights, commitments, preemptive rights or agreements of any kind for the issuance or sale of, or outstanding securities convertible into, any additional shares of capital stock of any class of FAI or FAID. None of FAI's or FAID's capital stock has been issued in violation of any Laws and Regulations. Except as set forth in SCHEDULE 3.3(a) hereto, there are no voting trusts, voting agreements, proxies or other agreements, instruments or undertakings with respect to the voting of (i) the FAI Shares to which FAI or any of the FAI Stockholders is a party or (ii) the FAID Shares to which FAID or any of the FAID Stockholders is a party. None of the Stockholders or the Charities has any right of appraisal with respect to FAI's or FAID's capital stock or assets (including without limitation their ownership interests in the WY LLC and the DE LLC), or the assets of either LLC, by reason of the transactions contemplated by this Agreement. Neither FAI, FAID nor either LLC has any outstanding debt securities.

(b) Each FAI Stockholder owns of record and beneficially the FAI Shares set forth opposite such FAI Stockholder's name on SCHEDULE 1.2 hereto, free and clear of any Claims except as reflected in SCHEDULE 3.3(b) hereto, and such shares are the only shares of capital stock



of FAI held by such FAI Stockholder or with respect to which such FAI Stockholder has any rights.

(c) Each FAID Stockholder owns of record and beneficially the FAID Shares set forth opposite such FAID Stockholder's name on SCHEDULE 1.2 hereto, free and clear of any Claims except as reflected in SCHEDULE 3.3(b) hereto, and such shares are the only shares of capital stock of FAID held by such FAID Stockholder or with respect to which such FAID Stockholder has any rights.

(d) (i) FAI owns of record and beneficially the portion of the outstanding WY LLC Interests set forth on SCHEDULE 3.3(d) hereto, free and clear of any Claims, (ii) the Charities own of record and beneficially the portion of the outstanding WY LLC Interests set forth on SCHEDULE 3.3(d) hereto, free and clear of any Claims, and (iii) the Management Owners (other than FF) own of record and beneficially the portion of the outstanding WY LLC Interests set forth on SCHEDULE 3.3(d) hereto, free and clear of any Claims (other than, in the case of (i), (ii) and (iii), Claims arising under this Agreement, the Existing WY LLC Agreement and the Restated WY LLC Agreement, in the case of (ii), Claims arising under the Existing Charity Assignment Agreements, and in the case of (iii), Claims arising under the documentation pursuant to which such Management Owners purchased their WY LLC Interests), and such LLC Interests are the only membership or other ownership interests held by any of the Friess Companies, the Charities, the Stockholders and the Management Owners in either LLC (other than the interests of FAID and FF in the DE LLC described in paragraph (e) below). At the Closing (i) FAI will transfer, sell and deliver to FA (WY) Acquisition good and marketable title to all of the WY LLC Interests owned by FAI (other than the Retained WY LLC Interest), free and clear of any Claims (other than Claims arising under the Restated WY LLC Agreement) and (ii) each Charity will transfer, sell and deliver to FA (WY) Acquisition good and marketable title to the WY LLC Interests owned by such Charity, free and clear of any Claims (other than Claims arising under the Restated WY LLC Agreement). The WY LLC Interests transferred to FA (WY) Acquisition by FAI, the Charities and the Management Owners will constitute all of the issued and outstanding ownership interests in the WY LLC as of the Closing (other than the Retained WY LLC Interest owned by FAI).

(e) (i) FAID owns of record and beneficially 99% of the outstanding DE LLC Interests, free and clear of any Claims, and (ii) FF owns of record and beneficially 1% of the outstanding DE LLC Interests, free and clear of any Claims (other than, in the case of (i) and (ii), Claims arising under this Agreement, the Existing DE LLC Agreement and the Restated DE LLC Agreement), and such LLC Interests are the only membership or other ownership interests held by FAID or FF in either LLC. At the Closing (i) FAID will transfer, sell and deliver to FA (DE) Acquisition good and marketable title to all of the DE LLC Interests owned by FAID (other than the Retained DE LLC Interest), free and clear of any Claims (other than Claims arising under the Restated DE LLC Agreement), and (ii) FF will transfer, sell and deliver to FA (DE) Acquisition good and marketable title to the DE LLC Interests owned by FF, free and clear of any Claims (other than Claims arising under the Restated DE LLC Agreement), and

the DE LLC Interests transferred to FA (WY) Acquisition by FAID and FF will constitute all of the issued and outstanding ownership interests in the DE LLC as of the Closing (other than the Retained DE LLC Interest owned by FAID).



3.4 SUBSIDIARIES.

(a) Other than their respective interests in the LLCs, neither FAI nor FAID has, nor has either of them ever had, any subsidiaries, debt or equity investments or other ownership interests, direct or indirect, in any other Person, except for cash and cash-equivalents. Neither of the LLCs has any subsidiaries, debt or equity investments or other ownership interests in any other Person.

(b) FAI, the Charities and the Management Owners (other than FF) are the sole members of the WY LLC, and the capitalization of the WY LLC (with respect to capital accounts and interests in profits) is as set forth in the Existing WY LLC Agreement, a true and complete copy of which is attached as SCHEDULE 3.4(b)(i) hereto, with such interests owned beneficially and of record by FAI, the Charities and the Management Owners (other than FF) as set forth in such agreement, free and clear of any Claims other than the restrictions imposed pursuant to this Agreement, the Existing WY LLC Agreement and the Restated WY LLC Agreement. FAID and FF are the sole members of the DE LLC, and the capitalization of the DE LLC (with respect to capital accounts and interests in profits) is as set forth in the Existing DE LLC Agreement, a true and complete copy of which is attached as SCHEDULE 3.4(b)(i) hereto, with such interests owned beneficially and of record by FAID and FF as set forth in such Schedule, free and clear of any Claims other than the restrictions imposed pursuant to this Agreement, the Existing DE LLC Agreement and the Restated DE LLC Agreement. After giving effect to the Closing and the effectiveness of the Restated LLC Agreements, the capitalization of each of the LLCs will be as set forth in SCHEDULE 3.4(b)(ii) hereto, with all such interests owned of record and beneficially by the Persons and in the amounts indicated in SCHEDULE 3.4(b)(ii), free and clear of any Claims other than restrictions imposed pursuant to the relevant Restated LLC Agreement (or, in the case of the interests of the Manager Member (as defined in the Restated LLC Agreements), restrictions created by AMG). All outstanding interests in each of the LLCs have been duly authorized and issued under the Existing LLC Agreements and, after giving effect to the effectiveness of the Restated LLC Agreements, the Restated LLC Agreements. After giving effect to the Closing and the restatement of the Existing LLC Agreements into the Restated LLC Agreements, (i) FA (WY) Acquisition will be the sole Manager Member (as such term is defined in the Restated WY LLC Agreement) and manager (as such term is defined in the Delaware Act) of the WY LLC, and FA (WY) Acquisition will have good and marketable title to its interests in the WY LLC as shown in SCHEDULE 3.4(b)(ii), free and clear of any Claims other than the restrictions imposed pursuant to this Agreement and the Restated WY LLC Agreement, and, (ii) FA (DE) Acquisition will be the sole Manager Member (as such term is defined in the Restated DE LLC Agreement) and manager (as such term is defined in the Delaware Act) of the DE LLC, and FA (DE) Acquisition will have good and marketable title to its interests in the DE LLC as shown in SCHEDULE 3.4(b)(ii), free and clear of any Claims other than the restrictions imposed pursuant to this Agreement and the Restated DE LLC Agreement. Except as set forth in this Agreement, the Management Owner Purchase Agreement or the Restated LLC Agreements, there are no rights, commitments, agreements or understandings obligating or which might obligate either of the LLCs or any of their respective members (including, without limitation, FAI, FAID, the Charities, FF, FA (WY) Acquisition or FA (DE) Acquisition) to issue, transfer, sell or redeem any securities or interests in either of the LLCs (except for any such rights, commitments, agreements or understandings created by AMG,



and except as set forth in the Existing Charity Assignment Agreements and the documentation pursuant to which the Management Owners (other than FF) purchased their WY LLC Interests). Except as set forth in SCHEDULE 3.3(a) hereto or in the Existing LLC Agreements or the Restated LLC Agreements, there are no voting trusts, voting agreements, proxies or other agreements, instruments or undertakings with respect to the voting of any interests in either of the LLCs to which FAI, FAID, either of the Charities, either of the LLCs, any of the Stockholders or any of the Management Owners is a party.

(c) The WY LLC Asset Transfer did not result in an "assignment" (as such term is used in the Investment Company Act and the Advisers Act, as applicable) of any of the Advisory Contracts transferred to the WY LLC as a result of the application of Rule 2a-6 under the Investment Company Act and Rule 202(a)(1)-1 under the Advisers Act (as applicable).

3.5 AUTHORITY.

(a) Each of FAI, FAID, the Charities and the Stockholders has full right, authority and power (or, in the case of the Stockholders, capacity) to enter into this Agreement and each agreement, document and instrument executed and delivered, or to be executed and delivered, by such Person pursuant to, or as contemplated by, this Agreement and to carry out the transactions contemplated hereby and thereby. The execution, delivery and performance by each of FAI, FAID, the Charities and the Stockholders of this Agreement and each such other agreement, document and instrument have been duly authorized by all necessary action of (or on the part of) such Person, and no other action on the part of any such Person is required in connection therewith. This Agreement and each of the other Transaction Documents executed and delivered by FAI, FAID, the Charities and/or any of the Stockholders pursuant to, or as contemplated by, this Agreement constitutes, or when executed and delivered will constitute, a valid and binding obligation of each such Person who is a party hereto or thereto (as applicable), enforceable against each such Person in accordance with its terms, except as enforceability may be restricted, limited or delayed by applicable bankruptcy or similar laws affecting creditors' rights generally. The execution, delivery and performance by FAI, FAID, each of the Charities and each of the Stockholders of this Agreement and each other Transaction Document to which any such Person is a party and the consummation of the transactions contemplated hereby and thereby:

(i) does not and will not violate any provision of the Articles of Incorporation or by-laws of FAI or FAID, each as amended to date;

(ii) does not and will not violate any Laws and Regulations applicable to FAI, FAID, either of the Charities or any of the Stockholders or by which any of their assets are bound, or require FAI, FAID, either of the Charities or any of the Stockholders to obtain any approval, consent or waiver of, or make any filing with, any person or entity (governmental or otherwise) that has not been obtained or made, except as specifically identified in SCHEDULE 3.5 hereto, which approvals, consents and waivers identified in such Schedule will, when obtained and as of the Closing, conform in all material respects to, and otherwise satisfy in all material respects, all contractual requirements and all Laws and Regulations applicable thereto; and



(iii) except as reflected in SCHEDULE 3.5 hereto, does not and will not result in a breach of, constitute a default under, accelerate any obligation under, or give rise to a right of termination of, any material agreement, contract, instrument, mortgage, lien, lease, permit, authorization, order, writ, judgment, injunction, decree, determination or arbitration award to which FAI, FAID, either of the Charities, any of the Stockholders or, to the Knowledge of the Friess Companies, any other Stockholder is a party or by which the property of any of them is bound or affected, or result in the creation or imposition of any Person's interest in either of the Friess Companies or the LLCs (including without limitation the FAI Shares, the FAID Shares and the LLC Interests) or any material claim on any of their respective other assets;

PROVIDED, HOWEVER, that the representations in clauses (ii) and (iii) shall not apply to Advisory Contracts to the extent that receipt of consents from a party to such agreement (or the execution and delivery of a new Advisory Contract) is required under the Investment Company Act or the Advisers Act (as applicable) and is separately provided for in Section 5.2 hereof.

(b) The WY LLC has full right, authority and power under the Existing WY LLC Agreement and the Delaware Act (and, after the effectiveness of its Restated WY LLC Agreement, under the Restated WY LLC Agreement and the Delaware Act) to enter into each agreement, document and instrument executed and delivered, or to be executed and delivered, by it pursuant to, or as contemplated by, this Agreement and to carry out the transactions contemplated hereby and thereby. The DE LLC has full right, authority and power under the Existing DE LLC Agreement and the Delaware Act (and, after the effectiveness of its Restated DE LLC Agreement, under its Restated DE LLC Agreement and the Delaware Act) to enter into each agreement, document and instrument executed and delivered, or to be executed and delivered, by it pursuant to, or as contemplated by, this Agreement and to carry out the transactions contemplated hereby and thereby. The execution, delivery and performance by each of the LLCs of each such agreement, document and instrument has been duly authorized by all necessary action of each of the LLCs and the members thereof, and no other action on the part of either of the LLCs, FAI, FAID or any other member of either of the LLCs is required in connection therewith (except for the execution and delivery of the Restated LLC Agreements as contemplated hereby). Each

agreement, document and instrument executed and delivered by each of the LLCs pursuant to, or as contemplated by, this Agreement constitutes, or when executed and delivered will constitute, a valid and binding obligation of each of the LLCs, enforceable against it in accordance with its terms. The execution, delivery and performance by each of the LLCs of each such agreement, document and instrument to which it is a party and the consummation of the transactions contemplated hereby and thereby:

(i) do not and will not violate any provision of its Existing LLC Agreement or its Restated LLC Agreement;

(ii) do not and will not violate any Laws and Regulations applicable to either LLC or require either LLC to obtain any approval, consent or waiver of, or make any filing with, any person or entity (governmental or otherwise) that has not been obtained or made, except as specifically identified in SCHEDULE 3.5 hereto; and



(iii) do not and will not result in a breach of, constitute a default under, accelerate any obligation under, or give rise to a right of termination of, any material agreement, contract, instrument, mortgage, lien, lease, permit, authorization, order, writ, judgment, injunction, decree, determination or arbitration award to which either of the LLCs is a party or by which the property of either of the LLCs is bound or affected, or result in the creation or imposition of any Claim on any Person's interests in either of the LLCs or any material Claim on either of the LLCs' assets;

PROVIDED, HOWEVER, that the representations in clauses (ii) and (iii) shall not apply to Advisory Contracts to the extent that receipt of consents from a party to such agreement (or the execution and delivery of a new Advisory Contract) is required under the Investment Company Act or the Advisers Act (as applicable) and is separately provided for in Section 5.2 hereof.

3.6 REAL AND PERSONAL PROPERTY.

(a) (i) None of the Friess Companies or the LLCs owns any real property. All of the real property leased by either of the Friess Companies or the LLCs is identified in SCHEDULE 3.6(a) hereto (herein referred to as the "Real Property").

(ii) All leases of Real Property by either of the Friess Companies or the LLCs are identified in SCHEDULE 3.6(a), and true and complete copies thereof have been delivered to AMG. Each of said leases has been duly authorized and executed by the parties thereto and is in full force and effect. None of the Friess Companies or the LLCs is in material default under any of said leases, nor has any event occurred which, with the giving of notice or the passage of time, or both, would give rise to such a material default. To the Knowledge of the Friess Companies, each other party to each of said leases is not in material default under any of said leases and there is no event which, with the giving of notice or the passage of time, or both, would give rise to such a material default. Subject to receipt of any requisite consent(s) to assignment identified on SCHEDULE 3.5, after giving effect to the Closing and the DE LLC Asset Transfer, each lease identified in SCHEDULE 3.6(a) will be valid and effective in accordance with its terms, with the DE LLC or the WY LLC having succeeded to all the rights and obligations of the Friess Companies thereunder (and the WY LLC having retained all of its rights and obligations under the leases to which it currently is a party).

(b) Attached hereto as SCHEDULE 3.6(b) is a list, organized by category, of the material assets of the Friess Companies and the LLCs (including without limitation Intellectual Property, if any, as such term is defined in Section 3.14 hereof). Except as set forth in SCHEDULE 3.6(b) hereto, as of the date hereof, the Friess Companies and the LLCs own all of their assets free and clear of any Claims. All of the assets listed in schedules to the DE LLC Asset Transfer Agreement are being transferred to the DE LLC in the DE LLC Asset Transfer and, after giving effect to such transfers, the DE LLC will own all of such assets free and clear of any Claims. The assets listed in SCHEDULE 3.6(b) hereto (i) include all the material assets used in, and all the material assets necessary for, the conduct of the business of the Friess Companies and the LLCs as currently conducted and all the material assets which the LLCs can reasonably be expected to require for the conduct of such business immediately following the Closing and the DE LLC

Asset Transfer, (ii) such assets are suitable and in an appropriate condition for such purpose, and (iii) as of immediately following the Closing, one of the LLCs will own each of such assets free and clear of any Claims (except for Claims set forth in SCHEDULE 3.6(b)).

3.7 ASSETS UNDER MANAGEMENT.

(a) The aggregate assets under management by the Friess Companies and the LLCs as of August 23, 2001 (the "Base Date") are accurately set forth in SCHEDULE 3.7(a) hereto. Set forth in SCHEDULE 3.7(a) is a list as of the Base Date of all Advisory Contracts, setting forth with respect to each such Advisory Contract:

(i) the name of the Client under such Advisory Contract, indicating (A) any such Client that is a Friess Company, a Stockholder or a Charity, an Affiliate of a Friess Companies, a Stockholder or a Charity, or a director, officer, employee or Immediate Family member of any of the foregoing (or a trust or collective investment vehicle in which any of the foregoing is a holder of a beneficial interest), and (B) in the case of any Client that is a Mutual Fund or other collective investment vehicle, any of the foregoing Persons described in clause (A) that had an investment in such Client as of the Base Date (indicating the amount of such investment) (any Person described in clause (A) or (B), a "Related Client");

(ii) the state (or, if such Client is not a U.S. citizen, the country) of which such Client is a citizen or resident (in the case of individuals) or domiciled (in the case of entities);

(iii) the amount of assets under management pursuant to such Advisory Contract at the Base Date, and the nature of the Investment Management Services provided (i.e., discretionary or non-discretionary);

(iv) the fee schedule in effect with respect to such Advisory Contract (including identification of any applicable sub-components of such fees, e.g., investment management fees, fees for any other fiduciary services, etc., as applicable), and a description of any fees payable by the underlying Client in connection with Investment Management Services (or other services) provided by the Friess Companies or the LLCs other than pursuant to such Advisory Contract;

(v) in the case of the making of this representation and warranty as of the Closing Date and for purposes of the delivery of an UPDATED SCHEDULE 3.7 (but not for purposes of the making of this representation and warranty as of the date of this Agreement), (A) a description of any material fee changes (including without limitation any caps, waivers, offsets or reimbursements) under such Advisory Contract and (B) a description of any material changes in the amount of assets in any Client's account as a result of deposits (including without limitation reinvestments of dividends and distributions) or withdrawals made by such Client (or, in the case of any Clients that are collective investment vehicles, deposits or withdrawals made in such vehicle), in each case from the Base Date to the Closing Date or the date of the UPDATED SCHEDULE 3.7 (as



applicable), and a description of any such changes proposed or otherwise expected to be instituted as of such date (it being understood and agreed that, solely for purposes of this clause (v), net deposits or withdrawals with respect to any one Client account (or, in the case of Clients that are collective investment vehicles, investors therein) in the aggregate in excess of $100,000 shall be deemed material);

(vi) the manner of (A) consent required for the "assignment" (or deemed assignment) under applicable Laws and Regulations by the WY LLC of such Advisory Contract in connection with the transactions contemplated hereby, for those Advisory Contracts which will be assigned (or deemed assigned) in connection with such transactions (which contracts are so identified), or (B) approval required for the execution and delivery of a new Advisory Contract between the WY LLC and such Client (for those Advisory Contracts that will terminate as a result of, or otherwise be replaced in connection with, the transactions contemplated hereby, including without limitation each of the New Advisory Contracts), in each case so that any such consent or approval (as applicable) will be duly and validly obtained in accordance with all applicable Laws and Regulations and the terms of any contracts, agreements and other instruments relating thereto; and

(vii) the identity of which of the Friess Companies, the WY LLC, and/or any of the Stockholders (if applicable), are parties to such Advisory Contract.

As of the date hereof, except as set forth in SCHEDULE 3.7(a) and expressly described thereon, there are no contracts, agreements, arrangements or understandings pursuant to which either of the Friess Companies or the LLCs or any of the Stockholders has undertaken or agreed to cap, waive, offset, reimburse or otherwise reduce any or all fees or charges payable by or with respect to any of the Clients set forth in SCHEDULE 3.7(a) or pursuant to any of the contracts set forth in SCHEDULE 3.7(a). As of the date hereof, except as is set forth in SCHEDULE 3.7(a) hereto, no Client of either of the Friess Companies or the LLCs (or, in the case of any Clients that are collective investment vehicles, underlying investors therein, as applicable) has expressed to either of the Friess Companies or the LLCs or any of the Stockholders an intention to terminate or reduce its investment relationship with the Friess Companies or the LLCs, or adjust the fee schedule with respect to any contract in a manner which would reduce the fees to either of the Friess Companies or the LLCs (including after giving effect to the Closing) in connection with such Client relationship.

(b) Neither of the Friess Companies nor the LLCs has any Clients with respect to which fees payable to either of the Friess Companies or the LLCs are based on performance or otherwise provide for compensation on the basis of a share of capital gains upon or capital appreciation of the funds (or any portion thereof) of any Client.

(c) Each Client to which either of the Friess Companies or the LLCs provides Investment Management Services that is (i) an employee benefit plan, as defined in Section 3(3) of ERISA that is subject to Title I of ERISA; (ii) a person acting on behalf of such a plan; or (iii) an entity whose assets include the assets of such a plan, within the meaning of ERISA and applicable regulations (hereinafter referred to as an "ERISA Client") have been managed by the



Friess Companies and the LLCs such that the Friess Companies and the LLCs in the exercise of such management are in compliance in all material respects with the applicable requirements of ERISA. SCHEDULE 3.7(a) identifies each Client that is an ERISA Client with an appropriate footnote. The WY LLC is not disqualified from acting as a professional asset manager (as such term is used in Prohibited Transaction Class Exemption 84-14) under any applicable Laws and Regulations.

(d) Each Client to which either of the Friess Companies or the LLCs provides Investment Management Services that is registered as an investment company under the Investment Company Act (including, in the case of any "series" investment company, each series thereof) is so identified on SCHEDULE 3.7(a) with an appropriate footnote (each such registered investment company or series thereof, a "Mutual Fund"). Other than the Mutual Funds, neither of the Friess Companies or the LLCs provides Investment Management Services to or through (i) any issuer or other Person that is an investment company (within the meaning of the Investment Company Act), (ii) any issuer or other Person that would be an investment company (within the meaning of the Investment Company Act) but for the exemptions contained in Section 3(c)(1), Section 3(c)(7), the final clause of Section 3(c)(3) or the third or fourth clauses of Section 3(c)(11) of the Investment Company Act, or (iii) any issuer or other Person that is or is required to be registered under the laws of the appropriate securities regulatory authority in the jurisdiction in which the issuer is domiciled (other than the United States or the states thereof), which is or holds itself out as engaged primarily in the business of investing, reinvesting or trading in securities.

(e) To the Knowledge of the Friess Companies, no controversy or disagreement exists between either of the Friess Companies or the LLCs and any Client of the Friess Companies or the LLCs that has had or could reasonably be expected to have a Material Adverse Effect on the Friess Companies, the LLCs or AMG.

(f) Except as set forth in SCHEDULE 3.7(f), no exemptive orders, "no-action" letters or similar exemptions or regulatory relief have been obtained, nor are any requests pending therefor, by or with respect to either of the Friess Companies, either of the LLCs, any Stockholder or any Mutual Fund, or any officer, director, partner or employee of either of the Friess Companies, the LLCs or the Mutual Funds, in connection with the business of the Friess Companies, the LLCs or the Mutual Funds, or by or with respect to any Client of either of the Friess Companies or the WY LLC in connection with the provision of Investment Management Services to such Client by either of the Friess Companies or either of the LLCs.

3.8 FINANCIAL STATEMENTS.

(a) The Friess Companies have delivered to AMG true and complete copies of the following financial statements, copies of which are attached hereto as SCHEDULE 3.8(a):

(i) An audited balance sheet of each of the Friess Companies at December 31, 2000, December 31, 1999 and December 31, 1998, and audited statements of income, retained earnings and cash flows of each of the Friess Companies for each of the three (3) years then ended. The audited balance sheet for each of the Friess Companies at



December 31, 2000 (including the notes thereto) is referred to hereinafter as such Friess Company's "Base Balance Sheet"; and

(ii) An unaudited balance sheet of each of the Friess Companies at June 30, 2001, and unaudited statements of income, retained earnings and cash flows of each of the Friess Companies for the period then ended, certified by the Friess Companies' respective chief financial officers.

Said financial statements have been prepared in accordance with GAAP using the accrual method of accounting, applied consistently during the periods covered thereby (except that the Friess Companies' unaudited financial statements do not include footnote disclosure and are subject to normal year-end audit adjustments which are not in the aggregate material), and present fairly the financial condition of the applicable Friess Company at the dates of said statements and the results of its operations for the periods covered thereby.

(b) None of the Friess Companies or the LLCs has (including, with respect to the giving of this representation as of the Closing Date, after giving effect to the DE LLC) any liabilities of any nature, whether accrued, absolute, contingent or otherwise, asserted or unasserted, known or unknown (including, without limitation, liabilities as guarantor or otherwise with respect to obligations of others, or contingent or potential liabilities relating to activities of such Friess Company or such LLC or the conduct of its businesses prior to the date hereof or the Closing, as applicable, regardless of whether claims in respect thereof had been asserted as of such date), except: (i) liabilities reflected or adequately reserved against on the Base Balance Sheet of one of the Friess Companies, (ii) liabilities reflected in SCHEDULE 3.8(b) or on the unaudited balance sheet of one of the Friess Companies at June 30, 2001, included as part of SCHEDULE 3.8(a), (iii) liabilities incurred after the date of the unaudited balance sheets of the Friess Companies at June 30, 2001, in the ordinary course of business of such Friess Company or the WY LLC (as applicable) consistent with past practice which could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on the Friess Companies or the LLCs or on AMG and which, in the case of liabilities incurred after the date of this Agreement, were not incurred in violation of the terms of this Agreement or (iv) solely in the case of the Friess Companies, liabilities for Taxes due or to become due.

3.9 TAXES.

(a) Each of the LLCs has paid or caused to be paid all federal, state, local, foreign, and other taxes, government fees or the like, including, without limitation, income taxes, estimated taxes, alternative minimum taxes, franchise taxes, capital stock taxes, sales taxes, use taxes, ad valorem or value added taxes, employment and payroll-related taxes, withholding taxes, and transfer taxes, whether or not measured in whole or in part by net income, and all deficiencies, or other additions to tax, interest, fines and penalties owed by it (collectively, "Taxes" and, each individually, a "Tax"), required to be paid by it through the date hereof. All Taxes required to be withheld by the LLCs including, but not limited to, Taxes arising as a result of payments to foreign persons or to employees of the LLCs, have been collected and withheld, and have either been paid to the respective governmental agencies, set aside in accounts for such purpose, or accrued, reserved against, and entered on the books and records of the LLCs.



(b) Each of the LLCs has, in accordance with applicable law, filed all Tax Returns required to be filed by it, and all such returns correctly and accurately in all material respects set forth the amount of any Taxes relating to the applicable period. A list of all Tax Returns filed with respect to either of the LLCs is set forth in SCHEDULE 3.9(b) attached hereto, and said Schedule

indicates those returns that have been audited or currently are the subject of an audit. For each taxable period of each of the LLCs the Friess Companies have delivered to AMG correct and complete copies of all Tax Returns filed by, and all examination reports and statements of deficiencies assessed against or agreed to by, either of the LLCs.

(c) Neither the IRS nor any other governmental authority responsible for the imposition or collection of any Tax (a "Taxing Authority") is now asserting or, to the Knowledge of the Friess Companies, threatening to assert against either of the LLCs any deficiency or claim for additional Taxes. No claim has ever been made by a Taxing Authority in a jurisdiction where an LLC does not file reports and returns that such LLC is or may be subject to taxation by that jurisdiction. There are no security interests on any of the assets of the LLCs that arose in connection with any failure (or alleged failure) to pay any Taxes. Neither of the LLCs has ever entered into a closing agreement pursuant to Section 7121 of the Code.

(d) There has not been any audit of any Tax Return filed by either of the LLCs, no such audit is in progress, and neither LLC has been notified by any Taxing Authority that any such audit is contemplated or pending. No extension of time with respect to any date on which a Tax Return was or is to be filed by either of the LLCs is in force, and no waiver or agreement by either of the LLCs is in force for the extension of time for the assessment or payment of any Taxes.

(e) Neither of the LLCs has ever been (or has ever had any liability for unpaid Taxes because it once was) a member of an "affiliated group" (as defined in Section 1504(a) of the Code). Neither of the LLCs has ever filed, or has ever been required to file, a consolidated, combined or unitary tax return with any other entity. Neither of the LLCs is a party to, nor has any obligation under, any tax sharing agreement. Neither of the LLCs has any liability for the Taxes of any Person as a transferee or successor, by contract or otherwise.

(f) Neither of the LLCs' payroll, property, or receipts, or other factors used in a particular state's apportionment or allocation formula results in an apportionment or allocation of business income to any state or other jurisdiction other than Wyoming, Arizona and Delaware, and neither of the LLCs has any non-business income that is allocated, apportioned or otherwise sourced to any state, commonwealth or other jurisdiction other than the States of Wyoming, Arizona and Delaware.

(g) For purposes of this Agreement, all references to Sections of the Code shall include any predecessor provisions to such Sections and any similar provisions of federal, state, local or foreign law.

3.10 COLLECTIBILITY OF ACCOUNTS RECEIVABLE. All of the accounts receivable of either of the Friess Companies or the LLCs shown or reflected on the balance sheets of the Friess Companies as of June 30, 2001, or otherwise existing at the date hereof (less the reserve for bad



debts set forth on such balance sheets) are valid and enforceable claims, fully collectible and subject to no setoff or counterclaim. Neither of the Friess Companies or the LLCs has any accounts or loans receivable from any Person which is affiliated with either of the Friess Companies or the LLCs, or from any director, officer, partner or employee of either of the Friess Companies or the LLCs, in either case except as disclosed in SCHEDULE 3.10 hereto.

3.11 ABSENCE OF CERTAIN CHANGES. Except as disclosed in SCHEDULE 3.11 attached hereto, since the date of the Base Balance Sheets, none of the Friess Companies or the LLCs has (i) suffered any condition, event or occurrence which has had or could reasonably be expected to have a Material Adverse Effect on the Friess Companies, the LLCs or AMG, or (ii) taken any action which, had it occurred after the date hereof and prior to the Closing, would have required AMG's consent under Section 5.5 hereof (PROVIDED, HOWEVER, that, for purposes of the application of this Section 3.11(ii) to the covenant set forth in Section 5.5(n) hereof, the twelve-month period immediately preceding the date of the Base Balance Sheets shall be the reference period in lieu of the twelve-month period referenced in Section 5.5(n) hereof).

3.12 ORDINARY COURSE. Except as otherwise specifically contemplated by this Agreement, since the date of the Base Balance Sheets, each of the Friess Companies and the WY LLC has conducted its business only in the ordinary course and consistently with its prior practices (including without limitation, in the case of the prior practices of the WY LLC, the prior practices of FAI). Since its formation, the DE LLC has not engaged in any activities whatsoever other than the taking of actions necessary for the performance of its obligations hereunder, and the DE LLC has no assets or liabilities (other than pursuant to

the Existing DE LLC Agreement and, from and after the consummation of the DE LLC Asset Transfer, assets assigned and liabilities assumed pursuant thereto). From its formation through the date of the effectiveness of the WY LLC Asset Transfer, the WY LLC did not engage in any activities whatsoever and had no assets or liabilities, and from and after the date of the effectiveness of the WY LLC Asset Transfer, the WY LLC has not engaged in any activities whatsoever other than (i) the taking of actions necessary for the performance of its obligations hereunder and (ii) the conduct of the business of FAI that was contributed by FAI on such date to the WY LLC in the ordinary course and consistently with the prior practices of FAI. From and after the date of the effectiveness of the WY LLC Final Asset Transfer, FAI has not engaged in any activities whatsoever other than the taking of actions necessary for the performance of its obligations hereunder. Other than the WY LLC, none of the Friess Companies or the LLCs is a party to any Advisory Contract.

3.13 BANKING RELATIONS. All of the arrangements which either of the Friess Companies (or either of the LLCs) has with banking institutions are, in all material respects, completely and accurately described in SCHEDULE 3.13 attached hereto, indicating with respect to each of such arrangements the type of arrangement maintained (such as checking account, borrowing arrangements, etc.) and the person or persons authorized as signatories or otherwise to take action in respect thereof.

3.14 INTELLECTUAL PROPERTY.



(a) Except as described in SCHEDULE 3.14, as of the date hereof FAI and the WY LLC have, and after giving effect to the Closing and the DE LLC Asset Transfer, the WY LLC and the DE LLC will have, exclusive ownership of, or exclusive license to use (other than in the case of computer software that is generally available to the public in the retail marketplace, for which the licenses are non-exclusive), all patent, copyright, trade secret, trademark, trade name, service mark, formulas, designs, inventions or other similar proprietary rights (including, without limitation, all rights in and to the names "Friess", "Friess Associates" and "Brandywine Funds") (collectively, "Intellectual Property") used in the business of the Friess Companies and the LLCs as presently conducted. All of the rights of FAI and the WY LLC (as of the date hereof), and of the LLCs (after giving effect to the DE LLC Asset Transfer and the Closing) in such Intellectual Property are and will be freely transferable. There are no material claims or demands of any other person or entity pertaining to any of such Intellectual Property owned by any of the Friess Companies or the LLCs, and no proceedings are pending or, to the Knowledge of the Friess Companies, threatened, which challenge the rights of either of the Friess Companies or the LLCs in respect of the Intellectual Property used in connection with their businesses. FAI and the WY LLC (as of the date hereof), and the LLCs (after giving effect to the DE LLC Asset Transfer and the Closing), have and will have the right to use, free and clear of any claims or rights of other Persons except, with respect to licensed assets, the rights of the owner/licensor thereof, all customer lists (subject to applicable confidentiality restrictions), investment and other processes, computer software (other than rights of other Persons in computer software that is generally available to the public in the retail marketplace), systems, data compilations, research results and other information required for or incident to their services and their businesses as presently conducted.

(b) All items of Intellectual Property (including, without limitation, any patents, patent applications, trademark registrations, trademark applications or registered copyrights) which are material to the business or operations of either of the Friess Companies or the LLCs (including without limitation after giving effect to the DE LLC Asset Transfer and the Closing) are listed in SCHEDULE 3.14.

(c) All licenses or other agreements under which any of the Friess Companies or the LLCs are granted rights in items of Intellectual Property which are material to the business or operations of either of the Friess Companies or the LLCs (including without limitation after giving effect to the DE LLC Asset Transfer and the Closing) are listed in SCHEDULE 3.14. All said licenses or other agreements are in full force and effect, there is no material default by any party thereto, and, except as set forth in SCHEDULE 3.14, all of the rights of the Friess Companies and the WY LLC thereunder are freely assignable. To the Knowledge of the Friess Companies, the licensors under said licenses and other agreements have and had all requisite power and authority to grant the rights purported to be conferred thereby. True and complete copies of all such licenses or other agreements, and any amendments thereto, have been provided to AMG.

(d) None of the Friess Companies or the LLCs has granted rights to others in Intellectual Property owned or licensed by either of the Friess Companies or the LLCs.

(e) None of the Friess Companies or the LLCs has made proprietary or non-public information available to any person (other than employees of the Friess Companies or the



LLCs) except pursuant to written agreements requiring the recipients to maintain the confidentiality of such information and appropriately restricting the use thereof. To the Knowledge of the Friess Companies, there is no infringement by other Persons of any Intellectual Property rights of either of the Friess Companies or the LLCs.

(f) The present business, activities and products of the Friess Companies and the LLCs (including without limitation after giving effect to the DE LLC Asset Transfer and the Closing) do not infringe any rights of any other Person in Intellectual Property. No proceeding charging either of the Friess Companies or the LLCs with infringement of any Intellectual Property of any other Person has been filed or, to the Knowledge of the Friess Companies, is threatened. None of the Friess Companies or the LLCs (including without limitation after giving effect to the DE LLC Asset Transfer and the Closing) is making unauthorized use of any confidential information or trade secrets of any person, including without limitation, any former employer of any past or present employee of the Friess Companies or the LLCs. Except as set forth in SCHEDULE 3.14, none of the Friess Companies, the LLCs, the Stockholders nor, to the Knowledge of the Friess Companies, any of the Friess Companies' or the LLCs' other employees, have any agreements or arrangements with any Persons (other than the Friess Companies or the LLCs) related to confidential information or trade secrets of such persons or restricting any such employee's ability to engage in business activities of any nature. To the Knowledge of the Friess Companies, the activities of the Friess Companies' and the LLCs' employees on behalf of the Friess Companies and the LLCs (including without limitation after giving effect to the DE LLC Asset Transfer and the Closing) do not violate any such agreements or arrangements.

3.15 CONTRACTS. Except for those contracts, commitments, plans, agreements and licenses described in SCHEDULE 3.3(a), SCHEDULE 3.6(a), SCHEDULE 3.7(a), the UPDATED SCHEDULE 3.7 delivered prior to the Closing (solely with respect to the making of this representation and warranty as of the Closing Date), SCHEDULE 3.14, SCHEDULE 3.15, SCHEDULE 3.19, SCHEDULE 3.24 and SCHEDULE 3.29(a) hereto (true and complete copies of which have been delivered to AMG) (collectively, the "Contracts"), and except for the Existing LLC Agreements, the Employment Agreements and the Non-Solicitation Agreements, none of FAI, FAID, the WY LLC, the DE LLC, any Mutual Fund, any of the Stockholders, any of the Majority Management Owners or, to the Knowledge of the Friess Companies, any of the Management Owners other than the Majority Management Owners, is a party to (or otherwise bound by) any:

(a) Advisory Contract or any other contract for the provision of Investment Management Services or other similar services;

(b) contract or agreement for the provision of services to Clients of either of the Friess Companies or the LLCs, other than Investment Management Services (e.g., tax preparation or similar services);

(c) plan or contract providing for bonuses, pensions, options, stock (or other beneficial interest) purchases (or other securities or phantom equity purchases), deferred compensation, retirement payments, profit sharing, or the like;



(d) employment contract or contract for services which is not terminable at will by the applicable Friess Company or LLC that is a party thereto (including without limitation by the applicable LLC after giving effect to the DE LLC Asset Transfer and the Closing) without liability for any penalty or severance payment (excluding any liability or obligation imposed by statute (e.g., COBRA));

(e) contract or agreement for the purchase of any assets, material or equipment except purchase orders in the ordinary course for less than $100,000 each, such orders not exceeding $500,000 in the aggregate;

(f) other contract or agreement creating any obligations of either of the Friess Companies or the LLCs of $250,000 or more with respect to any such contract or agreement not specifically disclosed elsewhere under this Agreement;

(g) contract or agreement for the sale of all or any material portion of the assets of either of the Friess Companies or the LLCs or any contract for the purchase of all or any material portion of the assets of any other entity (other than the Asset Transfer Agreements and the agreements contemplated thereby);

(h) contract or agreement with any investment or research consultant, solicitor or sales agent, or otherwise with respect to the referral of business to either of the Friess Companies or the LLCs or any of the Stockholders (including without limitation any agreement with respect to solicitation of prospective investors in any of the Mutual Funds);

(i) contract or agreement containing covenants limiting the freedom of either of the Friess Companies or the LLCs or any of the Stockholders (or their respective Affiliates) to compete in any line of business or with any Person;

(j) license agreement (as licensor or licensee) which is material to the business or operations of the Friess Companies or the LLCs;

(k) agreement providing for the borrowing or lending of money, and none of the Friess Companies or the LLCs has any obligations: (i) for borrowed money, (ii) evidenced by bonds, debentures, notes or similar instruments, (iii) to pay the deferred purchase price of property or services, (iv) under leases that would, in accordance with GAAP, appear on the balance sheet of the lessee as a liability, (v) secured by a Claim, (vi) in respect of letters of credit, or bankers acceptances, contingent or otherwise, or (vii) in respect of any guaranty or endorsement or other obligations to be liable for the debts of another Person; or

(l) other material contract or agreement relating to the business of either of the Friess Companies or the LLCs to which either of the Friess Companies, either of the LLCs or any Stockholder is a party or otherwise bound.

Each of the Contracts is valid and in full force and effect in accordance with its respective terms, and there is not and has not been, under any Contract, a material breach or event which, with the giving of notice or the lapse of time or both, would become such a breach. Each of the Friess Companies and the LLCs has complied with and is in compliance with the



Client's guidelines and restrictions set forth in any Contract described in SCHEDULE 3.7(a), including, without limitation, any limitation set forth in the applicable prospectus, offering memorandum or marketing material for any collective investment vehicle or other governing documents for any Client. In the event the consents set forth in SCHEDULE 3.5, and with respect to the Advisory Contracts subject to any such consents, those consents set forth in SCHEDULE 3.7(a), are obtained (and including without limitation after giving effect to the DE LLC Asset Transfer and the Closing), each Contract will remain valid and effective in accordance with its respective terms, and one of the LLCs will be entitled to all rights and remedies thereunder to which FAI or FAID, respectively, is entitled on the date hereof (and the WY LLC will be entitled to all rights and remedies thereunder to which the WY LLC is entitled on the date hereof, in the case of Contracts to which it is a party on the date hereof), or such Contract will have been replaced by a new contract with the same party or parties on terms at least as favorable to such LLC as the terms of the present Contract are to FAI, FAID or the WY LLC (as applicable).

3.16 LITIGATION. Except as set forth in SCHEDULE 3.16, there is no litigation or other action, suit, proceeding or, to the Knowledge of the Friess Companies, investigation, examination or audit, at law or in equity, by or before any federal, state, municipal or other governmental department, commission, bureau, board, agency or instrumentality, domestic or foreign (including, without limitation, any voluntary or involuntary proceedings under the Bankruptcy Code or any action, suit, proceeding or investigation under any federal or state securities law, rule or regulation), (a) in which either of the Friess Companies, either of the LLCs, any Stockholder or any other officer, director, member, partner or, to the Knowledge of the Friess Companies, any other employee of any such Person is a party or otherwise engaged or, to the Knowledge of the Friess Companies, with which any of them is threatened, in connection with the business, affairs, properties or assets of the Friess Companies or either of the LLCs, or (b) which seeks damages from any Person identified in clause (a) of this Section 3.16 in connection with the transactions contemplated hereby, or (c) which (individually or in the aggregate) would reasonably be expected to call into question the validity or hinder the enforceability or performance of this Agreement, or of the other agreements, documents and instruments contemplated hereby and the transactions contemplated hereby and thereby. There are no proceedings pending or, to the

Knowledge of the Friess Companies, threatened, relating to the termination of, or limitation of, the rights of any such Person under or with respect to its registration under the Advisers Act or any similar or related rights under any registrations or qualifications with various states or other jurisdictions, or under any other Laws and Regulations.

3.17 COMPLIANCE WITH LAWS.

(a) Except as set forth in SCHEDULE 3.17, each of the Friess Companies, the LLCs and the Stockholders is, and at all times has been, in material compliance with all laws and governmental rules and regulations (other than those related to Taxes, which are subject to separate representations and warranties set forth herein), domestic or foreign, including, without limitation, the Advisers Act, the Commodity Exchange Act, ERISA, the Exchange Act, the Investment Company Act, the Securities Act and the regulations promulgated under each of the foregoing; all laws regulating, relating to or imposing liability or standards of conduct concerning protection of human health or the environment; the rules and regulations of self-regulatory organizations including, without limitation, the NASD and each applicable exchange



(as defined under the Exchange Act); and all other foreign, federal or state securities laws and regulations applicable to the business or affairs or properties or assets of either of the Friess Companies or the LLCs (collectively "Laws and Regulations").

(b) None of the Friess Companies, the LLCs or the Stockholders, or any other director, officer or employee of either of the Friess Companies or the LLCs, is in material default with respect to any judgment, order, writ, injunction, decree, demand or assessment issued by any court or any foreign, federal, state, municipal or other governmental agency, board, commission, bureau, instrumentality or department, domestic or foreign, or by any self-regulatory authority relating to or otherwise affecting either of the Friess Companies or either of the LLCs. None of the Friess Companies, the LLCs or the Stockholders, or any other director, officer or employee of either of the Friess Companies or the LLCs, has been or is charged with or, to the Knowledge of the Friess Companies, threatened with or under investigation with respect to, any material violation of any Laws and Regulations affecting or relating to either of the Friess Companies or either of the LLCs or their businesses or the transactions contemplated hereby.

(c) Except as set forth in SCHEDULE 3.17, none of the Friess Companies, the LLCs or the Stockholders is subject to any cease-and-desist or other order issued by, or is a party to any written agreement, consent agreement or memorandum of understanding with, or is a party to any commitment letter or similar undertaking to, or is subject to any order or directive by, or is a recipient of any supervisory letter from or has adopted any resolutions at the request of any self-regulatory organization or government entity, that materially restricts the conduct of any of the Friess Companies, the Stockholders or the LLCs or that in any other material manner relates to the business of any of the Friess Companies, the Stockholders or the LLCs, and to the Knowledge of the Friess Companies, none of them is threatened with the imposition or receipt of any of the foregoing.

3.18 BUSINESS; REGISTRATIONS.

(a) The Friess Companies and the WY LLC have at all times since their respective inceptions been engaged solely in the business of providing Investment Management Services.

(b) Each of FAI FAID and the WY LLC has at all times since its inception been duly registered as an investment adviser under the Advisers Act (PROVIDED that the WY LLC succeeded to the registration of FAI as an investment adviser on or about June 1, 2001, and thereafter FAI has not been a registered investment adviser under the Advisers Act (nor required to be registered as such by applicable Laws and Regulations)). Each of FAID and the WY LLC is duly registered, licensed and qualified as an investment adviser in all jurisdictions where such registration, licensing or qualification is required in order to conduct its business. The Friess Companies have delivered to AMG true and complete copies of FAID's and the WY LLC's most recent Form ADV, as amended to date, and all of such entities' respective other foreign and domestic registration forms, likewise as amended to date. The information contained in such forms was true and complete in all material respects at the time of filing and the Friess Companies and the WY LLC have made all amendments to such forms as they are required to

make under applicable Laws and Regulations. Each of the Friess Companies and the WY LLC and each of their investment adviser representatives (as such term is defined in Rule 203A-3(a) under the Advisers Act) have, and after giving effect to the Closing and the DE LLC Asset Transfer, each of the LLCs and each of their investment adviser representatives will have, all material permits, registrations, licenses, franchises, certifications and other approvals (collectively, "Licenses") required from foreign, federal, state or local authorities in order for them to conduct the businesses presently conducted by the Friess Companies and the WY LLC and such representatives in the manner presently conducted and proposed to be conducted. None of the Friess Companies, any of such representatives or the LLCs is subject to any limitation imposed in connection with one or more of the Licenses. None of the Friess Companies or the LLCs has been a "broker" or "dealer" within the meaning of the Exchange Act, a "commodity pool operator" or "commodity trading adviser" within the meaning of the Commodity Exchange Act, or a trust company, at any time since its inception. None of the Friess Companies, the LLCs or any of the Stockholders, nor any of the Friess Companies' or the LLCs' other directors, officers or employees, is registered or required to be registered as a broker or dealer, a commodity trading adviser, a commodity pool operator, a futures commission merchant, an introducing broker, a registered representative or associated person, a counseling officer, an insurance agent, a sales person or in any similar capacity with the SEC, the Commodity Futures Trading Commission, the National Futures Association, the NASD or the securities commission of any state or any self-regulatory body. Except as set forth on SCHEDULE 3.18(b), no person other than a full-time employee of one of the Friess Companies or the LLCs renders Investment Management Services to or on behalf of Clients of the Friess Companies or the LLCs or solicits Clients with respect to the provision of Investment Management Services by either of the Friess Companies or the LLCs.

(c) None of the Friess Companies, the LLCs or, to the Knowledge of the Friess Companies, any person "associated" (as defined under both the Investment Company Act and the Advisers Act) with either of the Friess Companies or the LLCs, have been convicted of any crime or is or has engaged in any conduct that would be a basis for (i) denial, suspension or revocation of registration of an investment adviser under Section 203(e) of the Advisers Act or Rule 206(4)-4(b) thereunder, or ineligibility to serve as an associated person of an investment adviser, (ii) being ineligible to serve as an investment adviser (or in any other capacity contemplated by the Investment Company Act) to a registered investment company pursuant to Section 9(a) or 9(b) of the Investment Company Act or (iii) being ineligible to serve as a broker-dealer or an associated person of a broker-dealer pursuant to Section 15(b) of the Exchange Act, and to the Knowledge of the Friess Companies, there is no proceeding or investigation that is reasonably likely to become the basis for any such ineligibility, disqualification, denial, suspension or revocation.

3.19 INSURANCE. Each of the Friess Companies and the LLCs has in full force and effect such insurance as is customarily maintained by firms of similar size in the same or a similar business, with respect to its businesses, properties and assets, and all bonds required by ERISA and by any contract or other agreement to which either of the Friess Companies is a party, all as listed in SCHEDULE 3.19 hereto. None of the Friess Companies or the LLCs is in material default under any such insurance policy. After giving effect to the Closing and the DE LLC Asset Transfer, each such insurance policy or equivalent policies will be in full force and



effect, with one of the LLCs as the sole owner and beneficiary of such policy. To the Knowledge of the Friess Companies, no circumstances exist which would cause any such insurance policy to fail to be renewed on terms materially identical to those currently in effect.

3.20 POWERS OF ATTORNEY. None of the Friess Companies, the LLCs or any Stockholder (with respect to its FAI Shares, FAID Shares or any other interest in FAI, FAID or either of the LLCs, or otherwise in connection with the business of the Friess Companies) has any outstanding power of attorney.

3.21 FINDER'S FEE. Other than fees and expenses payable to Goldman, Sachs & Co. pursuant to a written agreement previously provided by the Friess Companies to AMG (which will be paid by the Friess Companies), none of the Friess Companies, the LLCs or any Stockholder has incurred, become liable for or otherwise entered into any contract or agreement with respect to any broker's commission, finder's fee or similar payment relating to or in connection with the transactions contemplated by this Agreement.

3.22 CORPORATE RECORDS; COPIES OF DOCUMENTS. The record books of each of the Friess Companies and the LLCs accurately and completely record all

actions taken by the Stockholders, board of directors (or other applicable governing body) and committees of such Friess Company or LLC (as applicable) in connection with the businesses and affairs of such Friess Company or LLC (as applicable), and true and complete copies of such documents have been made available to AMG for review.

3.23 TRANSACTIONS WITH INTERESTED PERSONS. Except as set forth in SCHEDULE 3.23, during the past three (3) years, none of the Friess Companies or the LLCs has been a party to any material transaction or material contract or arrangement with any of the Stockholders, any other director, officer or employee of either of the Friess Companies or the WY LLC, or any of the respective Affiliates or Immediate Family members of any such Persons (other than the Contracts provided to AMG prior to the date of this Agreement), and, to the Knowledge of the Friess Companies, none of such Persons owns, directly or indirectly on an individual or joint basis, any interest (excluding passive investments in the shares of any enterprise which are publicly traded, PROVIDED such Person's holdings therein, together with any holdings of such Person's Affiliates and Immediate Family members, are less than five percent (5%) of the outstanding shares or comparable interest in such entity in the aggregate) in, or serves as an employee, independent contractor, officer, director or in another similar capacity of, any competitor or Client of either of the Friess Companies or the LLCs or any other organization which has or during the past three (3) years has had a material contract or arrangement with either of the Friess Companies or the LLCs.

3.24 EMPLOYEE PROGRAMS.

(a) SCHEDULE 3.24 hereto lists every Employee Program (as defined below).

(b) Each Employee Program which is intended to qualify under Section 401(a) or 501(c)(9) of the Code has received a favorable determination or approval letter from the IRS regarding its qualification under such section, and has in fact been qualified in all



material respects under the applicable section of the Code from the effective date of such Employee Program through and including the Closing (or, if earlier, the date that all of such Employee Program's assets were distributed). To the Knowledge of the Friess Companies, no event or omission has occurred which could reasonably be expected to cause any such Employee Program to lose its qualification under the applicable Code section.

(c) Each Employee Program has been established and administered in accordance with its terms in all material respects, and is in compliance in all material respects with the applicable provisions of ERISA, the Code and other applicable Laws and Regulations. With respect to any Employee Program, there has occurred no "prohibited transaction," as defined in Section 406 of ERISA or Section 4975 of the Code, or breach of any duty under ERISA or other applicable law (including, without limitation, any health care continuation requirements or any other tax law requirements, or conditions to favorable tax treatment, applicable to such plan), which could reasonably be expected to result, directly or indirectly, in any material taxes, penalties or other liabilities to FAI, FAID, either of the LLCs or AMG. No litigation, arbitration, or governmental administrative proceeding (or investigation) or other proceeding (other than those relating to routine claims for benefits) is pending or, to the Knowledge of the Friess Companies, threatened with respect to any such Employee Program and no facts or circumstances exist that could reasonably be expected to give rise to any such litigation, arbitration or proceeding.

(d) None of the FAI, FAID or the WY LLC or any ERISA Affiliate (as defined below) (i) has ever maintained any employee benefit plan, program or arrangement (including, without limitation, the Employee Programs) which has been subject to Title IV of ERISA (including, but not limited to, any Multiemployer Plan (as defined below)) or (ii) has ever provided health care or any other non-pension benefits to any employees after their employment is terminated (other than as required by part 6 of subtitle B of title I of ERISA) or has ever promised to provide such post-termination benefits.

(e) With respect to each Employee Program complete and correct copies of the following documents (if applicable to such Employee Program) have previously been delivered to AMG: (i) all documents embodying or governing such Employee Program, and any funding medium for the Employee Program (including, without limitation, trust agreements) as they may have been amended; (ii) the most recent IRS determination or approval letter with respect to such Employee Program under Code Sections 401 or 501(c)(9), and any applications for determination or approval subsequently filed with the IRS; (iii) the three (3) most recently filed IRS Forms 5500, with all applicable schedules and

accountants' opinions attached thereto; (iv) the summary plan description for such Employee Program (or other descriptions of such Employee Program provided to employees) and all modifications thereto; (v) any insurance policy (including any fiduciary liability insurance policy) related to such Employee Program; (vi) any documents evidencing any loan to an Employee Program that is a leveraged employee stock ownership plan; and (vii) all other materials requested by AMG and reasonably necessary for AMG to perform any of its responsibilities with respect to any Employee Program subsequent to the Closing (including, without limitation, health care continuation requirements).



(f) Each Employee Program may be amended, terminated, modified or otherwise revised FAI, FAID and the WY LLC, including the elimination of any and all future benefit accruals under any Employee Program.

(g) For purposes of this section:

(i) "Employee Program" means (A) all employee benefit plans within the meaning of ERISA Section 3(3), including, but not limited to, multiple employer welfare arrangements (within the meaning of ERISA Section 3(4)), plans to which more than one unaffiliated employer contributes and employee benefit plans (such as foreign or excess benefit plans) which are not subject to ERISA; and (B) all material employment agreements, collective bargaining agreements, fringe benefits, consulting agreements, stock option plans, bonus or incentive award plans, severance pay policies or agreements, change in control agreements, deferred compensation agreements, supplemental income arrangements, vacation plans, and all other employee benefit plans, agreements, programs, policies and arrangements not described in (A) above, whether formal or informal, oral or written, that are maintained by FAI, FAID and the WY LLC or any ERISA Affiliate for the benefit of any current or former employee of the Friess Companies or the LLCs or pursuant to which the Friess Companies or the LLCs have any obligations or liabilities. In the case of an Employee Program funded through an organization described in Code Section 501(c)(9), each reference to such Employee Program shall include a reference to such organization.

(ii) An entity "maintains" an Employee Program if such entity sponsors, contributes to, or provides (or has promised to provide) benefits under such Employee Program, or has any obligation (by agreement or under applicable law) to contribute to or provide benefits under such Employee Program, or if such Employee Program provides benefits to or otherwise covers employees or former employees of such entity, or their spouses, dependents, or beneficiaries.

(iii) An entity is an "ERISA Affiliate" of FAI, FAID and the WY LLC if it would have ever been considered a single employer with FAI, FAID and the WY LLC under ERISA Section 4001(b) or part of the same "controlled group" as FAI, FAID and the WY LLC for purposes of ERISA Section 302(d)(8)(C).

(iv) "Multiemployer Plan" means a multiemployer plan within the meaning of Section 3(37) of ERISA.

3.25 DIRECTORS, OFFICERS AND EMPLOYEES.

(a) SCHEDULE 3.25(a) hereto contains a true and complete list of all current directors, officers and employees of either of the Friess Companies or the LLCs, including each such Person's date of birth and date of commencement of employment with the Friess Companies. The supplemental disclosure letter, dated as of the date hereof, provided by the Friess Companies to AMG contains a true and complete list of each of the persons described in the immediately preceding sentence setting forth, for each such person, the total compensation of



such person for the twelve months ended December 31, 2000. Each of the Majority Management Owners is in good health. To the Knowledge of the Friess Companies, each of the Management Owners (other than the Majority Management Owners) is in good health as of the date of this Agreement.

(b) None of FAI, FAID or the WY LLC is in default with respect to any material term or condition of any Employee Program, nor will the Closing (or the transactions contemplated hereby or thereby) result in any such default, including, without limitation, after the giving of notice, lapse of time or both. Neither FAI, FAID nor the WY LLC is delinquent in payments to any of its

employees for any wages, salaries, commissions, bonuses or other direct compensation for any services performed for it to the date hereof or amounts required to be reimbursed to such employees. Except as set forth on SCHEDULE 3.25(b), none of FAI, FAID, the LLCs or AMG could, by reason of the transactions contemplated by this Agreement or anything done prior to the Closing, be liable to any employee of FAI, FAID or the WY LLC for any payments (other than the Purchase Price). None of FAI, FAID or the LLCs has made any payments, is obligated to make any payments, or is a party to any agreement that under certain circumstances could obligate FAI, FAID, either of the LLCs or AMG to make any payments, that would constitute a parachute payment within the meaning of Section 280G of the Code. Neither FAI, FAID nor the WY LLC has any policy, practice, plan or program of paying severance pay or any form of severance compensation in connection with the termination of employment. There are no charges of employment discrimination or unfair labor practices against or involving FAI, FAID or the WY LLC. There are no grievances, complaints or charges that have been filed against FAI, FAID, or the WY LLC under any dispute resolution procedure that could have a Material Adverse Effect on FAI, FAID, either of the LLCs or AMG or the conduct of their respective businesses, and there is no arbitration or similar proceeding pending and no claim therefor has been asserted in writing (or otherwise, to the Knowledge of the Friess Companies). FAI, FAID and the WY LLC have in place all material employee policies required by applicable Laws and Regulations, and there have been no material violations or alleged violations of any of such policies. None of the Friess Companies or the LLCs has received any notice indicating that any of its employment policies or practices is currently being audited or investigated by any foreign, federal, state or local government agency. Each of FAI, FAID and the WY LLC is, and at all times since November 6, 1986 has been, in material compliance with the requirements of the Immigration Reform Control Act of 1986.

3.26 NON-FOREIGN STATUS. No Stockholder is a "foreign person" within the meaning of Section 1445 of the Code and Treasury Regulations Section 1.1445-2.

3.27 TRANSFERS OF EQUITY. No holder of stock of FAI or FAID or holder of ownership interests in the WY LLC has at any time transferred any of such stock to any employee of FAI, FAID or either of the LLCs, which transfer constituted compensation for services rendered to FAI, FAID or either of the LLCs by said employee.

3.28 CODE OF ETHICS; INSIDER TRADING AND CONFLICTS POLICIES. Each of the Friess Companies and the WY LLC has adopted a written policy regarding insider trading and conflicts of interest and a Code of Ethics which complies, and for at least the past three (3) years has complied, in all material respects with all applicable provisions of the Advisers Act (including



without limitation Section 204A thereof) and the Investment Company Act (including without limitation Section 17(j) thereof), a true and complete copy of which has been delivered to AMG prior to the date hereof. All employees of the Friess Companies and the WY LLC have executed acknowledgments that they are bound by the provisions of such Codes of Ethics and insider trading and conflicts policies. The policies of the Friess Companies and the WY LLC with respect to avoiding conflicts of interest are as set forth in each such Person's most recent Form ADV or incorporated by reference therein, and such disclosure complies in all material respects with the requirements of Form ADV. Each Mutual Fund has adopted a Code of Ethics which complies with all applicable provisions of the Investment Company Act (including without limitation Section 17(j) thereof), copies of which have been delivered or made available to AMG prior to the date hereof. During the past five (5) years, there have been no material violations or allegations of material violations of such Codes of Ethics, insider trading policies or conflicts policies.

3.29 CERTAIN REPRESENTATIONS AND WARRANTIES AS TO THE MUTUAL FUNDS.

(a) SCHEDULE 3.29(a) hereto describes each of the investment advisory agreements, distribution or underwriting contracts, plans adopted pursuant to Rule 12b-1 under the Investment Company Act, arrangements for the payment of service fees (as such term is defined in Rule 2830 of the NASD Conduct Rules), administrative services agreements and other agreements and contracts (other than agreements and contracts entered into by the Mutual Funds in the ordinary course of business in connection with the making of portfolio investments) (collectively, the "Mutual Fund Agreements") pertaining to any of the Mutual Funds (other than, in the case of a Subadvised Fund, any such agreement, contract, plan or arrangement to which none of the Friess Companies, the LLCs, the Stockholders or the Management Owners is a party). As to each Mutual Fund (other than a Subadvised Fund), there has been in full force and effect an investment advisory, sub-advisory, distribution or underwriting agreement (as applicable) at all times since the inception of such Mutual Fund,

and each Mutual Fund Agreement pursuant to which either of the Friess Companies or the WY LLC has received compensation with respect to its activities in connection with any of the Mutual Funds (other than a Subadvised Fund) was duly approved in accordance with the applicable provisions of the Investment Company Act.

(b) There are no special restrictions, consent judgments or SEC or judicial orders on or with regard to any of the Mutual Funds (other than a Subadvised Fund) currently in effect.

(c) Each of the Mutual Funds (other than a Subadvised Fund) is duly organized, validly existing and in good standing in the jurisdiction in which it is organized and has all requisite power and authority to conduct its business in the manner and in the places where such business is currently conducted. Each Mutual Fund (other than a Subadvised Fund) is and has been, since its inception, engaged solely in the business of an investment company. Since inception, each of the Mutual Funds (other than a Subadvised Fund) have been a duly registered investment company in material compliance with the Investment Company Act and the rules and regulations promulgated thereunder and duly registered or licensed and in good standing under the laws of each jurisdiction in which such qualification is necessary, except



where the failure to be duly registered and in good standing will not and would not reasonably be expected to have a Material Adverse Effect on the respective Mutual Fund, the Friess Companies, the LLCs or AMG. Since their initial offering, shares of each of the Mutual Funds (other than a Subadvised Fund) have been duly qualified for sale under the securities laws of each jurisdiction in which they have been sold or offered for sale at such time or times during which such qualification was required, and, if not so qualified, the failure to so qualify would not have a Material Adverse Effect on the respective Mutual Fund, the Friess Companies, the LLCs or AMG. The offering and sale of shares of each of the Mutual Funds (other than a Subadvised Fund) have been registered under the Securities Act during such period or periods for which such registration is required, the related registration statement has become effective under the Securities Act, no stop order suspending the effectiveness of any such registration statement has been issued and no proceedings for that purpose have been instituted or, to the Knowledge of the Friess Companies, are contemplated, and neither such registration statement nor any amendments thereto contained at the time such registration statement or amendment became effective, an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. Copies of the current registration statement of each of the Mutual Funds (other than a Subadvised Fund) under the Investment Company Act and under the Securities Act have been provided to AMG by the Friess Companies. All of the outstanding shares of capital stock of each Mutual Fund (other than a Subadvised Fund) are duly authorized, validly issued, fully paid and non-assessable, and none of such shares have been issued in violation of any applicable Laws and Regulations.

(d) Each of the Mutual Funds' investments have been made in accordance with its investment policies and restrictions set forth in its registration statement in effect at the time the investments were made and have been held in accordance with its respective investment policies and restrictions, to the extent applicable and in effect at the time such investments were held (solely to the extent such investments were made by any of the Friess Companies or the LLCs, in the case of a Subadvised Fund).

(e) (i) Each of the Mutual Funds (other than a Subadvised Fund) has timely filed (other than in respect of Taxes, which are the subject of separate representations and warranties set forth herein) all reports, registration statements and other documents, together with any amendments required to be made with respect thereto, that were required to be filed with any governmental authority, including the SEC (the "Fund Regulatory Documents"), and has paid all fees and assessments due and payable in connection therewith, and (ii) as of their respective dates, each of the foregoing filings complied in all material respects with the requirements of the securities laws and the rules and regulations of the SEC promulgated thereunder applicable to such Fund Regulatory Documents, and none of the Fund Regulatory Documents or related prospectuses, as of their respective dates, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The Friess Companies have previously delivered or made available to AMG a complete copy of each Fund Regulatory Document filed with the SEC since January 1, 1998 and will deliver to AMG promptly after the filing thereof a complete copy of each Fund Regulatory Document filed

with the SEC by a Mutual Fund (other than a Subadvised Fund) after the date hereof and prior to the Closing.

(f) All proxy statements to be prepared for use by the Mutual Funds (other than a Subadvised Fund) in connection with the transactions contemplated by this Agreement, the written information provided by the Mutual Funds (other than a Subadvised Fund) to each Board of Directors (or equivalent bodies) in connection with this Agreement or the transactions contemplated hereby at the time such information is provided and, in the case of a proxy statement, the date of the shareholder vote for which such proxy statement will be used, as then amended or supplemented, in each case will (other than with respect to written information provided by AMG specifically for inclusion therein, as to which no representation or warranty is made) be accurate and complete and will not contain any untrue statement of a material fact, or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(g) For all taxable years since inception, each of the Mutual Funds (other than a Subadvised Fund) has elected to be treated as, and has qualified to be classified as, a regulated investment company taxable under Subchapter M of Chapter 1 of the Code and under any similar provisions of state or local law in any jurisdictions in which such Mutual Fund filed, or is required to file, a Tax Return. Each of the Mutual Funds (other than a Subadvised Fund) has timely filed all material Tax returns and reports (including information returns, declarations and reports) (the "Mutual Fund Tax Returns") required to be filed by it with any Taxing Authorities and has paid, or withheld and paid over, all Taxes which were shown to be due on the Mutual Fund Tax Returns. The information contained in such Mutual Fund Tax Returns is true, correct and complete in all material respects. With respect to each Mutual Fund (other than a Subadvised Fund), there are no liabilities for Taxes which have not been paid in prior periods or for which an adequate reserve for such liability does not exist. With respect to each Mutual Fund (other than a Subadvised Fund), no claims have been or are being asserted by any Taxing Authorities with respect to any Taxes and, to the Knowledge of the Friess Companies, there are no threatened claims for Taxes.

(h) None of the Friess Companies, the LLCs, any of the Stockholders or any person who is an "affiliated person" (as defined in the Investment Company Act) or any other "interested person" of either of the Friess Companies or the LLCs (as defined in the Investment Company Act), receives or is entitled to receive any compensation directly or indirectly (i) from any person in connection with the purchase or sale of securities or other property to, from or on behalf of any of the Mutual Funds, other than bona fide ordinary compensation as principal underwriter for any of the Mutual Funds or as broker in connection with the purchase or sale of securities in compliance with Section 17(e) of the Investment Company Act, or (ii) from any of the Mutual Funds or its security holders for other than bona fide investment advisory, administrative or other services. Accurate and complete disclosure of all such compensation arrangements has been made in the registration statement of the Mutual Funds filed under the federal securities laws.

(i) The Friess Companies have provided to AMG true, correct and complete copies of the audited financial statements, prepared in accordance with GAAP, of each of the



Mutual Funds (other than a Subadvised Fund) for the past three fiscal years (or such shorter period as such Mutual Fund shall have been in existence), and unaudited financial statements, prepared in accordance with GAAP, of each of the Mutual Funds (other than a Subadvised Fund) for the first six months of its most recent fiscal year if the ending date of such six-month period occurred more than fifteen (15) days prior to the date of this Agreement (each hereinafter referred to as a "Mutual Fund Financial Statement"). Each of the Mutual Fund Financial Statements is consistent with the books and records of the related Mutual Fund, and presents fairly the consolidated financial position of the related Mutual Fund in accordance with GAAP applied on a consistent basis (except as otherwise noted therein) at the respective date of such Mutual Fund Financial Statement and the results of operations and cash flows for the respective periods indicated. The Mutual Fund Financial Statements reflect and disclose all material changes in accounting principles and practices adopted by each of the Mutual Funds during the periods covered by each Mutual Fund Financial Statement. The books of account pertaining to each of the Mutual Funds (other than a Subadvised Fund) fairly reflect their respective transactions. None of the Mutual Funds (other than a Subadvised Fund) has any liabilities of

any nature, whether accrued, absolute, contingent or otherwise, asserted or unasserted, known or unknown, except: (i) liabilities reflected or adequately reserved against on the most recent balance sheet included in its Mutual Fund Financial Statements and (ii) liabilities incurred after the date of the most recent balance sheet included in its Mutual Fund Financial Statements in the ordinary course of business of such Mutual Fund consistent with past practice which could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on the Friess Companies or the LLCs, on such Mutual Fund or on AMG.

(j) There is no litigation or legal action, suit, proceeding or investigation at law or in equity pending or, to the Knowledge of the Friess Companies, threatened in any court or before or by any governmental agency or instrumentality, department, commission, board, bureau or agency, or before any arbitrator, by or against any of the Mutual Funds (other than a Subadvised Fund), or any officer or director thereof relating to the activities of the Mutual Funds (other than a Subadvised Fund), any disqualification of either of the Friess Companies or the LLCs or any Stockholder under Section 9(a) of the Investment Company Act, or any event which would require either of the Friess Companies or the LLCs to give an affirmative response to any of the questions in Item 11 of its Form ADV (or any similar or successor form). There are no judgments, injunctions, orders or other judicial or administrative mandates outstanding against or affecting any of the Mutual Funds (other than a Subadvised Fund) or any officer or director thereof relating to the activities of or affecting the Mutual Funds (other than a Subadvised Fund).

(k) Each Mutual Fund (other than a Subadvised Fund) is, and at all times has been, in compliance in all material respects with all applicable requirements, including all reporting and disclosure requirements, prescribed by any and all Laws and Regulations and orders thereunder.

3.30 DISCLOSURE. The representations, warranties and statements contained in this Agreement and the other Transaction Documents executed and delivered by any of the Friess Companies or the Stockholders do not contain any untrue statement of a material fact. All consent solicitation and similar materials to be prepared for use in connection with the transactions contemplated by this Agreement at the time such information is provided or used, as



then amended or supplemented, and any information disseminated in respect of the transactions contemplated hereby at the time such information is disseminated, in each case, will be accurate and complete, PROVIDED that no representation is made as to the accuracy or completeness of written information supplied by AMG for inclusion therein.

SECTION 4. REPRESENTATIONS AND WARRANTIES OF THE CHARITIES.

4.1 MAKING OF SEVERAL REPRESENTATIONS AND WARRANTIES. As a material inducement to AMG to enter into this Agreement and consummate the transactions contemplated hereby, each of the Charities hereby severally makes to AMG, as of the date hereof and as of the Closing Date, the representations and warranties set forth in this Section 4 with respect to such Charity. From and after the Closing, none of the Charities shall have any right of indemnity or contribution from either of the LLCs (or any other right against either of the LLCs) with respect to any breach of any representation or warranty hereunder.

4.2 LLC INTERESTS OWNED BY THE CHARITIES. Such Charity owns of record and beneficially the LLC Interests (including with respect to capital account balance and profits interest) set forth opposite such Charity's name in SCHEDULE 1.2 hereto. Such WY LLC Interests are, and when delivered by such Charity to AMG pursuant to this Agreement will be, duly authorized, validly issued and free and clear of any and all Claims. The LLC Interests set forth opposite such Charity's in SCHEDULE 1.2 hereto are the only membership or other ownership interests of either LLC held by such Charity (as applicable).

4.3 AUTHORITY OF THE CHARITIES. Such Charity has full right, authority, power and capacity to enter into this Agreement and each agreement, document and instrument to be executed and delivered by or on behalf of such Charity pursuant to, or as contemplated by, this Agreement and to carry out the transactions contemplated hereby and thereby. This Agreement and each agreement, document and instrument executed and delivered by such Charity pursuant to this Agreement constitutes, or when executed and delivered will constitute, a valid and binding obligation of such Charity, enforceable against such Charity in accordance with its respective terms, except as enforceability may be restricted, limited or delayed by applicable bankruptcy or similar laws affecting creditors' rights generally. Such Charity is a non-profit corporation and has full power and authority to transfer, sell and deliver its WY LLC

Interests to AMG pursuant to this Agreement and, on the terms and subject to the conditions hereof, at the Closing will transfer, sell and deliver to AMG good and marketable title to the WY LLC Interests set forth opposite such Charity's name in SCHEDULE 1.2, free and clear of any Claims. The execution, delivery and performance of this Agreement and each such other agreement, document and instrument by such Charity and the consummation of the transactions contemplated hereby and thereby:

(i) does not and will not violate any provisions of the constituent documents of such Charity;



(ii) does not and will not violate any Laws and Regulations, or require such Charity to obtain any approval, consent or waiver from, or make any filing with, any person or entity (governmental or otherwise) that has not been obtained or made prior to the date hereof; and

(iii) does not and will not result in a breach of, constitute a default under, accelerate any material obligation under, or give rise to a right of termination of, any material agreement, contract, instrument, mortgage, lien, lease, permit, authorization, order, writ, judgment, injunction, decree, determination or arbitration award to which such Charity is a party or by which the property of such Charity is bound or affected.

4.4 AGREEMENTS. There are no agreements or arrangements not contained herein or disclosed in a Schedule hereto to which such Charity is a party relating to the business of either of the Friess Companies or the LLCs or to such Charity's rights and obligations as a stockholder, member, director, officer or employee of either of the Friess Companies or the LLCs.

4.5 FINDER'S FEE. Such Charity has not incurred, become liable for or otherwise entered into any contract or agreement with respect to any broker's commission, finder's fee or similar payment relating to or in connection with the transactions contemplated by this Agreement.

SECTION 5. COVENANTS OF THE FRIESS COMPANIES, THE STOCKHOLDERS AND THE CHARITIES.

5.1 MAKING OF COVENANTS AND AGREEMENTS. The covenants and agreements of the Friess Companies and the Stockholders set forth in this Section 5 are made jointly and severally. The covenants and agreements of the Charities set forth in this Section 5 are made severally only. The Friess Companies and the Stockholders, jointly and severally, hereby agree to cause each of the LLCs to comply with the covenants and agreements contained in this Section 5 applicable to such LLC, and the Stockholders, jointly and severally, hereby agree to cause each of the Friess Companies to comply with the covenants and agreements contained in this Section 5 applicable to such Friess Company. After the Closing, none of the Friess Companies, the Stockholders or the Charities shall have any right of indemnity or contribution from either of the LLCs (or any other right against either of the LLCs) with respect to the breach of any covenant or agreement hereunder.

5.2 CLIENT CONSENTS.

(a) As soon as practicable after the date hereof, but in any event on or prior to September 15, 2001, the Friess Companies and the WY LLC shall send to each Client who is a party to an Advisory Contract as of the date of this Agreement (other than the Mutual Funds) a letter substantially in the form of (i) EXHIBIT 5.2A hereto, in the case of each such Client other than the Clients listed on EXHIBIT 5.2A hereto (the "New Contract Clients"), or (ii) EXHIBIT 5.2B hereto, in the case of each New Contract Client (each such letter described in clause (i) or clause



(ii), an "Initial Client Consent Request Letter") notifying such Client of the transactions contemplated hereby and the "assignment" (or deemed assignment) of such Client's Advisory Contract resulting from such transactions, and requesting (A) the written consent of such Client to such assignment (or deemed assignment) of its Advisory Contract, in the case of each such Client other than the New Contract Clients, or (B) that such Client enter into the new Advisory Contract attached to such letter (which new Advisory Contract shall be substantially identical (and identical with respect to fees) to the existing Advisory Contract of such Client, except for the addition of an assignment provision in form and substance reasonably acceptable to AMG) to become effective as of the Closing

(the "New Advisory Contract" of such Client) and provide its written consent to such assignment (or deemed assignment) of such New Advisory Contract, in the case of each New Contract Client (as applicable).

(b) On or prior to October 15, 2001, the Friess Companies and the WY LLC shall send to (i) each Client (other than the New Contract Clients) who was sent, but who has not by such date returned, an Initial Client Consent Request Letter countersigned indicating such Client's consent to the assignment (or deemed assignment) of such Client's Advisory Contract resulting from the transactions contemplated hereby, and (ii) each New Contract Client who was sent, but who has not by such date returned, an Initial Client Consent Request Letter countersigned indicating such Client's consent to the assignment (or deemed assignment) of such Client's New Advisory Contract resulting from the transactions contemplated hereby, together with its New Advisory Contract executed on behalf of such Client, a second letter in form and substance reasonably acceptable to AMG (each a "Follow-Up Client Consent Request Letter") (PROVIDED, HOWEVER, that, following AMG's approval of the form of such Follow-Up Client Consent Request Letter, AMG shall be deemed to have waived any objections to the form of such consent letter solely for purposes of satisfaction of the conditions to Closing set forth in Section 9.3(a) hereof). With respect to any Advisory Contract (other than Advisory Contracts with Mutual Funds and Advisory Contracts with New Contract Clients) that does not, by its terms or under applicable Laws and Regulations, require the "written" or "express" consent of the Client party thereto to an assignment (or deemed assignment) of such Advisory Contract, such consent shall be deemed given for purposes of Section 1.2(b) hereof and Section 9.3(a) hereof (notwithstanding the fact that the Client party to such Advisory Client shall have failed to return an Initial Client Consent Request Letter or a Follow-Up Client Consent Request Letter countersigned indicating such Client's consent to the assignment (or deemed assignment) of such Client's Advisory Contract resulting from the transactions hereby) forty-five (45) days after the sending to such Client of a Follow-Up Client Consent Request Letter if such Client has not objected to the assignment or deemed assignment of its Advisory Contract resulting from the transactions contemplated hereby and has continued to accept Investment Management Services from the WY LLC for such forty-five (45) day period. With respect to any Advisory Contract (other than Advisory Contracts with Mutual Funds and Advisory Contracts with New Contract Clients) that, by its terms or under applicable Laws and Regulations, requires the "written" or "express" consent of the Client party thereto to an assignment (or deemed assignment) of such Advisory Contract, such consent shall be deemed given for purposes of Section 1.2(b) hereof, Section 1.2(c) hereof and Section 9.3(a) hereof solely in the event that such Client has returned to the WY LLC an executed Initial Client Consent Request Letter or a Follow-Up Client Consent Request Letter countersigned indicating such Client's consent (which consent has been duly obtained by the WY LLC under all applicable Laws and Regulations) to the assignment



(or deemed assignment) of such Client's Advisory Contract resulting from the transactions contemplated hereby (and has not subsequently withdrawn such consent). With respect to each New Contract Client, such Client shall only be deemed to have given its consent for purposes of Section 1.2(b) hereof, Section 1.2(c) hereof and Section 9.3(a) hereof in the event that such Client has returned to the WY LLC an executed Initial Client Consent Request Letter or a Follow-Up Client Consent Request Letter countersigned indicating such Client's consent to the assignment (or deemed assignment) of such Client's New Advisory Contract resulting from the transactions contemplated hereby (and not subsequently withdrawn such consent), together with its New Advisory Contract executed on behalf of such Client (which consent has been duly obtained by the WY LLC, and New Advisory Contract has been duly executed and delivered by such Client, under all applicable Laws and Regulations).

(c) With respect to each Mutual Fund that is a Client as of the date of this Agreement, the Friess Companies and the Stockholders shall use their reasonable best efforts to obtain, in accordance with the applicable requirements of the Investment Company Act (including without limitation Section 15 thereof), the due consideration and due approval by the board of directors of such Mutual Fund (its "Mutual Fund Board Approval") of (i) a new advisory agreement to be in effect with the WY LLC from and after the Closing on terms substantially identical (and identical with respect to fees) as the Advisory Contract existing between the applicable Friess Company and such Mutual Fund as of the Base Date (in the case of any Mutual Fund that was a Client of a Friess Company as of the Base Date) or between the WY LLC and such Mutual Fund as of the date of this Agreement (in the case of any Mutual Fund that was not a Client of one of the Friess Companies as of the Base Date) and, together with a subadvisory agreement in form and substance reasonably acceptable to AMG to be in effect from and after the Closing between the WY LLC and the DE LLC with respect to subadvisory services to be provided by the DE LLC with respect to such Mutual Fund (ii) the composition of the board of directors or trustees (as

applicable) of such Mutual Fund (other than a Subadvised Fund), effective as of (and subject to) the Closing, to consist of a total of eight (8) directors, consisting of (i) Foster Friess and William D'Alonzo, (ii) one (1) continuing disinterested director who serves on such board as of the date of this Agreement and (iii) five (5) additional disinterested directors who shall have been selected by the existing disinterested directors of such Mutual Fund.

To the extent the Mutual Fund Board Approval is obtained for a Mutual Fund, the Friess Companies and the Stockholders shall use their reasonable best efforts to obtain the approval of shareholders of such Mutual Fund (its "Mutual Fund Shareholder Approval") of (i) such new advisory agreement and subadvisory agreement approved by its board of directors or trustees (as applicable) of such Mutual Fund and (ii) such board composition approved by its board of directors or trustees (as applicable), in each case as described in the immediately preceding paragraph, including by causing the preparation and mailing to such shareholders a proxy statement describing the transactions contemplated hereby, such new advisory agreement and such board composition arrangements, and by holding the shareholder meeting as promptly as practicable. Each such proxy statement shall be in form and substance satisfactory to AMG. AMG shall cooperate and assist the Friess Companies in all commercially reasonable respects in connection with such proxy solicitation and the Mutual Fund Board Approval (including, without limitation, by providing to the Friess Companies all information necessary in connection



with the foregoing with respect to AMG, which information will be accurate and complete in all material respects).

(d) With respect to any Advisory Contract entered into after the date of this Agreement and prior to the Closing, the WY LLC shall be the only one of the Friess Companies or the LLCs that is a party to such Advisory Contract, and the WY LLC shall notify the Client under such Advisory Contract of the transactions contemplated hereby and the "assignment" (or deemed assignment) of such Advisory Contract resulting from such transactions, and shall obtain the written consent of such Client to such assignment (or deemed assignment) of its Advisory Contract at the time such Client enters into such Advisory Contract (the form of such notification and written consent to be substantially identical to the form set forth in EXHIBIT 5.2 hereto).

(e) Each of the Friess Companies and the Stockholders shall use its reasonable best efforts to obtain the consents from the Friess Companies' and the WY LLC's Clients in the manner contemplated by this Section 5.2. Prior to the Closing, AMG agrees that it will not (and it will not cause any of its Affiliates to) contact, in writing or otherwise, any Client of the Friess Companies (or any Person who acts as an adviser or "gatekeeper" for any such Client) in connection with the transactions contemplated hereby without the prior approval of the Friess Companies.

5.3 ADVISERS ACT AUTHORIZATIONS.

(a) The Friess Companies shall cause the DE LLC to (i) as promptly as practicable following the date of this Agreement, prepare and file with the SEC a Uniform Application for Investment Adviser Registration on Form ADV to register as an investment adviser under the Advisers Act (the "New ADV") and (ii) make appropriate additional filings with respect to its investment advisory status as soon as practicable with all other jurisdictions in which either of the Friess Companies or the WY LLC has a place of business (within the meaning of the Advisers Act) and in each other jurisdiction where it is necessary or desirable for the DE LLC to make such filings in order to conduct its businesses (including, without limitation, the businesses currently conducted by FAID) after the DE LLC Asset Transfer and the Closing.

(b) The Friess Companies and the Stockholders shall use their respective reasonable best efforts to obtain, and to cause the LLCs to obtain, all authorizations, consents, orders, approvals and Licenses of federal, state and local regulatory bodies and officials that may be or become necessary for their respective execution and delivery of, and the performance of their respective obligations pursuant to, this Agreement and the other agreements, documents and instruments contemplated hereby, and, with respect to the DE LLC for it to succeed to the businesses presently being conducted by FAID.

(c) FAID shall cause all applicable employees of FAID to file, as soon as practicable after the date hereof, such applications for licensing, registration or qualification of investment adviser representatives (within the meaning of Rule 203A-3(a) under the Advisers Act) in each jurisdiction where such applicable investment adviser representative has a place of business (within the meaning of Rule 203A-3(b) under the Advisers Act) and in each other

jurisdiction where it is necessary to effect such licensing, registration or qualification in order to conduct the business of the DE LLC (including, without limitation, the business currently conducted by FAID) after the Closing and the DE LLC Asset Transfer, and the Friess Companies and the Stockholders shall use their respective reasonable best efforts to cause such licenses, registrations and qualifications to be granted expeditiously.

5.4 AUTHORIZATION FROM OTHERS. The Friess Companies, the Stockholders and the Charities shall use their respective reasonable best efforts to obtain, as promptly as practicable following the date of this Agreement (and in any event prior to Closing), all authorizations, consents, approvals, permits and Licenses of others required to be obtained by them and/or by the LLCs to permit the consummation by the Stockholders, the Friess Companies, the Charities and the LLCs of the transactions contemplated by this Agreement and the continuation of the business of the Friess Companies and the LLCs following the Closing (including without limitation all of the approvals, consents and waivers identified in SCHEDULE 3.5 hereto).

5.5 CONDUCT OF BUSINESS. Between the date of this Agreement and the Closing, except as described on SCHEDULE 5.5 hereto, without the prior written consent of AMG:

(a) The Friess Companies and the WY LLC will conduct (and they and the Stockholders will use their reasonable best efforts to cause the Mutual Funds (other than the Subadvised Funds) to conduct) their business only in the ordinary course of business consistent with past practices and in material compliance with all applicable Laws and Regulations and their constituent documents, and the DE LLC will comply in all material respects with all applicable Laws and Regulations and its constituent documents and only take those actions necessary for the consummation of the transactions contemplated hereby;

(b) None of the Friess Companies or the LLCs will (i) make (or incur any obligation to make) any purchase, acquisition, sale, disposition or lease of any material assets or property (including without limitation the purchase of securities for its own account, any disposition of LLC Interests or any purchase of a business as a going concern), or merge or consolidate with any other Person, other than (A) as specifically provided for in the Asset Transfer Agreements or the Securities Purchase Agreements, or (B) sales of worn-out or obsolete property or equipment, and transactions effected in Client portfolios, in each case in the ordinary course of business consistent with past practices, or (ii) subject to any Claim, other than to the extent currently existing, any of its properties or assets (including, without limitation, with respect to the Friess Companies, their interests in the LLCs), nor permit any of the foregoing to exist;

(c) None of the Friess Companies or the LLCs will incur any obligation for borrowed money (contingent or fixed), issue any debt securities or become obligated as a guarantor or otherwise with respect to the obligations of others;

(d) Neither of the Friess Companies will make or incur any obligation to make a change in its Articles of Incorporation, by-laws or other organizational documents, as applicable, or in its authorized or issued capital stock, partnership or other equity or other



ownership interests of any type (including without limitation through any issuances thereof), and the LLCs will not make or incur any obligation to make any change in the Existing LLC Agreement (other than the restatement into the Restated LLC Agreement as contemplated hereby) or the authorized or issued ownership interests in either of the LLCs (including without limitation through any issuances thereof), other than as provided by the Securities Purchase Agreements;

(e) None of the Friess Companies or the LLCs will declare, set aside or pay any dividend or distribution (whether in cash or in property), make (or incur an obligation to make) any other distribution in respect of its capital stock or interests or make (or incur an obligation to make) any direct or indirect redemption, purchase or other acquisition of its stock or interests (or any other equity or ownership interest therein), except that the Friess Companies may make distributions of cash and/or receivables prior to the Closing subject to their ability to comply with the conditions to Closing set forth in Section 9.10 (and the WY LLC may make distributions of cash and/or receivables

to the Friess Companies in connection therewith);

(f) None of the Friess Companies or the LLCs will (i) make any change in the compensation or fringe benefits payable or to become payable to, or grant any termination or severance pay to, any of the Friess Companies' or the WY LLC's present or former directors, officers, members, employees, agents or independent contractors, except changes in the ordinary course consistent with past practice, PROVIDED that the foregoing shall not prohibit the payment of bonus compensation in a manner consistent with past practices, subject to the Friess Companies ability to comply with the conditions to Closing set forth in Section 9.10, (ii) enter into any collective bargaining agreement, equity, option, profit sharing, welfare, retirement, or other similar arrangement, or any employment contract (other than any "at will" employment contract which would not require the consent of AMG or any of its subsidiaries under either of the Restated LLC Agreements if entered into after the Closing), (iii) enter into, amend or otherwise modify any contract, agreement, arrangement or understanding with the Stockholders, members of their Immediate Families or their respective Affiliates or (iv) terminate (or take any action, or omit to take any action, which would reasonably be expected to lead to the termination of) the employment of any employee who is a party to an Employment Agreement or Non-Solicitation Agreement;

(g) Neither of the Friess Companies or the LLCs will prepay any loans or otherwise satisfy material payment obligations before they become due, waive or cancel any rights of material value or terminate any material Contracts;

(h) Neither of the Friess Companies or the LLCs will make any change in its borrowing or banking arrangements and the LLCs will not enter into any borrowing arrangements;

(i) Each of the Friess Companies and the WY LLC will use its reasonable best efforts to prevent any change with respect to its management and supervisory personnel, and will not hire or terminate any member thereof;



(j) Each of the Friess Companies and the WY LLC will have in effect and maintain at all times all insurance of the kind, in the amount and with the insurers set forth in SCHEDULE 3.19 hereto or substantially equivalent insurance with any substitute insurers approved in writing by AMG, and as of the Closing, the LLCs will have in effect, and thereafter will maintain at all times, all insurance of the kind, in the amount and with the insurers set forth in SCHEDULE 3.19 hereto or substantially equivalent insurance with any substitute insurers approved in writing by AMG;

(k) None of the Friess Companies or the LLCs will (i) settle or compromise any material litigation, arbitration, investigation, audit or other proceeding or (ii) write up, write down or write off the book value of any assets in the aggregate in excess of $100,000 (except for depreciation and amortization in accordance with GAAP consistently applied);

(l) None of the Friess Companies or the LLCs will terminate its existence or voluntarily file for or otherwise commence proceedings with respect to bankruptcy, reorganization, receivership or similar status;

(m) None of the Friess Companies or the LLCs will (i) make or change any Tax election, waive or extend the statute of limitations in respect of Taxes, amend any Tax Return, enter into any closing agreement with respect to any Tax, settle any Tax claim or assessment or surrender any right to a claim for a Tax refund, in each case except to the extent any of the foregoing actions described in this clause 5.5(m)(i) (A) relate solely to a Tax period ending on or prior to the Closing and (B) would not have an adverse effect (economic or otherwise) on any Person who will become a member of the WY LLC or the DE LLC at the Closing or at any time thereafter or otherwise affect Tax periods commencing on or after the Closing, or (ii) change any method or principle of accounting in a manner inconsistent with past practice of the Friess Companies, or change regular independent accountants;

(n) None of the Friess Companies or the LLCs will make advertising, marketing or similar types of expenditures other than in the ordinary course of business and in amounts consistent with the practices of the Friess Companies during the twelve-month period immediately preceding the date of this Agreement (and the Friess Companies and the Stockholders will use their reasonable best efforts to prevent any Mutual Fund (other than a Subadvised Fund) from making such expenditures);

(o) None of the Friess Companies, the LLCs or the Stockholders will take any action that would reasonably be expected to result in any of the

representations and warranties set forth in Section 3 or Section 4 becoming false or inaccurate in any material respect; and

(p) None of the Friess Companies, the LLCs or the Stockholders will agree in writing or otherwise to take any action inconsistent with the foregoing.

5.6 FINANCIAL STATEMENTS. Commencing with the month ending August 31, 2001, the Friess Companies will furnish AMG, within twenty (20) business days after each month end for each month ending more than twenty (20) business days prior to the Closing, with (a) unaudited monthly balance sheets and statements of income and retained earnings of FAID



and the WY LLC, certified by the chief financial officer of such Person, which financial statements shall be prepared in accordance with generally accepted accounting principles applied consistently using the accrual method of accounting (except that they need not include footnotes), shall present fairly in all material respects the financial condition of FAID or the WY LLC (as applicable) at the dates of said statements and the results of its operations for the periods covered thereby, (b) complete and correct information regarding the aggregate assets under management by FAID and the WY LLC as of such month end, and (c) such other correct information regarding FAID's and the WY LLC's assets under management as of such month end, broken out by category of Client, asset class and/or similar types of information, each to the extent such information already is prepared by either of the Friess Companies or the WY LLC in the ordinary course for their internal use and/or for reporting to the Stockholders.

5.7 PRESERVATION OF BUSINESS AND ASSETS. Until the Closing, each of the Friess Companies and the Stockholders shall use its commercially reasonable efforts to: (a) preserve the current business of the Friess Companies and the WY LLC, (b) maintain the present Clients of the Friess Companies and the WY LLC, in each case, on terms that are at least as favorable as the terms of the agreement(s) between a Friess Company or the WY LLC, as the case may be, and the relevant Client as in effect on the date hereof, (c) preserve the goodwill of the Friess Companies and the WY LLC, and (d) preserve any Licenses required for, or useful in connection with, the business of the Friess Companies and/or the WY LLC (including without limitation all investment adviser and investment adviser representative registrations).

5.8 NOTICE RIGHTS AND ACCESS. Until the Closing, the Friess Companies shall deliver to AMG (contemporaneously with the delivery thereof to the Stockholders and/or the directors of the Friess Companies and/or the Directors and/or members of the LLCs, as applicable) all notices and information furnished by either of the Friess Companies or the LLCs to the Stockholders and/or directors of the Friess Companies and/or the Directors and/or members of the LLCs, as well as copies of the minutes of any meetings of the Stockholders, the directors of either of the Friess Companies or the members or Directors of either of the LLCs, and a description of any actions taken by such persons at any such meeting. The Friess Companies shall afford (and shall cause the WY LLC to afford) to AMG and its representatives and agents reasonable access, during normal business hours and with reasonable notice, to the properties and records of the Friess Companies and the WY LLC in order that AMG may have full opportunity to make such investigation as it shall desire for purposes consistent with this Agreement.

5.9 NOTICE OF DEFAULT. Promptly upon the occurrence of, or promptly upon a Friess Company, a LLC, a Stockholder or a Charity becoming aware of the threatened occurrence of, any event which would cause or constitute a breach or default, or would have caused or constituted a breach or default had such event occurred or been known to such Friess Company, LLC, Stockholder or Charity prior to the date hereof, of any of the representations, warranties or covenants of the Friess Companies, the Charities or the Stockholders contained in or referred to in this Agreement or in any Schedule or Exhibit referred to in this Agreement, the Friess Companies shall give written notice thereof to AMG in reasonable detail, and the Friess Companies, the Stockholders and the Charities shall use their reasonable best efforts to prevent or promptly remedy the same.



5.10 CONSUMMATION OF AGREEMENT. The Friess Companies, each of the Stockholders and, with respect to clause (a) of this Section 5.10, each of the Charities shall use its reasonable best efforts (except to the extent a different standard is expressly provided for under another provision of this Agreement with respect to particular obligations) to (a) perform and fulfill all

conditions and obligations to be performed and fulfilled by each of them under this Agreement and (b) cause all conditions and obligations of the Management Owners to be performed and fulfilled by such Management Owners under the Management Owners Purchase Agreement, to the end that the transactions contemplated by this Agreement and the Management Owners Purchase Agreement shall be fully carried out.

5.11 COOPERATION OF THE FRIESS COMPANIES, THE STOCKHOLDERS AND THE CHARITIES. Each of the Friess Companies, the Stockholders and the Charities shall cooperate with all reasonable requests of AMG and AMG's counsel and auditors in connection with the consummation of the transactions contemplated hereby and the making of any filings required in connection therewith, and all filings made and consents obtained by the Friess Companies and/or the LLCs in connection with the transactions contemplated hereby shall be in form and substance reasonably satisfactory to AMG (except to the extent another standard is expressly provided for herein with respect to particular filings or consents). In addition, the Stockholders, the Friess Companies and the Charities shall cooperate fully, as and to the extent requested by AMG or AMG's counsel or auditors, in connection with any litigation or other proceedings arising in connection with the transactions contemplated hereby (except to the extent otherwise specifically addressed in Section 6 hereof with respect to Tax matters).

5.12 NO SOLICITATION OF OTHER OFFERS. Until the earlier of the termination of this Agreement pursuant to Section 11.1 or the occurrence of the Closing, none of the Friess Companies, the LLCs, the Stockholders, the Charities, nor any of their respective Affiliates or their respective directors, officers, employees, representatives or agents, shall, directly or indirectly, solicit, encourage, assist, initiate discussions or engage in negotiations with, provide any information to, or enter into any agreement or transaction with, any Person, other than AMG, relating to the possible acquisition of FAI Shares or other capital stock of FAI, FAID Shares or other capital stock of FAID, any ownership interests in either of the LLCs, or any of their respective assets, except for the sale of assets by the Friess Companies and the LLCs in the ordinary course of business consistent with past practices and the terms of this Agreement or transfers of FAI Shares or FAID Shares among the Stockholders; PROVIDED, HOWEVER, that the Stockholders shall be permitted to transfer FAI Shares and/or FAID Shares prior to the Closing to any Person to whom such shares would be permitted to be transferred following the Closing pursuant to Section 5.1(c) of the applicable Restated LLC Agreement (subject to the restrictions on transfer set forth in Article V of such Restated LLC Agreement that would be applicable to such a post-Closing transfer).

5.13 CONFIDENTIALITY. Each of the Friess Companies, the Stockholders and the Charities agree that, unless and until the Closing has been consummated, each of the Friess Companies, the LLCs, the Stockholders, the Charities and their respective Affiliates, shareholders, directors, officers, employees, agents and representatives will hold in strict confidence, and will not use, any confidential or proprietary data or information obtained from AMG with respect to its business or financial condition except for the purpose of evaluating,



negotiating and completing the transaction contemplated hereby. Information generally known in AMG's industry or which has been disclosed to the Friess Companies, the LLCs, the Stockholders or the Charities by third parties which have a right to do so shall not be deemed confidential or proprietary information for purposes of this Agreement. If the transactions contemplated by this Agreement are not consummated, the Friess Companies, the LLCs, the Stockholders and the Charities will return, and cause their respective Affiliates, directors, officers, employees, agents and representatives to return, to AMG (or certify that they have destroyed) all copies of such data and information, including but not limited to financial information, customer lists, business and corporate records, worksheets, test reports, tax returns, lists, memoranda, and other documents prepared by or made available by AMG to the Friess Companies, the LLCs, the Stockholders and/or the Charities (and/or to their respective Affiliates, directors, officers, employees, agents and representatives) in connection with the transactions contemplated hereby.

5.14 POLICIES AND PROCEDURES. The Friess Companies and the Stockholders shall (and shall cause the LLCs to) cooperate with and assist in such compliance audits and regulatory reviews as may reasonably be requested by AMG prior to the Closing (at the expense of AMG and, to the extent agreed to by the Friess Companies, the Friess Companies).

5.15 SUBSIDIARIES; INVESTMENTS IN OTHER PERSONS. Between the date of this Agreement and the Closing, none of the Friess Companies or the LLCs will take any action to acquire, form or otherwise establish any subsidiary or new Affiliate of either of the Friess Companies or the LLCs, or make any investment

in, or otherwise conduct business through, any other Person.

5.16 LLC INTERESTS, FAI SHARES AND FAID SHARES; OTHER AGREEMENTS. Between the date of this Agreement and the Closing, none of the Friess Companies, the Charities or the Stockholders will sell, assign, pledge, subject to a Claim or otherwise transfer or restrict such Person's interests in the LLCs, any LLC Interests, any FAI Shares, any FAID Shares or any other interests in the Friess Companies, in any such case without the prior written consent of AMG; PROVIDED, HOWEVER, that the Stockholders shall be permitted to transfer FAI Shares and/or FAID Shares prior to the Closing to any Person to whom such shares would be permitted to be transferred following the Closing pursuant to Section 5.1(c) of the applicable Restated LLC Agreement (subject to the restrictions on transfer set forth in Article V of such Restated LLC Agreement that would be applicable to such a post-Closing transfer). Effective as of the Closing, the LLCs shall issue the interests and rights therein set forth in the Restated LLC Agreements to the Members (as defined in the Restated LLC Agreements) and shall take such actions as may be reasonably directed by AMG in connection therewith. Without the prior written consent of AMG or except as set forth on SCHEDULE 5.16, none of the Friess Companies, the Charities or the Stockholders shall enter into any side letters or other agreements in connection with this Agreement or the Management Owner Purchase Agreement.

5.17 EMPLOYEE PROGRAMS. Between the date of this Agreement and the Closing, none of the Friess Companies or the LLCs shall (i) maintain any Employee Program other than the Employee Programs listed on SCHEDULE 3.24, (but they shall maintain those



Employee Programs listed on SCHEDULE 3.24 consistent with past practice) or (ii) amend or terminate any such Employee Program.

5.18 FOREIGN QUALIFICATIONS. FAID shall cause the DE LLC to qualify to do business as a foreign limited liability company under the laws of each jurisdiction where FAID is, as of the date of this Agreement, qualified to do business as a foreign corporation and under the laws of each jurisdiction in which the nature of the business it will conduct after giving effect to the DE LLC Asset Transfer, or the ownership or leasing of the properties it will receive in the DE LLC Asset Transfer, requires such qualification.

5.19 SECTION 15 OF THE INVESTMENT COMPANY ACT. The Friess Companies shall use their reasonable best efforts to assure, prior to the Closing, the satisfaction of the conditions set forth in Section 15(f) of the Investment Company Act with respect to each Mutual Fund (other than a Subadvised Fund).

5.20 LETTER AGREEMENT. The obligations and liabilities of the WY LLC pursuant to the Letter Agreement, dated December 20, 2000, between Jon Fenn and the WY LLC shall be paid and discharged in their entirety at or prior to the Closing (to the extent not previously paid in cash) in accordance with GAAP for purposes of the conditions set forth in Section 9.10 hereof.

SECTION 6. COVENANTS OF THE FRIESS COMPANIES, THE STOCKHOLDERS AND AMG WITH RESPECT TO CERTAIN TAX MATTERS.

6.1 SECTION 197(f)(9). The parties hereto will use their respective reasonable efforts to amend the structure of the transactions contemplated hereby if necessary in order to avoid the application of the anti-churning rules of Section 197(f)(9) of the Code (PROVIDED that no party shall be required to agree to any changes that could materially adversely affect such party as determined in its sole discretion).

6.2 TAX PERIODS ENDING ON OR BEFORE THE DATE OF THE CLOSING. Notwithstanding anything to the contrary contained herein or in the Existing LLC Agreements or the Restated LLC Agreements, FAI and FAID shall prepare and file, or cause to be prepared and filed, on a timely basis all Tax Returns required to be filed by either of the LLCs with respect to taxable periods ending on or before the Closing Date (each, a "Pre-Closing Tax Period"), which income Tax Returns for the taxable period ending on the Closing Date shall include an election pursuant to Section 754 of the Code and any corresponding provisions of state or local law. FAI and FAID shall permit AMG to review and comment upon, at least twenty (20) days prior to the filing date, each Tax Return to be filed by either of the LLCs (other than routine withholding and similar Tax Returns), and shall incorporate any and all reasonable comments of AMG with regard to any item that would affect the Tax liability of either of the LLCs or any Person who will become a member of either of the LLCs at or following the Closing. FAI and FAID shall furnish AMG with copies of all U.S. federal and state income Tax Returns of the Friess Companies for the taxable year ending on the Closing Date no later than ten days prior to the last

date, including extensions, on which such Tax Returns are required to be filed with the relevant Taxing Authority. Notwithstanding anything to the contrary contained herein or in the Restated LLC Agreements, neither LLC shall file any Tax Return relating to a Pre-Closing Tax Period without the prior written consent of FAI, which consent shall not be unreasonably withheld. Expenses incurred in connection with such filings shall be borne by the LLCs out of their respective Operating Allocations (as defined in each of the respective LLC Agreements).

6.3 COOPERATION ON TAX MATTERS. AMG shall promptly notify FAI and FAID in writing of the commencement of any claim, audit, examination, or other proposed change or adjustment of which it or any of its Affiliates has been informed of by any Taxing Authority relating to Tax Returns of either of the LLCs for any Pre-Closing Tax Period (a "Tax Audit"). Such notice shall describe the asserted Tax Audit in reasonable detail and shall include copies of any notices and other documents received from any taxing authority in respect thereof. FAI and/or FAID may elect to control and settle any Tax Audit (including any subsequent court proceeding) at its own expense (including without limitation with respect to the payment of any Taxes resulting therefrom) to the extent it relates to a Pre-Closing Tax Period. AMG and each of the LLCs shall cooperate in reasonable respects with FAI and FAID in the defense of any such Tax Audit or proceeding. AMG, FAI, FAID and each of the Stockholders and Charities shall: (i) cooperate in the preparation of any Tax Returns which the others are responsible for preparing and filing, (ii) cooperate fully in preparing for any audits of, or disputes with taxing authorities regarding, any Tax liability of either of the LLCs, FAI, FAID or the Stockholders relating thereto with respect to Pre-Closing Tax Periods, (iii) make available to the others and to any taxing authority, as reasonably requested, all information, records and documents relating to any Tax liability of either of the LLCs, FAI, FAID or any of the Stockholders relating thereto with respect to Pre-Closing Tax Periods, (iv) provide timely written notice to AMG, FAI and FAID of any written notice received from any Taxing Authority in connection with any audit or information request with respect to any Tax liability of either of the LLCs, FAI, FAID or any Stockholder or Charity relating thereto with respect to Pre-Closing Tax Periods, and (v) furnish AMG, FAI and FAID with copies of all correspondence received from any Taxing Authority in connection with any audit or information request with respect to any tax liability of any of the LLCs, FAI, FAID or the Stockholders or Charities relating thereto with respect to Pre-Closing Tax Periods. In addition, AMG, FAI, FAID and each of the Stockholders and Charities agrees (A) to retain all books and records in its possession with respect to Tax matters pertinent to the Friess Companies and the LLCs relating to any taxable period beginning before the date of the Closing until the expiration of the statute of limitations (and, to the extent notified by AMG, FAI, FAID or any of the Stockholders or Charities, any extensions thereof) of the respective taxable periods, and to abide by all record retention agreements entered into with any Taxing Authority, and (B) to give FAI, FAID or AMG (as applicable) reasonable written notice prior to transferring, destroying or discarding any such books and records and, if any of the other parties so requests, AMG, FAI, FAID or any of the Stockholders or Charities, as the case may be, shall allow the other parties to take possession of such books and records.

6.4 OTHER TAX AND ACCOUNTING MATTERS. The parties hereto covenant and agree that neither the LLCs nor any other party hereto shall take a Tax deduction for any amount (as wages, compensation or otherwise) upon the issuance of new LLC Interests to the Non-Manager Members (as such term is defined in the Restated LLC Agreements) at the Closing. The parties



hereto covenant and agree that, at Closing, the books of the LLCs will not include any amortizable intangible assets for purposes of allocations to be made post-Closing under Article IV of the Restated LLC Agreements that arise from the creation or capitalization of the LLCs (including without limitation the Asset Transfers) or from any pre-Closing book-ups.

SECTION 7. REPRESENTATIONS AND WARRANTIES OF AMG.

7.1 MAKING OF REPRESENTATIONS AND WARRANTIES. As a material inducement to the Friess Companies, the Charities and the Stockholders to enter into this Agreement and consummate the transactions contemplated hereby, AMG hereby makes to each of the Friess Companies, the Charities and the Stockholders, as of the date hereof and as of the Closing Date, the representations and warranties contained in this Section 7.

7.2 ORGANIZATION. Each of AMG and FA (WY) Acquisition is a corporation, and FA (DE) Acquisition is a limited liability company, in each case duly organized, validly existing and in good standing under the laws of the State of Delaware with full power and authority to own or lease its assets and other properties and to conduct its business in the manner and in the places where such assets and other properties are owned or leased or such business is conducted by it.

7.3 AUTHORITY. AMG has full right, authority and power to enter into this Agreement and each agreement, document and instrument to be executed and delivered by AMG pursuant to or as contemplated by, this Agreement and to carry out the transactions contemplated hereby and thereby. The execution, delivery and performance by AMG of this Agreement and each such other agreement, document and instrument have been duly authorized by all necessary action of AMG and no other action on the part of AMG is required in connection therewith. This Agreement and each other agreement, document and instrument executed and delivered by AMG pursuant to this Agreement constitute, or when executed and delivered will constitute, valid and binding obligations of AMG enforceable in accordance with their terms, except as enforceability may be restricted, limited or delayed by applicable bankruptcy or similar laws affecting creditors' rights generally. The execution, delivery and performance by AMG of this Agreement and each such agreement, document and instrument and the consummation of the transactions contemplated hereby and thereby:

(i) does not and will not violate any provision of the Certificate of Incorporation or by-laws of AMG, each as amended to the date hereof;

(ii) does not and will not violate any Laws and Regulations applicable to AMG or require AMG to obtain any approval, consent or waiver of, or make any filing with, any person or entity (governmental or otherwise) which has not been obtained or made (other than any filings required to be made pursuant to the Exchange Act or with any stock exchange in connection with the transactions contemplated hereby); and

(iii) does not and will not result in a breach of, constitute a default under, accelerate any obligation under, or give rise to a right of termination of any agreement,



contract, instrument, mortgage, lien, lease, permit, authorization, order, writ, judgment, injunction, decree, determination or arbitration award to which AMG is a party and which is material to the business and financial condition of AMG and its affiliated organizations on a consolidated basis.

7.4 LITIGATION. There is no litigation or other action, suit or proceeding pending or, to the knowledge of AMG, threatened against AMG, FA (WY) Acquisition or FA (DE) Acquisition or, to AMG's knowledge, investigations, at law or in equity, by or before any federal, state, municipal or other governmental department, commission, bureau, board, agency or instrumentality, domestic or foreign (including, without limitation, any voluntary or involuntary proceedings under the Bankruptcy Code or any action, suit, proceeding or investigation under any Federal or state securities law, rule or regulation) in which AMG, FA (WY) Acquisition, FA (DE) Acquisition or any director, officer or employee of any of them is engaged or with which any of them is threatened which would reasonably be expected (individually or in the aggregate) to prevent the consummation by AMG of the transactions contemplated by this Agreement or the other agreements, documents and instruments contemplated hereby, or which seeks damages from any such Person in connection with the transactions contemplated hereby or thereby which would reasonably be expected (individually or in the aggregate) to have a Material Adverse Effect on AMG.

7.5 ACQUISITION FOR INVESTMENT. Each of AMG, FA (WY) Acquisition and FA (DE) Acquisition has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of its purchase of the LLC Interests. AMG represents and warrants that each of AMG, FA (WY) Acquisition and FA (DE) Acquisition is an "accredited investor" within the meaning of Rule 501 under the Securities Act. AMG confirms that the Stockholders, the Charities and the Friess Companies have made available to each of AMG, FA (WY) Acquisition and FA (DE) Acquisition the opportunity to ask questions of the Stockholders, the Charities and the Friess Companies and their officers and employees, and to acquire additional information about the business and financial condition of the Friess Companies and the LLCs. Each of AMG, FA (WY) Acquisition and FA (DE) Acquisition is acquiring the LLC Interests for investment and not with a view toward or for sale in connection with any distribution thereof in violation of any federal or state securities or "blue sky" law, or with any present intention of distributing or selling such shares in violation of any federal or state securities or "blue sky" law. Each of AMG, FA (WY) Acquisition and FA (DE) Acquisition understands and agrees that the LLC

Interests may not be sold, transferred, offered for sale, pledged, hypothecated or otherwise disposed of without registration under the Securities Act, except pursuant to an exemption from such registration available under the Securities Act, and without compliance with state, local and foreign securities laws, in each case, to the extent applicable.

7.6 DISCLOSURE. All written information provided by AMG specifically for inclusion in consent solicitation materials prepared for use by the Friess Companies in connection with the transactions contemplated by this Agreement at the time such information is provided will be accurate and complete in all material respects.



7.7 FINDER'S FEE. None of AMG, FA (WY) Acquisition or FA (DE) Acquisition has incurred, become liable for or otherwise entered into any contract or agreement with respect to any broker's commission, finder's fee or similar payment relating to or in connection with the transactions contemplated by this Agreement.

SECTION 8. COVENANTS OF AMG.

8.1 MAKING OF COVENANTS AND AGREEMENT. AMG hereby makes the covenants and agreements set forth in this Section 8.

8.2 COOPERATION OF AMG. AMG shall cooperate with all reasonable requests of the Friess Companies and their counsel in connection with the Friess Companies', the Stockholders' and the Charities' compliance with their covenants contained in Sections 5.2, 5.3 and 5.4 hereof. In addition, AMG shall cooperate fully, as and to the extent requested by the Friess Companies or their counsel or auditors, in connection with any litigation or other proceedings arising in connection with the transactions contemplated hereby (except to the extent a different standard is set forth in Section 6 hereof with respect to Tax matters).

8.3 NOTICE OF DEFAULT. Promptly upon the occurrence of, or promptly upon AMG becoming aware of the impending or threatened occurrence of, any event which would cause or constitute a breach or default, or would have caused or constituted a breach or default had such event occurred or been known to AMG prior to the date hereof, of any of the representations, warranties or covenants of AMG contained in or referred to in this Agreement or in any Schedule or Exhibit referred to in this Agreement, AMG shall give written notice thereof to the Friess Companies.

8.4 CONSUMMATION OF AGREEMENT. AMG shall use its reasonable best efforts to perform and fulfill all conditions and obligations to be performed and fulfilled by it under this Agreement and the Management Owners Purchase Agreement, to the end that the transactions contemplated by this Agreement and the Management Owners Purchase Agreement shall be fully carried out.

8.5 SECTION 15 OF THE INVESTMENT COMPANY ACT. Each of AMG, FAI, FAID and the Stockholders agrees to use its commercially reasonable efforts not to cause any Mutual Fund (other than a Subadvised Fund) to take any action that would cause the following to be untrue regarding Section 15(f) of the Investment Company Act with respect to any Mutual Fund (other than a Subadvised Fund): (i) For a period of not less than three years following the Closing, no more than twenty-five percent (25%) of the members of the board of directors of such Mutual Fund shall be "interested persons" (as defined in the Investment Company Act) of AMG, FAI, FAID or either LLC, and (ii) for a period of not less than two years following the Closing, neither LLC shall have any express or implied understanding, arrangement or intention to impose an "unfair burden" (as defined in the Investment Company Act) on such Mutual Fund as a result of the transactions contemplated herein.



SECTION 9. CONDITIONS TO THE OBLIGATIONS OF AMG.

The obligation of AMG to consummate the transactions contemplated by this Agreement is subject to the fulfillment (or waiver by AMG), prior to or at the Closing, of the following conditions precedent:

9.1 LITIGATION; NO OPPOSITION. No judgment, injunction, order or decree enjoining or prohibiting any of AMG, the Friess Companies, the LLCs, the Charities, the Stockholders, the Management Owners or other parties to this Agreement or any of the agreements, documents and instruments contemplated hereby from consummating the transactions contemplated hereby or thereby shall

have been entered, and no suit, action or proceeding shall have been initiated or threatened by any governmental body at any time prior to the Closing seeking to restrain or prohibit, or seeking damages or other relief in connection with, the execution and delivery of this Agreement or any of the agreements, documents and instruments contemplated hereby, or the consummation of the transactions contemplated hereby or thereby, or which could reasonably be expected to have a Material Adverse Effect on the Friess Companies, the LLCs or AMG.

9.2 REPRESENTATIONS, WARRANTIES AND COVENANTS.

(a) Each of the representations and warranties of FAI, FAID, FF, the Charities and each of the Stockholders contained in this Agreement, in any Schedule or Exhibit attached hereto, or in any other agreement, document, instrument or certificate contemplated hereby or otherwise made in writing by any of them or made by any person authorized by them to make representations on their behalf, in each case shall be true and complete in all material respects (except for such representations and warranties that are qualified by their terms as to materiality or Material Adverse Effect, which representations and warranties as so qualified shall be true in all respects) as of the date of this Agreement and at and as of the Closing; PROVIDED, HOWEVER, that (i) the accuracy of any representation or warranty that by its terms speaks only as of a specified date shall be determined solely as of such date, and (ii) the representations in Section 3.7 shall also be made with respect to assets under management and Advisory Contracts in effect as of a date which is no more than three (3) business days prior to the Closing (the "Calculation Date"), as reflected in an UPDATED SCHEDULE 3.7 containing all of the information required by Section 3.7(a) (set forth as of the Calculation Date instead of as of the Base Date) and delivered to AMG at least two business days prior to the Closing.

(b) Each of the agreements to be performed by FAI, FAID, each of the Charities and each of the Stockholders hereunder and under the other agreements, documents and instruments contemplated hereby at or prior to the Closing shall have been duly performed in all material respects.

(c) FAI, FAID, FF, the Charities and each of the Stockholders shall have furnished AMG with a certificate or certificates dated as of the date of the Closing with respect to each of the foregoing (including without limitation the UPDATED SCHEDULE 3.7 to be delivered prior to the Closing).



9.3 CLIENT CONSENTS. (a) Clients of the WY LLC whose Advisory Contracts provide for the payment to the WY LLC (based on the Contract Value of each such Advisory Contract) of fees constituting at least ninety percent (90%) of the Base Fees shall have provided their Consents with respect to the transactions contemplated hereby, and Advisory Contracts which (based on their Contract Values) represent at least ninety percent (90%) of the Base Fees shall survive the Closing and then be in full force and effect with the WY LLC; PROVIDED that Advisory Contracts with Related Clients (or with Mutual Funds or other collective investment vehicles in which Related Clients are investors, to the extent of the investments by such Related Clients) shall not count towards the satisfaction of this condition to the extent their aggregate Contract Values exceeds two hundred and seventy five million dollars ($275,000,000).

For purposes of this Agreement:

(i) "Base Fees" shall be equal to $72,492,930.44.

(ii) "Consent" shall mean:

(A) With respect to a Client whose Advisory Contract is in effect as of the date of this Agreement and by its terms or under applicable Laws and Regulations terminates upon the consummation of the transactions contemplated hereby (including without limitation each Advisory Contract with a Mutual Fund that is in effect as of the date of this Agreement), that the WY LLC shall have entered into a new Advisory Contract with such Client on substantially identical terms (and identical with respect to fees) as the Advisory Contract existing (I) between one of the Friess Companies and such Client as of the Base Date, in the case of any Client that was a Client of the Friess Companies as of the Base Date, or (II) between the WY LLC and such Client as of the date of this Agreement, in the case of any Client of the WY LLC that was not a Client of the Friess Companies as of the Base Date, which new Advisory Contract has been duly authorized and approved under all applicable Laws and Regulations (including without limitation with respect to each Mutual Fund, by its Mutual Fund Board Approval and Mutual Fund Shareholder Approval having been obtained and remaining in full force and effect) and is effective after giving effect to the Closing;

(B) With respect to a Client whose Advisory Contract is in effect as of the date of this Agreement and does not (by its terms or under applicable Laws and Regulations) terminate upon the consummation of the transactions contemplated hereby, that the WY LLC shall have (I) obtained the requisite consent of such Client (other than a New Contract Client) to the continuation of such Advisory Contract following the consummation of the transactions contemplated hereby in accordance with Section 5.2 (which consent has been duly obtained by the WY LLC under all applicable Laws and Regulations), and such Advisory Contract will remain in full force and effect between the WY LLC and such Client (and will not have been breached) after giving effect to the Closing, or (II) obtained the requisite consent of such New Contract Client (in the case of any



New Contract Client) to the continuation of its New Advisory Contract following the consummation of the transactions contemplated hereby in accordance with Section 5.2, together with its New Advisory Contract executed on behalf of such New Contract Client (which consent has been duly obtained by the WY LLC, and New Advisory Contract has been duly executed and delivered by such Client, under all applicable Laws and Regulations), and such New Advisory Contract will remain in full force and effect between the WY LLC and such New Contract Client (and will not have been breached by the WY LLC) immediately after giving effect to the Closing; and

(C) With respect to a Client whose Advisory Contract is entered into after the date of this Agreement, that the WY LLC shall have obtained the written consent of such Client to the continuation of such Advisory Contract following the consummation of the transactions contemplated hereby in accordance with Section 5.2 (which consent has been duly obtained by the WY LLC under all applicable Laws and Regulations), and such Advisory Contract will remain in full force and effect between the WY LLC and such Client (and will not have been breached) after giving effect to the Closing.

Notwithstanding the foregoing, (i) no Client of the WY LLC shall be deemed to have given its Consent for any purpose under this Agreement if such Client has (A) expressed an intent to terminate its investment relationship with the WY LLC (and not subsequently withdrawn such statement of intention prior to the Closing or the Closing True-Up Date, as applicable) or (B) otherwise objected to the consummation of the transactions contemplated hereby (and not subsequently withdrawn such objection prior to the Closing or the Closing True-Up Date, as applicable)), and (ii) no Client of the WY LLC shall be deemed to have given its Consent, solely for purposes of Section 1.2(b) hereof and the conditions set forth in this Section 9.3, if following the date of this Agreement and prior to the Closing, such Client either (A) reduced, or expressed an intent to reduce, its assets under management by the WY LLC by more than 15% (such 15% to be measured from the amount of assets under management by the WY LLC pursuant to such Advisory Contract on the Base Date (in the case of any Advisory Contract that was in effect as of the Base Date) or on the date such Advisory Contract was entered into by the WY LLC (in the case of any Advisory Contract that became effective after the Base Date) or (B) reduced, or expressed an intent to reduce, the fee schedule in effect under such Advisory Contract by more than 15% (such 15% to be measured from the fee schedule in effect on the Base Date (in the case of any Advisory Contract that was in effect as of the Base Date) or on the date such Advisory Contract was entered into by the WY LLC (in the case of any Advisory Contract that became effective after the Base Date).

In the event that any of the Friess Companies, the LLCs, the Stockholders or any of their respective directors, officers, employees, representatives or agents, has agreed or entered into an understanding to cap, reduce, waive, reimburse or otherwise modify the fees payable by a Client with respect to one or more of its Advisory Contracts in connection with obtaining such Client's Consent to the transactions contemplated hereby,



AMG and the Friess Companies shall negotiate in good faith in an attempt to agree in writing (which agreement, if any, shall be binding upon all of

the parties hereto) to a reasonable adjustment to the Contract Value of such Advisory Contract(s) in light of such modification for purposes of this Agreement (PROVIDED, HOWEVER, that, in the absence of such an agreement between AMG and the Friess Companies, such Client shall be deemed not to have given its Consent for any purpose under this Agreement).

(iii) "Contract Value" shall mean:

(A) With respect to an Advisory Contract which was in effect with one of the Friess Companies on the Base Date (or any new Advisory Contract replacing such an Advisory Contract that was in effect on the Base Date and will by its terms or under applicable Laws and Regulations terminate upon the consummation of the transactions contemplated hereby), the annual advisory and other asset-based fees (other than any incentive or performance-based fees) payable to the WY LLC thereunder based upon the fee schedule set forth in such Advisory Contract and the assets under management pursuant to such Advisory Contract as of the Base Date (adjusted for any additions, withdrawals and/or reinvestments of dividends and distributions by the Client (and/or by investors in the Client, in the case of an Advisory Contract with a Client that is a collective investment vehicle), and for any adjustments to the fee schedule in effect under such Advisory Contract (or under the prior Advisory Contract that was in effect on the Base Date, in the case of any new Advisory Contract replacing a terminating Advisory Contract), in each case from the Base Date to the Closing or the Closing True-Up Date, as applicable, PROVIDED that such assets under management and fee schedule payable pursuant to such Advisory Contract also shall be reduced (but, for the avoidance of doubt, in no event increased) for purposes of calculating the Contract Value thereof to the extent that the Client party thereto has, on or prior to the Closing Date or the Closing True-Up Date (as applicable), expressed (and not subsequently withdrawn) an intent to reduce such assets under management or fee schedule in effect pursuant to such Advisory Contract (but not yet effected such reduction in its entirety)); and

(B) With respect to an Advisory Contract which was entered into after the Base Date (or any new Advisory Contract replacing such an Advisory Contract that was entered into after the Base Date and will by its terms or under applicable Laws and Regulations terminate upon the consummation of the transactions contemplated hereby), the annual advisory and other asset-based fees (other than any incentive or performance-based fees) payable to the WY LLC thereunder based on the fee schedule set forth in such Advisory Contract and the assets under management pursuant to such Advisory Contract as of the date of such Advisory Contract (adjusted for any additions, withdrawals and/or reinvestments of dividends and distributions by the Client (and/or by investors in the Client, in the case of an Advisory Contract with a Client that is a collective investment vehicle), and for any adjustments to the fee schedule in effect under such Advisory Contract (or under the prior Advisory Contract, in the case of any



new Advisory Contract replacing a terminating Advisory Contract), in each case from the date such Advisory Contract (or the prior Advisory Contract, in the case of a terminating Advisory Contract that is being replaced by a new Advisory Contract) was entered into to the Closing or the Closing True-Up Date, as applicable, PROVIDED that such assets under management and fee schedule payable pursuant to such Advisory Contract also shall be reduced (but, for the avoidance of doubt, in no event increased) for purposes of calculating the Contract Value thereof to the extent that the Client party thereto has, on or prior to the Closing Date or the Closing True-Up Date (as applicable), expressed (and not subsequently withdrawn) an intent to reduce such assets under management or fee schedule in effect pursuant to such Advisory Contract (but not yet effected such reduction in its entirety)).

(b) With respect to each Mutual Fund (other than a Subadvised Fund), its Mutual Fund Board Approval and Mutual Fund Shareholder Approval shall have been obtained and shall remain in full force and effect.

(c) At the Closing, FAI, FAID and each of the Stockholders shall have delivered a certificate to AMG certifying as to compliance with the conditions set forth in this Section 9.3, which certificate includes the calculation of compliance in reasonable detail (including without limitation the

UPDATED SCHEDULE 3.7 to be delivered prior to the Closing) and has attached thereto evidence of Consents reasonably satisfactory to AMG.

9.4 REGISTRATION AS AN INVESTMENT ADVISER AND REGISTRATION OF INVESTMENT ADVISER REPRESENTATIVES.

(a) (i) The DE LLC shall have filed the New ADV and the New ADV shall have become effective, and each of the LLCs shall be a registered investment adviser, and (ii) each of the LLCs shall have made appropriate filings under the laws of each state where such filings are necessary or advisable to enable such LLC, after giving effect to the Closing and the DE LLC Asset Transfer, to conduct the business presently conducted by FAI, FAID and the WY LLC, as applicable.

(b) All applicable employees of FAI, FAID, the WY LLC and the DE LLC shall have become registered as investment adviser representatives (within the meaning of Rule 203A-3(a) under the Advisers Act) of the WY LLC or the DE LLC (as applicable) under the laws of each state where such a registration is necessary or advisable to enable the LLCs, after giving effect to the Closing and the DE LLC Asset Transfer, to conduct the business presently conducted by the Friess Companies and the WY LLC.

9.5 OTHER APPROVALS. Except to the extent otherwise specifically provided for in this Agreement, all actions by or in respect of, or filings with, any governmental body, agency, or official or authority required to permit the consummation of the transactions contemplated hereby and by the Management Owner Purchase Agreement so that, after the Closing and the DE LLC Asset Transfer, the LLCs shall be able to carry on the business presently being conducted by the Friess Companies and the WY LLC, in all material respects in the manner now conducted



by the Friess Companies and the WY LLC, shall have been taken, made or obtained, and all other material permits, approvals, consents, Licenses or other actions necessary to consummate the transactions hereunder and under the Management Owner Purchase Agreement and permit such carrying out of the business by the LLCs (including without limitation each of the approvals, consents and waivers set forth in SCHEDULE 3.5 hereto) shall have been received or taken, and none of such permits, approvals, consents or Licenses shall contain any provisions which, in the reasonable judgment of AMG, are unduly burdensome.

9.6 TRANSFER. (a) All customary actions which AMG reasonably requests in order to permit the transactions contemplated by the Asset Transfer Agreements (and the schedules and exhibits thereto) to be fully carried out shall have occurred, (b) the DE LLC Asset Transfer Agreements and the agreements which are exhibits thereto, and any other customary instruments of transfer as AMG shall reasonably request in connection therewith, shall have been executed and delivered to AMG, and (c) the WY LLC Asset Transfer Agreements and the agreements which are exhibits thereto, and any other customary instruments of transfer as AMG shall reasonably request in connection therewith, shall remain in full force and effect.

9.7 RESTATED LLC AGREEMENTS. The Restated LLC Agreements shall have become effective, shall remain in full force and effect and shall not have been breached by any party thereto.

9.8 EMPLOYMENT AGREEMENTS. (a) Each of the Employment Agreements shall remain in full force and effect and shall not have been breached by any party thereto and (b) the employee party to such Employment Agreement shall (i) remain employed by one of the LLCs as of the Closing on a full-time basis, (ii) be a Non-Manager Member of both of the LLCs (effective as of the Closing) and (iii) have sold his previously existing membership interest in the WY LLC to FA (WY) Acquisition pursuant to the Management Owner Purchase Agreement.

9.9 NON-SOLICITATION AGREEMENTS. (a) Each of the Non-Solicitation Agreements shall remain in full force and effect and (b) at least six (6) of the seven (7) employees who are parties to Non-Solicitation Agreements as of the date hereof shall (i) remain employed by one of the LLCs as of the Closing on a full-time basis, (ii) be Non-Manager Members of both of the LLCs (effective as of the Closing), (iii) have complied with his or her Non-Solicitation Agreement in all material respects, and (iv) have sold his or her previously existing membership interest in the WY LLC to FA (WY) Acquisition pursuant to the Management Owner Purchase Agreement; PROVIDED, HOWEVER, that, in the event of the death of any employee party to a Non-Solicitation Agreement prior to the Closing, the requirement in clause (b) of this Section 9.9 shall be reduced from six (6) employees to five (5) employees.

9.10 NET WORTH AND WORKING CAPITAL OF THE LLCS. As of the Closing

(after giving effect to the DE LLC Asset Transfer, and taking into account all transaction costs of the Friess Companies, the Stockholders, the LLCs and the Management Owners), the LLCs shall have (i) a combined tangible net worth (determined in accordance with GAAP using the accrual based method of accounting, consistently applied, but excluding any accounts receivable owed to the LLCs by any Stockholder, any Affiliate of either Friess Company, either LLC or any Stockholder, or any other director, officer or employee of any of the foregoing) of at least



$7,200,000, and (ii) combined working capital (defined as current assets less current liabilities) of at least $5,900,000, all of which shall consist of cash. AMG shall be provided with a certificate at the Closing from the chief financial officer of each of the Friess Companies representing that the conditions contained in this Section 9.10 are complied with.

9.11 DELIVERY. Each of the Friess Companies, the Charities and the Stockholders shall have executed (where applicable) and delivered to AMG (or shall have caused to be executed and delivered to AMG by the appropriate Person, including without limitation the LLCs and the Management Owners) the following:

(a) the DE LLC Asset Transfer Agreement (including all agreements and documents which are schedules thereto) and all such other customary documents of transfer and assignment as AMG may reasonably have requested in connection therewith;

(b) certified copies of resolutions of the board of directors and stockholders of each of the Friess Companies, and the applicable governing body of each of the Charities, authorizing the execution of this Agreement and each of the agreements, documents and instruments contemplated hereby to which either of the Friess Companies or the Charities (as applicable) is a party (and which FAID executes on behalf of the DE LLC or FAI executes on behalf of the WY LLC, where applicable);

(c) a copy of the Articles of Incorporation and by-laws of FAI which, in the case of the Articles of Incorporation, is certified as of a recent date by the Department of State of the State of Delaware;

(d) a copy of the Articles of Incorporation and by-laws of FAID which, in the case of the Articles of Incorporation, is certified as of a recent date by the Department of State of the State of Delaware;

(e) a copy of the Certificate of Formation of each of the LLCs certified as of a recent date by the Secretary of State of the State of Delaware;

(f) a copy of each of the Existing LLC Agreements of each of the LLCs as in effect immediately prior to the restatement into the Restated LLC Agreements;

(g) a certificate issued by the appropriate Secretary of State of each state in which each of the Friess Companies and the WY LLC and, with respect to the DE LLC, after giving effect to the DE LLC Asset Transfer, the DE LLC does business and is required to be qualified as a foreign company or foreign limited liability company, as applicable, certifying that each of the Friess Companies and the LLCs, as applicable, is in good standing in such state as of the most recent practicable date;

(h) true and complete copies of each of the agreements, documents and instruments contemplated hereby (including, without limitation, the Restated LLC Agreements), and all agreements, documents, instruments and certificates delivered or to be delivered in connection therewith;



(i) a certificate of the Secretary of each the Friess Companies, on behalf of the Friess Companies, and of FF as a Director of each of the LLCs, on behalf of the respective LLC, certifying that the resolutions of the Friess Companies, the Articles of Incorporation, the Existing LLC Agreements, the Asset Transfer Agreements, the Existing Charity Assignment Agreements and the by-laws in paragraphs (b), (c), (d) and (f) above are in full force and effect and have not been amended or modified, and that the officers of such corporation or limited liability company are those persons named in the certificate, and a certificate of a senior officer of each the Charities certifying that the resolutions of the Charities in paragraph (b) above are in full force and effect and have not been amended or modified, and that the officers of such Charity are

those persons named in the certificate;

(j) (i) an opinion from Skadden, Arps, Slate, Meagher & Flom LLP, as counsel to the Friess Companies and the Stockholders, in the form of EXHIBIT 9.11(j)(i) hereto, (ii) opinions from internal or outside counsel to each of the Charities, in each case in form and substance reasonably acceptable to AMG and its counsel and the Friess Companies and their counsel containing customary opinions with respect to (1) transfer of the WY LLC Interests free and clear of any Claims (2) due authorization of this Agreement and the transactions contemplated hereby, (3) enforceability of this Agreement and (4) no conflicts with the organizational documents or other agreements of such Charity or with applicable law, (iii) an opinion from McGuire Woods, LLP, as regulatory counsel to the Friess Companies and the Mutual Funds sponsored by the Friess Companies, in the form of EXHIBIT 9.11(j)(iii) hereto, (iv) an opinion from Richards, Layton & Finger, as counsel to the Friess Companies, in substantially the form of EXHIBIT 9.11(j)(iv) hereto, (v) one or more opinions from counsel to the Majority Management Owners (other than FF) or the Friess Companies, in either such case with respect to substantially the same matters regarding the Majority Management Owners (other than FF) as are covered in the opinion delivered pursuant to clause (i) hereof with respect to FF, and (vi) an opinion from counsel to each of the Mutual Funds (other than the Subadvised Funds) with respect to customary matters (including without limitation the Mutual Fund Board Approval and Mutual Fund Shareholder Approval of each such Mutual Fund) and in form and substance reasonably acceptable to AMG;

(k) a release of the LLCs from all liabilities, other than those arising out of the transactions and agreements contemplated hereby, from each of the Stockholders, in each case in the form attached hereto as EXHIBIT 9.11(k);

(l) from each Friess Company, a "transferor's certificate of non-foreign status" as provided in the Treasury Regulations under Section 1445 of the Code in the form attached hereto as EXHIBIT 9.11(l); and

(m) such other certificates and documents as are required hereby or are customary and reasonably requested by AMG (and, including without limitation, copies of any side letters or other agreements entered into among the Friess Companies, the Charities and/or any of the Stockholders in connection with this Agreement and the transactions contemplated hereby).



9.12 INSURANCE. AMG shall have received such evidence as it shall deem necessary or appropriate as to the insurability of each of the Majority Management Owners with respect to both key-man life insurance and disability insurance policies, in such amounts as AMG shall reasonably have determined. Each of the LLCs shall have in place insurance policies as contemplated by Section 3.19.

9.13 POLICIES AND PROCEDURES. Each of the LLCs and its employees shall have adopted such Code of Ethics, Insider Trading Policies and Supervisory Procedures Manuals as are reasonably acceptable to AMG.

9.14 MUTUAL FUND BOARDS. No more than 25% of the members of the board of directors of any Mutual Fund shall be "interested persons" (as defined in the Investment Company Act) of AMG, the Friess Companies or any Affiliates of any of them for purposes of Section 15(f)(1)(A) of the Investment Company Act. With respect to each Mutual Fund (other than a Subadvised Fund), the Mutual Fund Shareholder Approval of such Mutual Fund has been obtained with respect to the slate of directors set forth in the proxy statement distributed to the shareholders of such Mutual Fund in accordance with Section 5.2(c) hereof.

SECTION 10. CONDITIONS TO OBLIGATIONS OF THE FRIESS COMPANIES, THE CHARITIES AND THE STOCKHOLDERS.

The obligation of each of the Friess Companies, the Charities and the Stockholders to consummate the transactions contemplated by this Agreement is subject to the fulfillment (or waiver by the Friess Companies, on their own behalf and on behalf of the Stockholders and the Charities, PROVIDED that the Friess Companies shall not be authorized to waive the condition contained in Section 10.1 on behalf of the Charities), prior to or at the Closing, of the following conditions precedent:

10.1 NO LITIGATION; NO OPPOSITION. No judgment, injunction, order or decree enjoining or prohibiting any of AMG, the Friess Companies, the Charities, the LLCs, the Stockholders, the Management Owners or other parties to this Agreement or any of the agreements, documents and instruments contemplated hereby, from consummating the transactions contemplated hereby, or thereby shall have been entered, and no suit, action or proceeding shall have been initiated or threatened by any governmental body prior to the Closing seeking to restrain

or prohibit the execution and delivery of this Agreement or any of the agreements, documents or instruments contemplated hereby or the consummation of the transactions contemplated hereby or thereby.

10.2 REPRESENTATIONS, WARRANTIES AND COVENANTS.

(a) Each of the representations and warranties of AMG contained in this Agreement, in any Schedule or Exhibit attached hereto, or in any other agreement, document, instrument or certificate contemplated hereby or otherwise made in writing by any of AMG or made by any person authorized by AMG to make representations on its behalf, in each case shall



be true and correct in all material respects (except for such representations and warranties that are qualified by their terms as to materiality, which representations or warranties as so qualified shall be true in all respects) as of the date of this Agreement and at and as of the Closing; PROVIDED, HOWEVER, that the accuracy of any representation or warranty that by its terms speaks only as of a specified date shall be determined solely as of such date.

(b) Each of the agreements to be performed by AMG hereunder and under the other agreements, documents and instruments contemplated hereby at or prior to the Closing shall have been duly performed in all material respects.

(c) AMG shall have furnished the Friess Companies, the Stockholders and the Charities with a certificate dated as of the date of the Closing to the foregoing effect.

10.3 ADVISORY CLIENT CONSENT. The conditions set forth in Section 9.3 shall have been met (PROVIDED that the condition contained in this Section 10.3 shall not be applicable in the event that a breach by either of the Friess Companies or any of the Stockholders of its covenants or agreements under this Agreement has been the cause of, or resulted in, the conditions set forth in Section 9.3 not being met).

10.4 DELIVERY. AMG shall have executed and delivered to the Friess Companies the following:

(a) certified copies of resolutions of the board of directors of AMG authorizing the execution of this Agreement and each of the other agreements, documents or instruments contemplated hereby to which AMG is a party;

(b) a certificate issued by the Secretary of State of the State of Delaware certifying that AMG is validly existing and in good standing in Delaware as of the most recent practicable date;

(c) true and complete copies of each of the agreements, documents and instruments contemplated hereby (including, without limitation, the Restated LLC Agreements) to which AMG is a party, and all agreements, documents, instruments and certificates delivered or to be delivered in connection therewith by AMG;

(d) a certificate of the Secretary of AMG certifying that the resolutions in paragraph (a) above are in full force and effect and have not been amended or modified, and that the officers of AMG are those persons named in the certificate; and

(e) an opinion from outside or internal counsel to AMG, FA (WY) Acquisition and FA (DE) Acquisition with respect to those matters set forth on EXHIBIT 10.4(e) hereto.

10.5 REGISTRATION AS AN INVESTMENT ADVISER. Each of the LLCs shall be a registered investment adviser under the Advisers Act.



10.6 OTHER APPROVALS. Except to the extent otherwise specifically provided for in this Agreement, all actions by or in respect of, or filings with, any governmental body, agency, or official or authority required to permit the consummation of the transactions contemplated hereby and by the Management Owner Purchase Agreement so that, after the Closing and the DE LLC Asset Transfer, the LLCs shall be able to carry on the business presently being conducted by the Friess Companies and the WY LLC, in all material respects in the manner now conducted by the Friess Companies and the WY LLC, shall have been taken, made or obtained, and all other material permits, approvals, consents, Licenses or other actions necessary to consummate the transactions hereunder and

under the Management Owner Purchase Agreement and permit such carrying out of the business by the LLCs (including without limitation each of the approvals, consents and waivers set forth in SCHEDULE 3.5 hereto) shall have been received or taken (PROVIDED that the condition contained in this Section 10.6 shall not be applicable in the event that a breach by either of the Friess Companies, either of the Charities or any of the Stockholders of its covenants or agreements under this Agreement has been the cause of, or resulted in, the conditions set forth in this Section 10.6 not being met).

10.7 SECTION 15 COMPLIANCE. No more than 25% of the members of the board of directors of any Mutual Fund shall be "interested persons" (as defined in the Investment Company Act) of AMG, the Friess Companies or any Affiliates of any of them for purposes of Section 15(f)(1)(A) of the Investment Company Act. With respect to each Mutual Fund (other than a Subadvised Fund), the Mutual Fund Shareholder Approval of such Mutual Fund has been obtained with respect to the slate of directors set forth in the proxy statement distributed to the shareholders of such Mutual Fund in accordance with Section 5.2(c) hereof.

SECTION 11. TERMINATION OF AGREEMENT; RIGHTS TO PROCEED.

11.1 TERMINATION. At any time prior to the Closing, this Agreement may be terminated as follows:

(a) by mutual written consent of AMG and each of the Friess Companies (on their own behalf and on behalf of the Stockholders and the Charities);

(b) by AMG, pursuant to written notice by AMG to the Friess Companies, if any of the conditions set forth in Section 9 of this Agreement have not been satisfied at or prior to February 28, 2002, or if it has become reasonably and objectively certain that any of such conditions will not be satisfied at or prior to such date, such written notice to set forth such conditions which have not been or will not be so satisfied (in each case subject to AMG's right to elect to proceed pursuant to its rights under Section 11.3 hereof); PROVIDED, HOWEVER, that the right to terminate this Agreement pursuant to this Section 11.1(b) shall not be available to AMG if AMG's breach of this Agreement has been the cause of, or resulted in, the failure of such conditions to be satisfied by such date; and

(c) by the Friess Companies (on their own behalf and on behalf of the Stockholders and the Charities), pursuant to written notice to AMG, if any of the conditions set forth in Section 10 of this Agreement have not been satisfied at or prior to February 28, 2002, or



if it has become reasonably and objectively certain that any of such conditions, will not be satisfied at or prior to such date, such written notice to set forth such conditions which have not been or will not be so satisfied (in each case subject to the Friess Companies' right to elect to proceed pursuant to their rights under Section 11.3 hereof); PROVIDED, HOWEVER, that the right to terminate this Agreement pursuant to this Section 11.1(c) shall not be available to the Friess Companies if either of the Friess Companies', the Charities' or any Stockholder's breach of this Agreement has been the cause of, or resulted in, the failure of such conditions to be satisfied by such date.

11.2 EFFECT OF TERMINATION. All obligations of the parties hereunder shall cease upon any termination pursuant to Section 11.1; PROVIDED, HOWEVER, that (a) the provisions of this Section 11, Section 5.13 and the provisions of Section 15 hereof shall survive any termination of this Agreement; and (b) nothing herein shall relieve any party from any liability for (i) any material breach of a representation or warranty of such party contained herein (except for such representations and warranties that are qualified by their terms as to materiality or Material Adverse Effect, with respect to which a party shall be liable for any breach) as of the date such representation or warranty was made, PROVIDED that no party shall have liability for any material breach of representation or warranty unless such party knew or should have known of such breach at the time such representation or warranty was made or (ii) any failure to perform and satisfy in all material respects all of the agreements and covenants of such party to be performed hereunder and under the agreements, documents and instruments contemplated hereby at or prior to the Closing.

11.3 RIGHT TO PROCEED. Anything in this Agreement to the contrary notwithstanding, (i) if any of the conditions specified in Section 9 hereof have not been satisfied, AMG shall have the right to elect to proceed with the transactions contemplated hereby without waiving any of its rights hereunder, (ii) if any of the conditions specified in Section 10 hereof have not been satisfied, the Friess Companies shall have the right to elect (on their own behalf and on behalf of the Charities and the Stockholders, PROVIDED that the

Friess Companies shall not be authorized to waive the condition contained in Section 10.1 on behalf of the Charities) to proceed with the transactions contemplated hereby without waiving any of their respective rights hereunder, and (iii) ) if the condition specified in Section 10.1 hereof has not been satisfied with respect to a Charity, such Charity shall have the right to elect to proceed with the transactions contemplated hereby without waiving any of its rights hereunder.

SECTION 12. SUBSEQUENT CLOSING.

12.1 GENERAL. Upon the terms, and (solely in the case of AMG's obligations under this Section 12) subject to the conditions, contained in this Section 12, AMG hereby agrees:

(i) To cause FA (WY) Acquisition to purchase from FAI, and FAI hereby agrees to sell to FA (WY) Acquisition, at the Subsequent Closing that number of LLC Points (as defined in the Restated WY LLC Agreement) of the WY LLC (including



without limitation the Capital Account (as defined in the Restated WY LLC Agreement) then associated therewith) equal to the product of (A) a fraction, the numerator of which is nineteen (19) and the denominator of which is thirty four (34), multiplied by (B) the number of LLC Points of the WY LLC owned of record by FAI as of immediately following the Closing (the "FAI WY LLC Subsequent Purchase"); and

(ii) To cause FA (DE) Acquisition to purchase from FAID, and FAID hereby agrees to sell to FA (DE) Acquisition, at the Subsequent Closing that number of LLC Points (as defined in the Restated DE LLC Agreement) of the DE LLC (including without limitation the Capital Account (as defined in the Restated DE LLC Agreement) then associated therewith) equal to the product of (A) a fraction, the numerator of which is nineteen (19) and the denominator of which is thirty four (34), multiplied by (B) the number of LLC Points of the DE LLC owned of record by FAID as of immediately following the Closing (the "FAID DE LLC Subsequent Purchase" and, collectively with the FAI WY LLC Subsequent Purchase, the "Subsequent Purchase").

12.2 SUBSEQUENT PURCHASE PRICE; DELIVERY OF LLC POINTS.

(a) Upon the terms, and (solely in the case of AMG's obligations under this Section 12) subject to the conditions, contained in this Section 12, at the Subsequent Closing:

(i) AMG shall cause FA (WY) Acquisition to deliver by wire transfer to FAI, at a bank account to be designated in writing by FAI to AMG at least three (3) business days prior to the Subsequent Closing Date, an aggregate amount equal to the WY LLC Subsequent Purchase Price, in immediately available funds, in full consideration for the sale to FA (WY) Acquisition of all of the WY LLC Points to be purchased at the Subsequent Closing; and

(ii) AMG shall cause FA (DE) Acquisition to deliver by wire transfer to FAID, at a bank account to be designated in writing by FAID to AMG at least three (3) business days prior to the Subsequent Closing Date, an aggregate amount equal to the DE LLC Subsequent Purchase Price, in immediately available funds, in full consideration for the sale to FA (DE) Acquisition of all of the DE LLC Points to be purchased at the Subsequent Closing.

(b) Within ten (10) business days following the date which is forty-five (45) days after the Subsequent Closing Date (the "Subsequent Closing True-Up Date"), AMG hereby agrees to cause FA (WY) Acquisition to deliver by wire transfer to FAI, and to be paid to the same bank account used for the payment of the WY LLC Subsequent Purchase Price (except to the extent FAI shall have designated another bank account to AMG in writing at least two (2) business days prior to the Subsequent Closing True-Up Date), an aggregate amount equal to the Post-Subsequent Closing True-Up Payment (if any).

(c) Not later than two (2) business days prior to the Subsequent Closing Date, the Friess Companies shall deliver to AMG (i) an UPDATED SCHEDULE 3.7 containing all of the information required by Section 3.7(a) (set forth as of three (3) business days prior to the

Subsequent Closing Date instead of as of the Base Date, but excluding the information required under Section 3.7(a)(vi)) with respect to each of the Advisory Contracts of the WY LLC as of such date and (ii) the calculation of the WY LLC Subsequent Purchase Price in reasonable detail, certified by FAI, FAID and each of the Stockholders (which certification shall constitute a representation and warranty to AMG under this Agreement) as being true and correct and having attached thereto such evidence of the underlying information resulting in such WY LLC Subsequent Purchase Price as is reasonably satisfactory to AMG.

(d) Promptly (and in any event within three (3) business days) following the Subsequent Closing True-Up Date, the Friess Companies shall deliver to AMG (i) an UPDATED SCHEDULE 3.7 containing all of the information required by Section 3.7(a) (set forth as of the Subsequent Closing True-Up Date instead of as of the Base Date, but excluding the information required under Section 3.7(a)(vi)) with respect to each of the Advisory Contracts excluded from the calculation of the WY LLC Subsequent Closing Purchase Price by the operation of clause (i) or clause (ii) of paragraph (b) of the definition of "WY LLC Subsequent Closing Purchase Price" and (ii) the calculation of the Post-Subsequent Closing True-Up Payment (if any) in reasonable detail, certified by FAI, FAID and each of the Stockholders (which certification shall constitute a representation and warranty to AMG under this Agreement) as being true and correct and having attached thereto such evidence of the underlying information resulting in such Post-Subsequent Closing True-Up Payment as is reasonably satisfactory to AMG.

(e) At the Subsequent Closing, upon the terms, and (solely in the case of AMG's obligations under this Section 12) subject to the conditions, contained in this Section 12, (i) FAI shall deliver to FA (WY) Acquisition that number of LLC Points of the WY LLC to be purchased at the Subsequent Closing, and each of FAI and FA (WY) Acquisition shall execute and deliver to the other a Transfer Agreement in the form of EXHIBIT 12.2(e) hereto, and (ii) FAID shall deliver to FA (DE) Acquisition the number of LLC Points of the DE LLC to be purchased at the Subsequent Closing, and each of FAID and FA (DE) Acquisition shall execute and deliver to the other a Transfer Agreement in the form of EXHIBIT 12.2(e), hereto. Neither the approval of the Management Committee nor of any Non-Manager Member of either LLC (each as defined in the Restated LLC Agreements) shall be required in connection with the transfer of LLC Points to FA (WY) Acquisition and FA (DE) Acquisition at the Subsequent Closing (and each of the Stockholders hereby acknowledges and agrees to such potential transfer of LLC Points).

(f) Each of the LLCs agrees to cooperate and assist the Friess Companies in all reasonable respects (with the expenses thereof to be borne out of the Operating Allocation, as such term is defined in the Restated LLC Agreements) to permit the Friess Companies to make the calculations and deliver the information required to be delivered by them to AMG pursuant to this Section 12.

12.3 TIME AND PLACE OF SUBSEQUENT CLOSING. The closing of the Subsequent Purchase provided for in this Section 12 (the "Subsequent Closing") shall be held at the offices of Simpson Thacher & Bartlett, 425 Lexington Avenue, New York, New York at 10:00 a.m. local time on the third anniversary of the Closing Date, or if such date is not a business day, on the next succeeding business day (the "Subsequent Closing Date") or at such other place or time



as may be mutually agreed upon in writing by AMG and the Friess Companies; PROVIDED, HOWEVER, that, in the event there is an indemnification claim asserted by an AMG Indemnified Party prior to the third anniversary of the Closing Date which has not been resolved to the satisfaction of AMG prior to the third anniversary of the Closing Date, AMG shall be permitted to unilaterally postpone the Subsequent Closing Date, by not less than three (3) business days written notice of such postponement to FAI and FAID, until such time as such indemnification claim has been resolved to the satisfaction of AMG (and the determination of the WY LLC Subsequent Purchase Price, the DE LLC Subsequent Purchase Price and the Post-Subsequent Closing True-Up Payment (if any) shall thereby be commensurately postponed), subject to the subsequent termination of such postponement period by AMG upon not less than three (3) business days' written notice thereof to FAI and FAID; PROVIDED, FURTHER, that, in the event that AMG has elected to postpone the Subsequent Closing Date pursuant to the immediately preceding proviso, FAI and FAID may unilaterally elect, by written notice of such election to AMG delivered within five (5) business days following AMG's notice of postponement delivered pursuant to the immediately preceding proviso, to cause the Subsequent Closing Date to occur three (3) business days following such election by FAI and FAID, in which event AMG shall have the right (in addition to collecting directly from the Stockholders) to set off its full

indemnification claims against the amount otherwise payable pursuant to this Section 12 as the Subsequent Purchase Price (PROVIDED that any such setoff shall not be deemed to compromise or waive any rights that FAI and/or FAID may have to seek ultimate resolution of such indemnification claims by settlement or arbitration thereafter).

12.4 FURTHER ASSURANCES. FAI and FAID shall, from time to time after the Subsequent Closing, at the request of AMG and without further consideration, execute and deliver such further customary instruments of transfer and assignment and take such other customary actions as AMG may reasonably request to fully implement the provisions of this Section 12. Prior to the Subsequent Closing, neither FAI nor FAID shall in any event (without the prior written consent of AMG) Transfer (as such term is defined in the Restated LLC Agreements) any of their respective LLC Points in the WY LLC or the DE LLC which may be subject to sale to FA (WY) Acquisition or FA (DE) Acquisition pursuant to this Section 12 at the Subsequent Closing.

12.5 TRANSFER TAXES. All transfer taxes, fees and duties under applicable law incurred in connection with the Subsequent Purchase will be borne and paid by FAI and FAID, and FAI and FAID shall promptly reimburse the LLCs, AMG, FA (WY) Acquisition and FA (DE) Acquisition for any such tax, fee or duty which any of them is required to pay under applicable law.

12.6 AMENDMENT OF SCHEDULE A TO RESTATED LLC AGREEMENTS. Upon the occurrence of the Subsequent Closing, (i) FA (WY) Acquisition (as the Manager Member of the WY LLC) shall update Schedule A to the Restated WY LLC Agreement to reflect the LLC Points owned by the Members of the WY LLC after giving effect to the FAI WY LLC Subsequent Purchase, and (ii) FA (DE) Acquisition (as the Manager Member of the DE LLC) shall update Schedule A to the Restated DE LLC Agreement to reflect the LLC Points owned by the Members of the DE LLC after giving effect to the FAID DE Subsequent Purchase.



12.7 CONDITIONS TO SUBSEQUENT PURCHASE. The obligation of AMG to consummate the Subsequent Purchase is subject to the fulfillment (or waiver by AMG), prior to or at the Subsequent Closing Date, of the following conditions precedent:

(a) Each of the representations and warranties of FAI and FAID contained in the documentation delivered by them pursuant to Section 12.2(b) hereof shall be true and complete in all material respects as of the Subsequent Closing Date;

(b) (i) None of FAI, FAID or FF (directly or indirectly) shall have willfully, intentionally or knowingly (solely with respect to the taking of the action constituting such a breach) taken any action which constitutes a breach of its post-Closing obligations under this Agreement, either of the Restated LLC Agreements or the Employment Agreement of FF (other than Section 1(b) or Section 2 of such Employment Agreement), and (ii) FF shall not have willfully, intentionally or knowingly (solely with respect to the engaging in of such action or other activity constituting "For Cause") engaged in any of the actions or other activities which constitutes "For Cause" under his Employment Agreement, in the case of clause (i) or (ii) which breach, action or other activity (as applicable) has resulted or would reasonably be expected to result in material harm to (A) AMG and its Controlled Affiliates (taken as a whole) (other than the LLCs and their respective Controlled Affiliates) or (B) the WY LLC, the DE LLC and their respective Controlled Affiliates (taken as a whole); PROVIDED, HOWEVER, that, solely in the event that such breach, action or other activity (as applicable) can be cured by FAI, FAID or FF (as applicable) without having resulted (or continuing to be reasonably expected to result) in the foregoing type of material harm, FAI, FAID or FF (as applicable) shall be given thirty (30) days to cure such breach, action or other activity (as applicable) from the earlier of the time he (I) has been notified thereof by AMG or (II) otherwise become aware of such breach, action or other activity (as applicable); and

(c) FF shall not have willfully, intentionally or knowingly (solely with respect to the taking of the action constituting such a breach) materially breached his post-Closing obligations under Section 1(b) or Section 2 of his Employment Agreement); PROVIDED, HOWEVER, that, solely in the event that such material breach both (i) did not consist of FF having tendered his resignation to the WY LLC (or otherwise affirmatively terminating his employment relationship with the WY LLC) and (ii) can be cured by FF without having resulted (or continuing to be reasonably expected to result) in material harm to (A) AMG and its Controlled Affiliates (taken as a whole) (other than the LLCs and their respective Controlled Affiliates) or (B) the WY LLC, the DE LLC and their respective Controlled Affiliates (taken as a whole), FF shall be given thirty (30) days to cure such material breach from the earlier of the time he

(I) has been notified thereof by AMG or (II) otherwise become aware of such material breach (but, for the avoidance of doubt, if such material breach has not been cured by the end of such thirty-day period, such material breach shall be conclusively deemed to have resulted in material harm to AMG and the LLCs without any requirement of proof or other establishment of such harm by any party hereto, and shall cause the condition set forth in this Section 12.7(c) thereafter to fail to be satisfied).



SECTION 13. INDEMNIFICATION.

13.1 JOINT AND SEVERAL INDEMNIFICATION BY THE STOCKHOLDERS. From and after the Closing, the Stockholders agree, jointly and severally, to indemnify and hold AMG and its subsidiaries and Affiliates (including the LLCs) and their respective officers, directors, members, employees, agents and representatives (other than the Employee Stockholders and Non-Manager Members (each as defined in the Restated LLC Agreements)) (individually an "AMG Indemnified Party" and, collectively, the "AMG Indemnified Parties") harmless from and against any damages, liabilities, losses (including, without limitation, diminution in value), fines, penalties, costs, and expenses (including, without limitation, reasonable fees and expenses of counsel and experts) of any kind or nature whatsoever (whether or not arising out of third-party claims and including all amounts paid in investigation, defense or settlement of the foregoing) (collectively, "Losses") which may be sustained or suffered by any of them resulting from, arising out of or based upon any of the following matters:

(a) fraud by either of the Friess Companies or any Stockholder in connection with any of their representations, warranties, covenants or agreements under this Agreement or any agreement, document or instrument contemplated hereby or in any certificate, schedule or exhibit delivered pursuant hereto or thereto, or otherwise in connection with the transactions contemplated hereby;

(b) any breach of any representation, warranty, covenant or agreement of either of the Friess Companies or any Stockholder under this Agreement (other than the representations and warranties set forth in Section 4 hereof) or under any agreement, document or instrument contemplated hereby, or in any certificate, schedule or exhibit delivered pursuant hereto or thereto, or by reason of any claim, action or proceeding asserted or instituted growing out of any matter or thing constituting such a breach (or which would, in the case of any allegations made by third-parties, if true constitute such a breach);

(c) the activities, conduct, business or operation of either of the Friess Companies or the LLCs prior to the Closing, or arising out of facts, events or circumstances regarding either of the Friess Companies or the LLCs existing prior to the Closing (whether or not disclosure of such facts, events or circumstances was made herein or on the Schedules hereto), in each case to the extent that such Loss has resulted from or arisen out of such activities, conduct, business or operation or such facts, events or circumstances existing prior to the Closing; PROVIDED, HOWEVER, that indemnification pursuant to this Section 13.1(c) shall not be available for liabilities to the extent such liabilities are specifically reflected or reserved for in the opening balance sheet of the LLCs (to the extent so reflected or reserved for) and are not otherwise subject to indemnification pursuant to clauses (a), (b) or (d) of this Section 13.1; and

(d) to the extent not otherwise subject to indemnification pursuant to this Section 13.1, (i) liabilities and obligations for any Taxes incurred by either of the Friess Companies (for the avoidance of doubt, solely to the extent resulting in Losses to any AMG Indemnified Party) or the LLCs with respect to any period ending on or before the date of the Closing (or, for any period beginning before and ending after the date of the Closing, liabilities and obligations for Taxes to the extent allocable to the portion of such period beginning before



and ending on the date of the Closing), (ii) the breach by either Friess Company, either Charity or any Stockholder of any provision of this Agreement relating to or involving Tax matters and (iii) any adverse consequences or Losses arising out of or relating to any failure to pay any such Taxes or resulting from any such breach.

13.2 SEVERAL INDEMNIFICATION BY THE CHARITIES. From and after the Closing, each Charity agrees, severally and not jointly, to indemnify and hold the AMG Indemnified Parties harmless from and against any Losses which may be

sustained or suffered by any of them resulting from, arising out of or based upon any of the following matters:

(a) fraud by such Charity in connection with any of its representations, warranties, covenants or agreements under this Agreement or any agreement, document or instrument contemplated hereby or in any certificate, schedule or exhibit delivered pursuant hereto or thereto, or otherwise in connection with the transactions contemplated hereby; and

(b) any breach of any representation or warranty of such Charity set forth in Section 4 of this Agreement, any covenant or agreement of such Charity under this Agreement, or any representation, warranty, covenant or agreement of such Charity under any other agreement, document or instrument contemplated hereby, or in any certificate, schedule or exhibit delivered pursuant hereto or thereto, or by reason of any claim, action or proceeding asserted or instituted growing out of any matter or thing constituting such a breach (or which would, in the case of any allegations made by third-parties, if true constitute such a breach).

13.3 LIMITATIONS ON INDEMNIFICATION BY THE STOCKHOLDERS AND THE CHARITIES. Notwithstanding any other provision of this Agreement to the contrary, the right of AMG Indemnified Parties to indemnification under Section 13.1 and Section 13.2 shall be subject to the following provisions:

(a) No indemnification shall be payable pursuant to Sections 13.1(b), 13.1(c) or 13.2(b) to any AMG Indemnified Party unless the sum of all claims for indemnification by AMG Indemnified Parties pursuant to Sections 13.1 and 13.2 shall exceed $2,500,000 (PROVIDED that such dollar threshold shall be reduced by the aggregate amounts of any payments made by either LLC to FAI or FAID pursuant to Section 2 of any of the Asset Transfer Agreements), whereupon only amounts in excess of such $2,500,000 (as the same may have been reduced in accordance with the immediately preceding parenthetical) level shall be recoverable pursuant to Sections 13.1(b), 13.1(c) and 13.2(b) (PROVIDED that in no event shall the limitation provided in this Section 13.3(a) apply to any claim (i) for indemnification for Taxes or (ii) based upon or related to a breach of any representation, warranty, covenant or agreement with respect to Taxes or contained in Section 3.3, 3.4(b), 3.5, 3.21, 4.2 or 4.3 hereof);

(b) No indemnification shall be payable to an AMG Indemnified Party (i) with respect to claims asserted pursuant to Sections 13.1(b) or 13.2(b) after the expiration of the related representation, warranty, covenant or agreement pursuant to Section 13.9 or (ii) with respect to claims asserted pursuant to Section 13.1(c) after the second anniversary of the Closing Date (in either such case, the "Indemnification Cut-Off Date"); PROVIDED, HOWEVER, that such expiration shall not affect any claim with respect to which notice was given in the manner



contemplated by Section 13.6 hereof prior to the Indemnification Cut-Off Date; and PROVIDED, FURTHER, that, notwithstanding the provisions of Section 13.9, all representations, warranties, covenants and agreements of the Friess Companies, the Charities and the Stockholders contained in this Agreement or in any agreement, document or instrument contemplated hereby or in any certificate, schedule or exhibit delivered pursuant hereto or thereto shall survive indefinitely for purposes of indemnification sought pursuant to Section 13.1(a) or Section 13.2(a);

(c) No indemnification shall be payable to the AMG Indemnified Parties with respect to claims asserted pursuant to Sections 13.1(b), 13.1(c) or 13.2(b) in amounts in the aggregate in excess of fifty percent (50%) of the Total Purchase Price (PROVIDED that in no event shall the limitation provided in this Section 13.3(c) apply to any claim (i) for indemnification for Taxes or (ii) based upon or related to a breach of any representation, warranty, covenant or agreement with respect to Taxes or contained in Section 3.3, 3.4(b), 3.5, 3.21, 4.2 or 4.3 hereof); and

(d) No indemnification shall be payable to the AMG Indemnified Parties by an individual Charity with respect to claims asserted pursuant to Sections 13.1(b), 13.1(c), 13.1(d) or 13.2(b) in amounts in the aggregate in excess of fifty percent (50%) of that portion of the Total Purchase Price received by such Charity under this Agreement.

13.4 INDEMNIFICATION BY AMG. From and after the Closing, AMG agrees to indemnify and hold the Friess Companies, the Charities and the Stockholders (individually a "Friess Indemnified Party" and, collectively, the "Friess Indemnified Parties") harmless from and against any damages, liabilities, losses, fines, penalties, costs and expenses (including, without limitation, reasonable fees and expenses of counsel) of any kind or nature whatsoever

(whether or not arising out of third-party claims and including all amounts paid in investigation, defense or settlement of the foregoing) which may be sustained or suffered by any of them resulting from, arising out of or based upon any of the following matters:

(a) fraud by AMG in connection with any of its representations, warranties, covenants or agreements under this Agreement or any agreement, document or instrument contemplated hereby or in any certificate, schedule or exhibit delivered pursuant hereto or thereto, or otherwise in connection with the transactions contemplated hereby; and

(b) any breach of any representation, warranty, covenant or agreement made by AMG in this Agreement or in any agreement, document or instrument contemplated hereby, or in any certificate, schedule or exhibit delivered pursuant hereto or thereto, or by reason of any claim, action or proceeding asserted or instituted growing out of any matter or thing constituting such a breach (or which would, in the case of any allegations made by third-parties, if true constitute such a breach).

13.5 LIMITATION ON INDEMNIFICATION BY AMG. Notwithstanding the foregoing, the right of Friess Indemnified Parties to indemnification under Section 13.4 shall be subject to the following provisions:



(a) No indemnification pursuant to Section 13.4(b) shall be payable to Friess Indemnified Parties unless the total of all claims for indemnification pursuant to Section 13.4 shall exceed $2,500,000 in the aggregate, whereupon only amounts in excess of such $2,500,000 level shall be recoverable in accordance with the terms hereof (PROVIDED that in no event shall the limitation provided in this Section 13.5(a) apply to any claim based upon or related to a breach of any representation or warranty contained in Section 7.3 or 7.7 hereof);

(b) No indemnification shall be payable to Friess Indemnified Parties with respect to claims asserted pursuant to Section 13.4(b) above in amounts in the aggregate in excess of fifty percent (50%) of the Total Purchase Price (PROVIDED that in no event shall the limitation provided in this Section 13.5(a) apply to any claim based upon or related to a breach of any representation or warranty contained in Section 7.3 or 7.7 hereof); and

(c) No indemnification shall be payable to the Friess Indemnified Parties with respect to claims asserted pursuant to Section 13.4(b) above after the applicable Indemnification Cut-Off Date; PROVIDED, HOWEVER, that such expiration shall not affect any claim with respect to which notice was given in the manner contemplated by Section 13.6 hereof prior to the Indemnification Cut-Off Date.

13.6 NOTICE; DEFENSE OF CLAIMS. An indemnified party may make claims for indemnification hereunder by giving written notice thereof to AMG (if it is the indemnifying party) or to FAI (if the Stockholders and/or the Charities are the indemnifying parties, and FAI shall be exclusively authorized to give and receive all notices and make all decisions on behalf of the Stockholders and the Charities pursuant to this Section 13 and to bind each of the Stockholders and Charities thereby, PROVIDED that such notice also shall be delivered to the respective Charity if either of the Charities is a party from which indemnification is sought) within the period in which indemnification claims can be made hereunder. If indemnification is sought for a claim or liability asserted by a third party, the indemnified party shall also give written notice thereof pursuant to the preceding sentence promptly after it receives notice of the claim or liability being asserted, but the failure to do so shall not relieve the indemnifying parties from any liability except to the extent that they are prejudiced by the failure or delay in giving such notice. Such notice shall reasonably summarize the bases for the claim for indemnification and any claim or liability being asserted by a third party. Within thirty (30) days after receiving such notice, AMG (if it is the indemnifying party) shall give written notice to FAI, or FAI shall give written notice to AMG (if the Stockholders or the Charities are the indemnifying parties) shall give written notice to AMG, in either case stating whether the indemnifying parties disputes the claim for indemnification (or, in the alternative, acknowledging that the claim for indemnification is fully indemnifiable by such indemnifying parties hereunder), and stating whether it will defend against any third party claim or liability at its own cost and expense (PROVIDED, HOWEVER, that FAI shall only be entitled to defend against any such third party claim or liability if (i) the only relief sought by such third party is monetary relief and (ii) the Stockholders and the Charities have (through FAI) acknowledged that any resulting liability will be fully indemnified by them), and in all other circumstances AMG shall be solely entitled to defend against such third party claim or liability on behalf of all of the parties hereto (notwithstanding the

fact that the Charities or the Stockholders are the indemnifying parties), subject to the right of the Charities and the Stockholders (through FAI) to participate each at



their own expense). If AMG or FAI (as applicable) fails to give notice that it disputes an indemnification claim within thirty (30) days after receipt of notice thereof, it shall be deemed to have accepted and agreed to the claim (on behalf of each of the Stockholders and Charities, in the case of a failure to deliver notice of a dispute by FAI), which shall become immediately due and payable (and in any such event, AMG shall be solely entitled to defend against any third party claim or liability).

AMG (if it is the indemnifying party) or FAI (if the Stockholders and/or the Charities are the indemnifying parties) shall be entitled to direct the defense against a third party claim or liability with counsel selected by it (subject to the consent of each indemnified party, which consent shall not be unreasonably withheld) as long as AMG or FAI (as applicable) is conducting a good faith and diligent defense (and subject, in the case of FAI, to the limitations set forth in the preceding paragraph). Each indemnified party shall at all times have the right to fully participate in the defense of a third party claim or liability at its own expense directly or through counsel (such participation to be effected solely through FAI's retention of a single counsel on behalf of all of the indemnified Stockholders and Charities, where Stockholders and/or Charities are the indemnified parties); PROVIDED, HOWEVER, that if the named parties to the action or proceeding include either both the indemnifying parties and/or one or more indemnified parties and an indemnified party is advised that representation of both parties by the same counsel would be inappropriate under applicable standards of professional conduct, an indemnified party may engage separate counsel at the expense of the indemnifying parties. If no such notice of intent to dispute and defend a third party claim or liability is given, or if such good faith and diligent defense is not being or ceases to be conducted by AMG or FAI (as applicable), the indemnified parties shall have the right, at the expense of the indemnifying parties, to, after three (3) business days notice to AMG or FAI (as applicable) of their intent to do so, undertake the defense of such claim or liability (with counsel selected by the indemnified parties), and to compromise or settle it, exercising reasonable business judgment. If the third party claim or liability is one that by its nature cannot be defended solely by the indemnifying parties, then the indemnified parties shall make available such information and assistance as AMG or FAI (as applicable) may reasonably request and shall cooperate with each other in all reasonable respects in connection with such defense, at the expense of the indemnifying parties.

Each of the Stockholders, the Charities and FAI agrees that FAI shall remain in existence and shall not be dissolved, liquidated or terminated for the duration of the potential indemnification obligations of the Stockholders and the Charities under this Agreement unless and until such time as AMG has been provided with the written agreement of each of the Stockholders and the Charities (in form and substance reasonably acceptable to AMG) appointing another Person to act in a binding capacity on behalf of such Stockholder in connection with all indemnification matters arising under this Agreement or otherwise in connection with the transactions contemplated hereby (and each Stockholder and Charity hereby appoints FAI in such capacity from and after the Closing).

13.7 SATISFACTION OF STOCKHOLDER INDEMNIFICATION OBLIGATIONS. In order to satisfy the indemnification obligations of the Stockholders pursuant to Section 13.1 and 13.2 above, an AMG Indemnified Party shall have the right (in addition to collecting directly from the Stockholders) to set off its indemnification claims against (a) any and all amounts of interest and



principal under any promissory note issued to such Stockholder pursuant to the provisions of Section 3.11 of either of the Restated LLC Agreements (whether or not then due and payable), and/or (b) any and all amounts to be distributed to such Stockholder by either of the LLCs, whether or not such right of set-off is specifically provided for in the relevant Restated LLC Agreement, and/or (c) any and all amounts owed or which become owed to such Stockholder or any Permitted Transferee (as such term is defined in the relevant Restated LLC Agreement) of such Stockholder by the Manager Member (as such term is defined in the Restated LLC Agreements) or any of its Affiliates pursuant to the provisions of Sections 3.11 or 7.1 of the Restated LLC Agreements; PROVIDED, HOWEVER, that the offset right described in clause (b) of this sentence shall only be available to an AMG Indemnified Party from and after the rendering of a settlement, judgment or

arbitral decision establishing such indemnification obligation of the Stockholders under this Section 13.

13.8 OTHER INDEMNIFICATION MATTERS. The Charities, the Stockholders, the Friess Companies and AMG agree to treat any indemnity payment made pursuant to this Agreement (or any indemnity payment that would have been made but for the operation of any offset provision contained in this Agreement or one of the Restated LLC Agreements) as an adjustment to the portion of the Total Purchase Price attributable to the WY LLC or the DE LLC (as applicable) for federal, state, local and foreign income tax purposes. The amount of any Taxes for which indemnification is provided under this Section 13 shall not be (i) increased to take account of any net Tax cost incurred by the indemnified party arising from the receipt of indemnity payments hereunder or (ii) reduced to take account of any net Tax benefit realized by the indemnified parties arising from the incurrence or payment of any such Taxes. From and after the Closing, indemnification pursuant to this Article 13 shall be the exclusive remedy for monetary damages available to the Indemnified Parties with respect to any breach of a representation, warranty, covenant or agreement contained in this Agreement (but, for the avoidance of doubt, not with respect to a breach of any of the other Transaction Documents), other than for claims with respect to fraud.

13.9 SURVIVAL OF REPRESENTATIONS, WARRANTIES, COVENANTS AND AGREEMENTS. Each of the representations, warranties, covenants and agreements contained herein or in any schedule, exhibit or certificate delivered by any party to any other parties incident to the transactions contemplated hereby are material and shall be deemed to have been relied upon by the other parties. Each of the representations and warranties contained herein or in any schedule, exhibit or certificate delivered by any party to any other parties incident to the transactions contemplated hereby shall survive the Closing until the second anniversary of the date of the Closing, except for (i) the representations and warranties made in Section 3.9, which shall survive until the expiration of the applicable statute of limitations, if any, and (ii) the representations and warranties made in Sections 3.3, 3.4(b), 3.5, 3.21, 4.2, 4.3, 7.3 and 7.7, which shall survive indefinitely. The expiration of any representation or warranty shall not affect any claim asserted in writing by an indemnified party to an indemnifying party prior to the date of such expiration in the manner provided in this Section 13. All covenants and agreements contained herein or in any schedule, exhibit or certificate delivered by any party to any other parties incident to the transactions contemplated hereby not fully performed prior to the Closing shall survive the Closing and continue thereafter until fully performed (except to the extent such covenants or agreements are by their terms to be performed solely prior to Closing and



performance thereof is waived in conjunction with the Closing). Any investigation, audit or other examination that may have been made or may be made at any time by or on behalf of the party to whom any such representation or warranty is made shall not limit or diminish such representations and warranties, and the parties may rely on the representations and warranties set forth in this Agreement irrespective of any information obtained by them by any investigation, audit or examination or otherwise.

13.10 REGULATORY FILINGS. Each party hereto will cooperate with the other parties in all reasonable respects to enable such parties to make any and all regulatory filings required by them with respect to AMG, the Friess Companies, the LLCs or the transactions contemplated hereby.

SECTION 14. DEFINITIONS.

14.1 DEFINITIONS. For purposes of this Agreement and the Exhibits and Schedules hereto, the following terms shall have the respective meanings set forth in this Section 14.1:

"ADVISERS ACT" shall mean the Investment Advisers Act of 1940, as the same may be amended from time to time, and any successor to such act.

"ADVISORY CONTRACT" shall mean any investment management, advisory or sub-advisory contract, or any other contract, agreement, arrangement or understanding (whether written or oral), pursuant to which either of the Friess Companies or the LLCs provides Investment Management Services as of any date of determination.

"AFFILIATE" shall mean with respect to any person or entity (herein the "first party"), any other person or entity that directly or indirectly controls, or is controlled by, or is under common control with, such first party. The term "control" as used herein (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to (a) vote twenty-five percent (25%) or more of the outstanding

voting securities of such person or entity, or (b) otherwise direct the management or policies of such person or entity by contract or otherwise.

"AGREEMENT" shall have the meaning specified in the preamble hereto.

"AMG" shall have the meaning specified in the preamble hereto.

"AMG INDEMNIFIED PARTY" shall have the meaning specified in Section 13.1 hereof.

"APPLICABLE CLOSING EXCLUDED CONTRACT" shall mean any of the following Advisory Contracts (other than any such Advisory Contract with a Mutual Fund or with a Related Client):



(a) Any Advisory Contract (i) that was executed and delivered prior to the Closing by the WY LLC and by the Client party thereto, (ii) that remains in full force and effect both as of the Closing and as of the Closing True-Up Date, (iii) in respect of which no funds were deposited by the Client with the WY LLC prior to the Closing and (iv) with respect to which an executed Consent of such Client party thereto to the assignment (or deemed assignment) of such Advisory Contract resulting from the transactions contemplated hereby was obtained in the manner contemplated by Section 5.2 hereof (which Consent was duly obtained by the WY LLC under all applicable Laws and Regulations) prior to the Closing (which Consent remains in full force and effect as of the Closing True-Up Date);

(b) Any Advisory Contract (i) that is in full force and effect both as of the Closing and as of the Closing True-Up Date, (ii) which either by its terms or under applicable Laws and Regulations requires the "express" or "written" consent of the Client party thereto to the assignment (or deemed assignment) of such Advisory Contract, (iii) with respect to which the written consent of such Client party thereto to the assignment (or deemed assignment) of such Advisory Contract resulting from the transactions contemplated hereby was not received prior to the Closing and (iv) with respect to which an executed written Consent of such Client party thereto to the assignment (or deemed assignment) of such Advisory Contract resulting from the transactions contemplated hereby has been obtained in the manner contemplated by Section 5.2 hereof (which written Consent has been duly obtained by the WY LLC under all applicable Laws and Regulations) prior to the Closing True-Up Date (which written Consent remains in full force and effect as of the Closing True-Up Date); and

(c) Any Advisory Contract (i) that is in full force and effect both as of the Closing and as of the Closing True-Up Date, (ii) with respect to which the Client party thereto, following the date of this Agreement and prior to the Closing, either (A) reduced, or expressed an intent to reduce, its assets under management by the WY LLC by more than 15% (such 15% reduction to be measured from the amount of assets under management by the WY LLC pursuant to such Advisory Contract on the Base Date (in the case of any Advisory Contract that was in effect as of the Base Date) or on the date such Advisory Contract was entered into by the WY LLC (in the case of any Advisory Contract that became effective after the Base Date) or (B) reduced, or expressed an intent to reduce, the fee schedule in effect under such Advisory Contract by more than 15% (such 15% reduction to be measured from the fee schedule in effect on the Base Date (in the case of any Advisory Contract that was in effect as of the Base Date) or on the date such Advisory Contract was entered into by the WY LLC (in the case of any Advisory Contract that became effective after the Base Date) and (iii) with respect to which an executed Consent of such Client party thereto to the assignment (or deemed assignment) of such Advisory Contract resulting from the transactions contemplated hereby was obtained in the manner contemplated by Section 5.2 hereof (which Consent was duly obtained by the WY LLC under all applicable Laws and Regulations) prior to the Closing (which Consent remains in full force and effect as of the Closing True-Up Date).

"APPLICABLE CLOSING EXCLUDED CONTRACT VALUE" shall mean the aggregate Contract Value of Applicable Closing Excluded Contracts as of the Closing True-Up Date (calculated in the manner provided for in Section 9.3(a) hereof).



"APPLICABLE EXISTING INVESTED FUNDS" shall have the meaning specified in Section 1.6(a) hereof.

"APPLICABLE FRIESS INVESTORS" shall have the meaning specified in

Section 1.6(a) hereof.

"APPLICABLE INVESTED FUNDS" shall have the meaning specified in Section 1.6(b) hereof.

"APPLICABLE INVESTMENT PERIOD" shall have the meaning specified in Section 1.6(c) hereof.

"APPLICABLE NEW INVESTED FUNDS" shall have the meaning specified in Section 1.6(b) hereof.

"APPLICABLE PRICE COMPONENT" shall have the meaning specified in Section 1.6(d) hereof.

"ARTICLES OF INCORPORATION" shall have the meaning specified in Section 3.2(a) hereof.

"ASSET TRANSFERS" shall have the meaning specified in Section 2.2 hereof.

"ASSET TRANSFER AGREEMENTS" shall have the meaning specified in Section 2.2 hereof.

"BANKRUPTCY CODE" shall mean Title 11 of the United States Code entitled "Bankruptcy" as the same may be amended, modified, succeeded or replaced, from time to time.

"BASE BALANCE SHEET" shall have the meaning specified in Section 3.8(a)(i) hereof.

"BASE DATE" shall have the meaning specified in Section 3.7(a) hereof.

"BASE FEES" shall have the meaning specified in Section 9.3(a)(i) hereof.

"CALCULATION DATE" shall have the meaning specified in Section 9.2(a) hereof.

"CFJH" shall have the meaning specified in the preamble hereto.

"CHARITIES" shall have the meaning specified in the preamble hereto.

"CHARITIES WY LLC PURCHASE" shall have the meaning specified in Section 1.1(ii) hereof.

"CLAIMS" shall mean any restrictions, liens, claims, charges, security interests, assignments, mortgages, deposit arrangements, pledges or encumbrances of any kind or nature whatsoever, excluding restrictions on transferability imposed by federal and state securities laws.



"CLIENT" shall mean any Person to whom either of the Friess Companies or the LLCs provides Investment Management Services.

"CLOSING" shall have the meaning specified in Section 1.3 hereof.

"CLOSING DATE" shall have the meaning specified in Section 1.3 hereof.

"CLOSING PURCHASE PRICE" shall mean the sum of (i) the WY LLC Closing Purchase Price, plus (ii) the DE LLC Closing Purchase Price plus (iii) the Post-Closing True-Up Payment.

"CLOSING TRUE-UP DATE" shall have the meaning specified in Section 1.2(c) hereof.

"CODE" shall mean the Internal Revenue Code of 1986, as amended from time to time, and any successor code thereto. For purposes of this Agreement, all references to Sections of the Code shall include any predecessor provisions to such Sections and any similar provisions of federal, state, local or foreign law.

"COMMODITY EXCHANGE ACT" shall mean Title 7, Section 1 ET SEQ. of the United States Code as the same may be amended, modified, succeeded or replaced, from time to time.

"CONSENT" shall have the meaning specified in Section 9.3(a)(ii)

hereof.

"CONSENTING PERCENTAGE" shall have the meaning specified in Section 1.2(b) hereof.

"CONTRACT VALUE" shall have the meaning specified in Section 9.3(a)(iii) hereof.

"CONTRACTS" shall have the meaning specified in Section 3.15 hereof.

"CONTROLLED AFFILIATE" shall have the meaning specified in the Restated LLC Agreements.

"DELAWARE ACT" shall have the meaning specified in Section 3.2(b) hereof.

"DE LLC" shall have the meaning specified in the recitals hereto.

"DE LLC ASSET TRANSFER" shall have the meaning specified in Section 2.1 hereof.

"DE LLC ASSET TRANSFER AGREEMENT" shall have the meaning specified in Section 2.1 hereof.

"DE LLC CLOSING PURCHASE PRICE" shall mean an amount equal to the book value of the assets of FAID as of immediately prior to the DE LLC Asset Transfer, subject to reduction as set forth in Section 1.2(b) hereof.

"DE LLC INTERESTS" shall have the meaning specified in the recitals hereto.



"DE LLC PURCHASE" shall have the meaning specified in Section 1.1(iv) hereof.

"DE LLC PURCHASE PRICE ALLOCATION" shall have the meaning specified in Section 1.2(e) hereof.

"DE LLC SUBSEQUENT PURCHASE PRICE" shall mean the product of (a) the book value of the assets of the DE LLC as of the Subsequent Closing Date (or, if such date is not a calendar month end, the immediately preceding calendar month end) and (b) a fraction, the numerator of which is the number of LLC Points (as defined in the Restated DE LLC Agreement) of the DE LLC to be purchased on the Subsequent Closing Date, and the denominator of which is the number of DE LLC Points outstanding (as determined pursuant to the Restated DE LLC Agreement) on the Subsequent Closing Date (before giving effect to any issuances or redemptions of LLC Points on such date); PROVIDED, HOWEVER, that, if the DE LLC Subsequent Purchase Price determined pursuant to this definition otherwise would exceed the WY LLC Subsequent Purchase Price determined pursuant to the definition thereof set forth below (before the deduction of the DE LLC Subsequent Purchase Price provided for in clause (ii) of the definition of WY LLC Subsequent Purchase Price set forth below), then the DE LLC Subsequent Purchase Price shall be reduced by the amount of such excess.

"EMPLOYEE PROGRAM" shall have the meaning specified in Section 3.24(g)(i) hereof.

"EMPLOYMENT AGREEMENTS" shall have the meaning specified in the recitals hereto.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time, and any successor to such Act.

"ERISA AFFILIATE" shall have the meaning specified in Section 3.24(g)(iii) hereof.

"ERISA CLIENT" shall have the meaning specified in Section 3.7(c) hereof.

"EXCHANGE ACT" shall mean the Securities Exchange Act of 1934, as amended from time to time, and any successor to such Act.

"EXISTING CHARITY ASSIGNMENT AGREEMENTS" shall mean, collectively, the Assignment and Assumption Agreements, each dated as of June 1, 2001, pursuant to which FAI and FAID assigned interests in the WY LLC to the Charities.

"EXISTING DE CERTIFICATE OF FORMATION" shall have the meaning

specified in Section 3.2(c) hereof.

"EXISTING DE LLC AGREEMENT" shall mean the Limited Liability Company Agreement of the DE LLC dated as of August 8, 2001, which is the Limited Liability Company Agreement of the DE LLC on the date of this Agreement and immediately prior to its amendment and restatement into the Restated DE LLC Agreement.



"EXISTING LLC AGREEMENTS" shall mean, collectively, the Existing DE LLC Agreement and the Existing WY LLC Agreement.

"EXISTING WY CERTIFICATE OF FORMATION" shall have the meaning specified in Section 3.2(b) hereof.

"EXISTING WY LLC AGREEMENT" shall mean the Limited Liability Company Agreement of the WY LLC dated as of June 1, 2001, which is the Limited Liability Company Agreement of the WY LLC on the date of this Agreement and immediately prior to its amendment and restatement into the Restated WY LLC Agreement.

"FA (DE) ACQUISITION" shall have the meaning specified in the recitals hereto.

"FA (WY) ACQUISITION" shall have the meaning specified in the recitals hereto.

"FAI" shall have the meaning specified in the preamble hereto.

"FAI ARTICLES OF INCORPORATION" shall have the meaning specified in Section 3.2(a) hereof.

"FAI SHARES" shall have the meaning specified in Section 3.3(a) hereof.

"FAI STOCKHOLDERS" shall have the meaning specified in the preamble hereto.

"FAI-WY LLC ASSET TRANSFER AGREEMENT" shall have the meaning specified in Section 2.2 hereof.

"FAI WY LLC PURCHASE" shall have the meaning specified in Section 1.1(i) hereof.

"FAI WY LLC SUBSEQUENT PURCHASE" shall have the meaning specified in Section 12.1(i) hereof.

"FAID" shall have the meaning specified in the preamble hereto.

"FAID ARTICLES OF INCORPORATION" shall have the meaning specified in Section 3.2(a) hereof.

"FAID DE LLC PURCHASE" shall have the meaning specified in Section 1.1(iii) hereof.

"FAID DE LLC SUBSEQUENT PURCHASE" shall have the meaning specified in Section 12.1(ii) hereof.

"FAID SHARES" shall have the meaning specified in Section 3.3(a) hereof.

"FAID STOCKHOLDERS" shall have the meaning specified in the preamble hereto.



"FAID-WY LLC ASSET TRANSFER AGREEMENT" shall have the meaning specified in Section 2.2 hereof.

"FF" shall have the meaning specified in the preamble hereto.

"FF DE LLC PURCHASE" shall have the meaning specified in Section 1.1(iv) hereof.

"FRIESS COMPANIES" shall have the meaning specified in the preamble hereto.

"FRIESS INDEMNIFIED PARTIES" shall have the meaning specified in Section 13.4 hereof.

"FOLLOW-UP CLIENT CONSENT REQUEST LETTER" shall have the meaning specified in Section 5.2(b) hereof.

"FUND REGULATORY DOCUMENTS" shall have the meaning specified in Section 3.29(e) hereof.

"GAAP" shall mean United States generally accepted accounting principles as in effect from time to time.

"IMMEDIATE FAMILY" shall mean, with respect to any natural person, (a) such person's spouse, parents, grandparents, children, grandchildren and siblings and (b) such person's former spouse(s) and current spouses of such person's children, grandchildren and siblings and (c) estates, trusts, partnerships and other entities of which substantially all of the interest is held directly or indirectly by the foregoing.

"INDEMNIFICATION CUT-OFF DATE" shall have the meaning specified in Section 13.3(b) hereof.

"INDEMNIFIED PARTIES" shall mean, collectively, the AMG Indemnified Parties and the Friess Indemnified Parties.

"INITIAL CLIENT CONSENT REQUEST LETTER" shall have the meaning specified in Section 5.2(a) hereof.

"INTELLECTUAL PROPERTY" shall have the meaning specified in Section 3.14(a) hereof.

"INVESTMENT COMPANY ACT" shall mean the Investment Company Act of 1940, as the same may be amended from time to time, and any successor to such Act.

"INVESTMENT MANAGEMENT SERVICES" shall mean any services which involve (a) the management of an investment account or fund (or portions thereof or a group of investment accounts or funds) for compensation, (b) the giving of advice with respect to the investment and/or reinvestment of assets or funds (or any group of assets or funds) for compensation or (c)



otherwise acting as an "investment adviser" within the meaning of the Advisers Act, and performing activities related or incidental thereto.

"IRS" shall mean the Internal Revenue Service.

"KNOWLEDGE OF THE FRIESS COMPANIES" shall mean any fact, event, occurrence or other matter actually known to either of the Friess Companies, either of the LLCs or any of the Majority Management Owners, or of which any such Person should have known following due inquiry.

"LAWS AND REGULATIONS" shall have the meaning specified in Section 3.17(a) hereof, and "Laws or Regulations" shall mean any of such Laws or Regulations individually.

"LF" shall have the meaning specified in the preamble hereto.

"LICENSES" shall have the meaning specified in Section 3.18(b) hereof.

"LLC INTERESTS" shall have the meaning specified in the recitals hereto.

"LLCS" shall have the meaning specified in the recitals hereto.

"LOSSES" shall have the meaning specified in Section 13.1 hereof.

"MAJORITY MANAGEMENT OWNERS" shall mean, collectively, FF, William D'Alonzo, John Ragard and Jon Fenn.

"MANAGEMENT OWNER PURCHASE AGREEMENT" shall have the meaning specified in the recitals hereto.

"MANAGEMENT OWNER PURCHASE PRICE" shall have the meaning specified in the Management Owner Purchase Agreement.

"MANAGEMENT OWNERS" shall mean, collectively, each of the Majority

Management Owners and Chris Long, Carl Gates, Lynda Campbell, Fran Okoniewski, Ethan Steinberg, Nate Dougall and William Dugdale.

"MATERIAL ADVERSE EFFECT" shall mean, with respect to a Person, a material adverse effect on the condition (financial or otherwise), properties, assets, liabilities, business, operations, results of operations or prospects of such Person and its subsidiaries, taken as a whole (and in the case of a "Material Adverse Effect on the Friess Companies" or a "Material Adverse Effect on the LLCs", shall mean the Friess Companies or the LLCs, as applicable, in either case taken together as a whole).

"MULTIEMPLOYER PLAN" shall have the meaning specified in Section 3.24(g)(iv) hereof.

"MUTUAL FUND" shall have the meaning specified in Section 3.7(d) hereof.



"MUTUAL FUND AGREEMENTS" have the meaning specified in Section 3.29(a) hereof.

"MUTUAL FUND BOARD APPROVAL" shall have the meaning specified in Section 5.2(c) hereof.

"MUTUAL FUND FINANCIAL STATEMENT" shall have the meaning specified in Section 3.29(i) hereof.

"MUTUAL FUND SHAREHOLDER APPROVAL" shall have the meaning specified in Section 5.2(c) hereof.

"MUTUAL FUND TAX RETURNS" shall have the meaning specified in Section 3.29(g) hereof.

"NASD" shall mean the National Association of Securities Dealers, Inc.

"NCCF" shall have the meaning specified in the preamble hereto.

"NEW ADV" shall have the meaning specified in Section 5.3(a) hereof.

"NEW ADVISORY CONTRACT" shall have the meaning specified in Section 5.2(a) hereof.

"NEW CONTRACT CLIENT" shall have the meaning specified in Section 5.2(a) hereof.

"NON-SOLICITATION AGREEMENTS" shall have the meaning specified in the recitals hereto.

"PERSON" shall mean any individual, partnership (general or limited), corporation, limited liability company, limited liability partnership, association, trust, joint venture, unincorporated organization, and any government, governmental department or agency or political subdivision thereof.

"POST-CLOSING TRUE-UP PAYMENT" shall mean the product of:

(a) 10.7, multiplied by

(b) the Applicable Closing Excluded Contract Value, multiplied by

(c) 0.625, multiplied by

(d) 0.51.

"POST-SUBSEQUENT CLOSING TRUE-UP PAYMENT" shall mean the amount that, but for the operation of clauses (I) and (II) of the first proviso contained in paragraph (a)(ii) of the definition of WY LLC Subsequent Purchase Price resulting in the exclusion of certain Advisory Contracts (other than Advisory Contracts with Related Clients or Mutual Funds) from the



calculation of the WY LLC Subsequent Closing Purchase Price, would have been paid to the WY LLC at the Subsequent Closing as part of the WY LLC Subsequent Closing Purchase Price if (as applicable):

(a) (I) in the case of any Advisory Contract excluded from the calculation of the WY LLC Subsequent Purchase Price by the operation of clause (I) of the first proviso contained in paragraph (a)(ii) of such definition, the Client party thereto had not, prior to the Subsequent Closing Date, reduced or expressed an intent to reduce (which statement of intent has not been withdrawn prior to the Subsequent Closing True-Up Date) by more than 15% its assets under management by the WY LLC pursuant to such Advisory Contract, or to reduce by more than 15% the fee payable to the WY LLC pursuant to such Advisory Contract, and (II) as of the Subsequent Closing True-Up Date, such Advisory Contract has not been terminated (and the Client party thereto has not expressed an intent to terminate such Advisory Contract); PROVIDED, HOWEVER, that the Post-Subsequent Closing True-Up Payment calculated pursuant to this clause (a) in respect of such Advisory Contract shall be calculated using the assets under management and fee schedule in effect pursuant to such Advisory Contract as of the Subsequent Closing True-Up Date (rather than the assets under management and fee schedule in effect as of three (3) business days prior to the Subsequent Closing Date); or

(b) in the case of any Advisory Contract excluded from the calculation of the WY LLC Subsequent Purchase Price by the operation of clause (II) of the first proviso contained in paragraph (a)(ii) of such definition, any funds actually on deposit with the WY LLC for management pursuant to such Advisory Contract as of the Subsequent Closing True-Up Date had instead been on deposit with the WY LLC pursuant to such Advisory Contract as of three (3) business days prior to the Subsequent Closing Date (and managed at the fee schedule in effect pursuant to such Advisory Contract as of the Subsequent Closing True-Up Date, subject to the following proviso);

PROVIDED, HOWEVER, that, with respect to both clause (a) and clause (b) of this definition, the assets under management and fee schedule payable pursuant to any such Advisory Contract also shall be reduced (but, for the avoidance of doubt, in no event increased) for purposes of calculating the Post-Subsequent Closing True-Up Payment payable in respect thereof to the extent that the Client party thereto has, on or prior to the Subsequent Closing True-Up Date expressed (and not subsequently withdrawn) an intent to reduce such assets under management or fee schedule in effect pursuant to such Advisory Contract (but not yet effected such reduction in its entirety).

"PRE-CLOSING TAX PERIOD" shall have the meaning specified in Section 6.2 hereof.

"PURCHASE" shall have the meaning specified in Section 1.1(iv) hereof.

"PURCHASE PRICE ALLOCATION" shall have the meaning specified in Section 1.2(e) hereof.

"REAL PROPERTY" shall have the meaning specified in Section 3.6(a)(i) hereof.



"REDUCTION AMOUNT" shall have the meaning specified in Section 1.2(b) hereof.

"RELATED CLIENT" shall have the meaning specified in Section 3.7(a)(i) hereof.

"RESTATED DE LLC AGREEMENT" shall have the meaning specified in Section 2.4 hereof.

"RESTATED LLC AGREEMENTS" shall have the meaning specified in Section 2.4 hereof.

"RESTATED WY LLC AGREEMENT" shall have the meaning specified in Section 2.4 hereof.

"RETAINED DE LLC INTEREST" shall have the meaning specified in Section 1.1(iii) hereof.

"RETAINED LLC INTERESTS" shall have the meaning specified in Section 1.1(iii) hereof.

"RETAINED WY LLC INTEREST" shall have the meaning specified in Section 1.1(i) hereof.

"SEC" shall mean the Securities and Exchange Commission, or any successor agency thereto.

"SECURITIES ACT" shall mean the Securities Act of 1933, as the same may be amended from time to time, and any successor to such act.

"SECURITIES PURCHASE AGREEMENTS" shall mean each of the agreements identified as a "Securities Purchase Agreement" on Schedule 3.15 hereto.

"STOCKHOLDERS" shall have the meaning specified in the preamble hereto.

"SUBADVISED FUND" shall mean any Mutual Fund to which any of the Friess Companies or the LLCs acts as a subadvisor and which is not sponsored by any of them.

"SUBSEQUENT CLOSING" shall have the meaning specified in Section 12.3 hereof.

"SUBSEQUENT CLOSING DATE" shall have the meaning specified in Section 12.3 hereof.

"SUBSEQUENT PURCHASE" shall have the meaning specified in Section 12.1(ii) hereof.

"SUBSEQUENT PURCHASE PRICE" shall mean the sum of (i) the WY LLC Subsequent Purchase Price, plus (ii) the DE LLC Subsequent Purchase Price plus (iii) the Post-Subsequent Closing True-Up Payment (if any).



"SUBSEQUENT CLOSING TRUE-UP DATE" shall have the meaning specified in Section 12.2(b) hereof.

"TAX AUDIT" shall have the meaning specified in Section 6.3 hereof.

"TAX RETURN" shall mean any federal, state, local or foreign return, declaration, report, claim for refund or information return or statement relating to Taxes, including any schedule or attachment thereto and including any amendment thereof.

"TAXES" shall have the meaning specified in Section 3.9(a) hereof.

"TAXING AUTHORITY" shall have the meaning specified in Section 3.9(c) hereof.

"TOTAL PURCHASE PRICE" shall mean the sum of (i) the Closing Purchase Price plus (ii) the Subsequent Purchase Price.

"TRANSACTION DOCUMENTS" shall mean, collectively, this Agreement and each of the other agreements, documents, instruments, certificates, exhibits and schedules delivered by any of the Friess Companies, the LLCs, the Charities, the Stockholders or the Management Owners pursuant to or as contemplated by this Agreement (including without limitation the Restated LLC Agreements, the Employment Agreements and the Non-Solicitation Agreements).

"UPDATED SCHEDULE 3.7" shall mean, with respect to any particular "Updated Schedule 3.7" required to be delivered pursuant to this Agreement, a written schedule containing all of the information required by Section 3.7(a) hereof set forth as of the applicable date in connection with which such "Updated Schedule 3.7" is being delivered, rather than the Base Date), delivered to AMG at the time provided herein for the delivery of such particular "Updated Schedule 3.7".

"WY LLC" shall have the meaning specified in the recitals hereto.

"WY LLC ASSET TRANSFER" shall have the meaning specified in Section 2.2 hereof.

"WY LLC ASSET TRANSFER AGREEMENTS" shall have the meaning specified in Section 2.2 hereof.

"WY LLC CLOSING PURCHASE PRICE" shall mean an amount equal to (i) the sum of (A) two hundred forty-seven million two hundred forty-six thousand two hundred one dollars ($247,246,201.00) plus (B) fifty percent (50%) of the costs and expenses of printing and mailing the proxy statement(s) and hiring a proxy solicitor in connection with obtaining the Mutual Fund Shareholder Approvals (PROVIDED that the 50% of the costs and expenses described in this clause (B) shall in no event exceed fifty thousand dollars ($50,000.00)),

subject to reduction as set forth in Section 1.2(b) hereof, minus (ii) the sum of (A) the DE LLC Closing Purchase Price plus (B) the Management Owner Purchase Price.

"WY LLC INTERESTS" shall have the meaning specified in the recitals hereto.



"WY LLC PURCHASE" shall have the meaning specified in Section 1.1(ii) hereof.

"WY LLC PURCHASE PRICE ALLOCATION" shall have the meaning specified in Section 1.2(e) hereof.

"WY LLC SUBSEQUENT PURCHASE PRICE" shall mean an amount equal to:

(a) the product of:

(i) 10.7, multiplied by

(ii) the positive difference (if any) of (A) the sum of the annual advisory and other asset-based fees (other than any incentive or performance-based fees) payable to the WY LLC (or any Controlled Affiliate thereof) as of the third business day preceding the Subsequent Closing Date pursuant to Advisory Contracts in effect as of such third preceding business day (based upon the fee schedule set forth in each such Advisory Contract (taking into account any applicable caps, waivers, reimbursements or other reductions) and the assets under management pursuant to such Advisory Contract as of such third preceding business day), minus (B) the amount by which the combined actual expenses of the WY LLC, the DE LLC and any Controlled Affiliates (as defined in the applicable Restated LLC Agreement) thereof (determined on an accrual basis in accordance with GAAP consistently applied) exceeded the Operating Allocation (as defined in the Restated WY LLC Agreement) of the WY LLC (including any previously reserved Operating Allocation) during the twelve (12) months ending on the last day of the calendar quarter immediately preceding the calendar quarter in which the Subsequent Closing Date occurs; PROVIDED, HOWEVER, that (I) any Advisory Contract with any Client of the WY LLC who has, within the three (3) months immediately preceding the Subsequent Closing Date, reduced, or expressed (and not subsequently withdrawn such statement of intention prior to three (3) business days preceding the Subsequent Closing Date) an intent to reduce, (1) its assets under management by the WY LLC by more than 15% (such 15% to be measured from the amount of assets under management by the WY LLC pursuant to such Advisory Contract as of three (3) months preceding the Subsequent Closing Date (in the case of any Advisory Contract that was in effect as of three (3) months prior to the Subsequent Closing Date) or on the date such Advisory Contract was entered into by the WY LLC (in the case of any Advisory Contract that became effective less than three (3) months prior to the Subsequent Closing Date), or (2) the fee schedule in effect under such Advisory Contract by more than 15% (such 15% to be measured from the fee schedule in effect under such Advisory Contract as of three (3) months preceding the Subsequent Closing Date (in the case of any Advisory Contract that was in effect as of three (3) months prior to the Subsequent Closing Date) or on the date such Advisory Contract was entered into by the WY LLC (in the case of any Advisory Contract that became effective less than three (3) months prior to the Subsequent Closing Date), (II) any Advisory Contract that has been executed and delivered within the three (3) months immediately preceding the Subsequent Closing by the WY LLC and by the Client party thereto in respect of which no funds were deposited by the Client with the WY LLC prior to three (3) business days immediately preceding the Subsequent Closing,



and (III) any Advisory Contract with any Client of the WY LLC who has, within the three (3) months immediately preceding the Subsequent Closing Date, expressed (and not subsequently withdrawn such statement of intention prior to three (3) business days preceding the Subsequent Closing Date) an intent to terminate its Advisory Contract with the WY LLC, each shall be excluded from the calculation of the WY LLC Subsequent Purchase Price; and PROVIDED, FURTHER, that Advisory Contracts with Related Clients (or with Mutual Funds or other collective investment vehicles in which Related Clients are investors, to the extent of the investments by such Related Clients) shall be excluded from the calculation of the WY LLC Subsequent Purchase Price to the extent the

aggregate annual advisory and other asset-based fees (other than any incentive or performance-based fees) payable thereunder exceeds $275,000,000;

multiplied by

(iii) a fraction, the numerator of which is the number of LLC Points (as defined in the Restated WY LLC Agreement) of the WY LLC to be purchased on the Subsequent Closing Date, and the denominator of which is the number of LLC Points of the WY LLC outstanding (as determined pursuant to the Restated WY LLC Agreement) on the Subsequent Closing Date (before giving effect to any issuances or redemptions of LLC Points on such date), multiplied by

(iv) 0.625, minus

(b) the DE LLC Subsequent Purchase Price.

SECTION 15. MISCELLANEOUS.

15.1 FEES AND EXPENSES. The rights and obligations of the parties hereto with respect to fees and expenses are as follows:

(a) AMG shall pay its own expenses incident to the negotiation and consummation of the transactions contemplated by this Agreement and the agreements, instruments and documents contemplated hereby. The Stockholders, the Charities and the Friess Companies shall pay their own expenses and the expenses of each of the LLCs, each of the Stockholders and each of the Mutual Funds (including without limitation all expenses relating to the obtaining of its Mutual Fund Board Approval and Mutual Fund Shareholder Approval, which shall be reimbursed to the Mutual Funds by the Stockholders, the Charities and the Friess Companies promptly upon the incurrence thereof) incident to the negotiation and consummation of the transactions contemplated by this Agreement and the agreements, instruments and documents contemplated hereby.

(b) The Friess Companies, the Stockholders and the Charities will pay all costs incurred, whether at or subsequent to the Closing, in connection with the transfer of LLC Interests to AMG as contemplated by this Agreement, including without limitation, all transfer and other Taxes and charges applicable to such transfer, and all costs of obtaining permits,



waivers, registrations or consents with respect to any assets, rights or contracts of the Friess Companies in connection with the transactions contemplated hereby (and the parties hereto shall promptly reimburse the other parties hereto upon request with respect to the expenses to be borne by them as described in this paragraph).

15.2 DISPUTE RESOLUTION. All disputes arising in connection with this Agreement shall be resolved by binding arbitration in accordance with the applicable rules of the American Arbitration Association. The arbitration shall be held in Wilmington, Delaware before a single arbitrator selected in accordance with Section 12 of the American Arbitration Association Commercial Arbitration Rules who shall have substantial business experience in the investment advisory industry, and shall otherwise be conducted in accordance with the American Arbitration Association Commercial Arbitration Rules. The parties covenant that they will participate in the arbitration in good faith and that they will share equally its costs except as otherwise provided herein. The provisions of this Section 15.2 shall be enforceable in any court of competent jurisdiction, and the parties shall bear their own costs in the event of any proceeding to enforce this Agreement except as otherwise provided herein. The arbitrator shall assess costs and expenses (including the reasonable legal fees and expenses of the prevailing party or parties and any expenses incurred in connection with compelling arbitration) in favor of the prevailing party or parties against the other party or parties to such proceeding. Any party unsuccessfully refusing to comply with an order of the arbitrators shall be liable for costs and expenses, including attorneys' fees, incurred by the other party in enforcing the award.

15.3 WAIVERS. Any waiver of any terms or conditions or of the breach of any covenant, agreement, representation or warranty of this Agreement in any one instance, shall not operate as or be deemed to be or construed as a further or continuing waiver of any other breach of such term, condition, covenant, representation or warranty or any other term, condition, covenant, agreement, representation or warranty, nor shall any failure or delay at any time or times to enforce or require performance of any provision hereof operate as a waiver of or affect in any manner a party's right at a later time to enforce or require performance of such provision or of any provision hereof; PROVIDED, HOWEVER,

that no such waiver, unless it, by its own terms, explicitly provides to the contrary, shall be construed to effect a continuing waiver of the provision being waived and no such waiver in any instance shall constitute a waiver in any other instance or for any other purpose or impair the right of the party against whom such waiver is claimed in all other instances or for all other purposes to require full compliance.

15.4 GOVERNING LAW. This Agreement shall be construed under and governed by the laws of the State of New York.

15.5 NOTICES. Any notice, request, demand or other communication required or permitted hereunder shall be in writing and shall be deemed to have been given if delivered or sent by facsimile transmission, upon receipt, or if sent by registered or certified mail, upon the sooner of the date on which receipt is acknowledged or the expiration of three (3) days after deposit in United States post office facilities properly addressed with postage prepaid. All notices to a party will be sent to the addresses set forth below or to such other address or person as such party may designate by notice to each other party hereunder:



| | |
|---|---|
| TO AMG: | Affiliated Managers Group, Inc.<br>Two International Place, 23rd Floor<br>Boston, MA 02110<br>Attn: Nathaniel Dalton, Executive Vice President<br>Facsimile No.: (617) 747-3380 |
| With a copy to: | Simpson Thacher & Bartlett<br>425 Lexington Avenue<br>New York, NY 10017<br>Attn: Robert D. Goldbaum<br>Facsimile No.: (212) 455-2502 |
| TO THE FRIESS COMPANIES: | Friess Associates, Inc.<br>115 E. Snow King Avenue<br>PO Box 576<br>Jackson, WY 83001<br>Attn: Foster S. Friess<br>Facsimile No.: (307) 734-1971 |
| With a copy to: | Skadden, Arps, Slate, Meagher & Flom LLP<br>Four Times Square<br>New York, NY 10036<br>Attn: Ralph Arditi<br>Facsimile No.: (212) 735-2000 |
| TO THE CHARITIES: | NCCF Support, Inc.<br>1100 Johnson Ferry Road<br>Suite 900<br>Atlanta, GA 30342<br>Attn: David H. Wills, General Counsel<br>Facsimile No.: (404) 252-5177<br><br>Community Foundation of Jackson Hole<br>P.O. Box 574<br>Jackson, WY 83001<br>Attn: William Field<br>Facsimile No.: (307) 734-2841 |



| | |
|---|---|
| With a copy to: | Faegre & Benson LLP<br>2200 Wells Fargo Center<br>90 South 7th Street<br>Minneapolis, MN 55402<br>Attn: Hazen Graves<br>Facsimile No.: (612) 766-1600 |
| TO ANY STOCKHOLDER: | |
| | To that Stockholder at the address set forth under such Stockholder's name on SCHEDULE 1.2 hereto. |

In each case, with a copy to:

Any notice given hereunder may be given on behalf of any party by his counsel or other authorized representatives.

15.6 ENTIRE AGREEMENT. This Agreement, including the Schedules and Exhibits referred to herein and the other writings specifically identified herein or contemplated hereby, is complete, reflects the entire agreement of the parties with respect to its subject matter, and supersedes all previous written or oral negotiations, commitments and writings (PROVIDED that the existing confidentiality agreement between AMG and certain of the parties hereto shall survive until the earlier of the Closing or expiration in accordance with its terms, at which time it shall expire). No promises, representations, understandings, warranties and agreements have been made by any of the parties hereto except as referred to herein or in such Schedules and Exhibits or in such other writings; and all inducements to the making of this Agreement and the transactions contemplated hereby which were relied upon by any party hereto have been expressed herein or in such Schedules or Exhibits or in such other writings.

15.7 ASSIGNABILITY; BINDING EFFECT. This Agreement or any of the obligations or rights hereunder: (a) may not be assigned by AMG, without the prior written consent of the Friess Companies (on their own behalf and on behalf of the Stockholders and the Charities), other than to an entity under the control of AMG (for which consent shall not be required), and it being further understood and agreed that AMG shall be permitted at any time (i) prior to the Closing (in the case of AMG's Closing obligations hereunder), or (ii) prior to the Subsequent Closing (in the case of AMG's Subsequent Closing obligations hereunder, (in either such case without the consent of any other party hereto) to designate another direct or indirect subsidiary of AMG to replace FA (WY) Acquisition and/or FA (DE) Acquisition for any purpose hereunder; PROVIDED that, in all cases, no such assignment by AMG shall relieve AMG of its obligations under this Agreement; and (b) may not be assigned by any of the Stockholders, the Friess Companies or the Charities without the prior written consent of AMG. This Agreement shall be binding upon and enforceable by, and shall inure to the benefit of, the parties hereto and their respective successors, heirs, executors, administrators and permitted assigns.



15.8 CAPTIONS AND GENDER. The captions in this Agreement are for convenience only and shall not affect the construction or interpretation of any term or provision hereof. The use in this Agreement of the masculine pronoun in reference to a party hereto shall be deemed to include the feminine or neuter, as the context may require.

15.9 EXECUTION IN COUNTERPARTS. For the convenience of the parties and to facilitate execution, this Agreement may (a) be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same document, and (b) be executed by facsimile.

15.10 AMENDMENTS. This Agreement may not be amended or modified, nor may compliance with any condition or covenant set forth herein be waived, except by a writing duly and validly executed by AMG and each of the Friess Companies (on their own behalf and on behalf of each of the Stockholders and the Charities); for all purposes of this Agreement, any amendment or modification of this Agreement, or waiver of any provision hereof, executed by each of the Friess Companies shall be binding upon both of the Friess Companies and upon each of the Stockholders and the Charities, and the Friess Companies shall be authorized to so bind each of the Stockholders and Charities thereby.

15.11 PUBLICITY AND DISCLOSURES. No press releases or public disclosure, either written or oral, of the transactions contemplated by this Agreement, shall be made by a party to this Agreement or any representative or agent thereof without the prior written consent of AMG and each of the Friess Companies, which consent shall not be unreasonably withheld, except as is otherwise required by applicable laws, rules and regulations (including, without limitation, the Securities Act, the Exchange Act and the rules and regulations promulgated thereunder).

15.12 CONSENT TO JURISDICTION. Each of the parties hereby consents to personal jurisdiction, service of process and venue in the federal or state courts of Delaware for any claim, suit or proceeding arising under this Agreement and hereby irrevocably agrees that all claims in respect of such action or proceeding may be heard and determined in such state's courts or, to the extent permitted by law, in any federal court sitting in such state (in each case subject to Section 15.2 hereof). Each of the parties hereby irrevocably consents to the service of process in any such action or proceeding by the mailing by certified mail of copies of any service or copies of the summons and complaint and any other process to such party at the address specified in Section 15.5 hereof. The parties agree that a final judgment in any such action

or proceeding shall be conclusive and may be enforced in other jurisdictions by suit or in any other manner permitted by law, and nothing contained herein shall affect the right of a party to service of legal process or to bring any action or proceeding in the courts of other jurisdictions (subject to Section 15.2 hereof).

[END OF TEXT]



IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed as of the date set forth above by their duly authorized representatives.

AFFILIATED MANAGERS GROUP, INC.

By: /s/ Seth W. Brennan
---
Name: Seth W. Brennan
Title: Executive Vice President

FRIESS ASSOCIATES, INC.

By: /s/ Foster S. Friess
---
Name: Foster S. Friess
Title: President

FRIESS ASSOCIATES OF DELAWARE, INC.

By: /s/ Foster S. Friess
---
Name: Foster S. Friess
Title: President

NCCF SUPPORT, INC.

By: /s/ David H. Wills
---
Name: David H. Wills
Title: President

THE COMMUNITY FOUNDATION OF
JACKSON HOLE

By: /s/ Carol A. Gonnella
---
Name: Carol A. Gonnella
Title: Secretary

/s/ Foster S. Friess
---
Foster S. Friess

/s/ Lynnette E. Friess
---
Lynnette E. Friess

FRIESS ASSOCIATES, LLC

By: /s/ Foster S. Friess
---
Name: Foster S. Friess
Title: President

FRIESS ASSOCIATES OF DELAWARE, LLC

By: /s/ Foster S. Friess
---
Name: Foster S. Friess
Title: President

Exhibit 10.22

EXECUTION COPY

# MANAGEMENT OWNER PURCHASE AGREEMENT

by and among

AFFILIATED MANAGERS GROUP, INC.,

and

THE MANAGEMENT OWNER PARTIES HERETO

DATED AS OF AUGUST 28, 2001

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SCHEDULES



EXHIBITS





# MANAGEMENT OWNER PURCHASE AGREEMENT

This MANAGEMENT OWNER PURCHASE AGREEMENT (the "Agreement") is entered into as of August 28, 2001, by and among Affiliated Managers Group, Inc., a Delaware corporation ("AMG"), William D'Alonzo ("WD"), John Ragard ("JR"), John Fenn ("JF" and, collectively with WD, JR and Foster Friess ("FF"), the "Majority Management Owners") and each of the other Management Owners identified as such on the signature pages hereto (the Majority Management Owners and such other identified Management Owners, collectively, the "Management Owners").

W I T N E S S E T H:

WHEREAS, Friess Associates, LLC, a Delaware limited liability company (the "WY LLC"), is engaged in the business of providing Investment Management Services;

WHEREAS, all of the issued and outstanding membership interests in the WY LLC (the "WY LLC Interests") are owned of record and beneficially by Friess Associates, Inc., a Delaware corporation ("FAI"), NCCF Support, Inc., a Georgia non-profit corporation ("NCCF"), The Community Foundation of Jackson Hole, a Wyoming non-profit corporation ("CFJH" and, collectively with NCCF, the "Charities"), and the Management Owners (other than FF);

WHEREAS, on the terms and subject to the conditions set forth in that certain Purchase Agreement of even date herewith (the "Purchase Agreement") among AMG, FAI, Friess Associates of Delaware, Inc., a Delaware corporation and an Affiliate of FAI ("FAID" and, collectively with FAI, the "Friess Companies"), the stockholders of FAI and FAID and the Charities, AMG has agreed (among other things) to cause FA (WY) Acquisition Company, Inc., a Delaware corporation and a wholly owned subsidiary of AMG ("FA (WY) Acquisition"), to purchase from FAI and each of the Charities certain of the WY LLC Interests owned by FAI and all of the WY LLC Interests owned by the Charities;

WHEREAS, on the terms and subject to the conditions set forth herein, AMG has agreed to cause FA (WY) Acquisition to purchase from each Management Owner (other than FF) at the Closing (as defined herein) all of the WY LLC Interests owned by such Management Owner;

WHEREAS, as a condition precedent to AMG's willingness to enter into this Agreement and the Purchase Agreement and to consummate the transactions contemplated hereby and thereby, and as a material component of the sale of the WY LLC's business provided for herein and therein, (i) each of the Majority Management Owners has entered into an Employment Agreement with either Friess Associates of Delaware, LLC, a Delaware limited liability company and an Affiliate of the WY LLC (the "DE LLC" and, collectively with the WY LLC, the "LLCs"), and FA (DE) Acquisition Company, LLC, a Delaware limited liability company and a wholly owned subsidiary of AMG ("FA (DE) Acquisition"), or the WY LLC and FA (WY) Acquisition, in each case dated as of the date hereof (collectively, the "Employment Agreements"), and (ii) each of the other Management Owners has entered into a Non-Solicitation/Non-Disclosure Agreement with either the DE LLC and FA (DE) Acquisition, or the

WY LLC and FA (WY) Acquisition, in each case dated as of the date hereof (collectively, the "Non-Solicitation Agreements"); and

WHEREAS, (i) FAID, FA (DE) Acquisition and each of the Management Owners has executed and delivered the Amended and Restated Limited Liability Company Agreement of the DE LLC (the "Restated DE LLC Agreement"), and (ii) FAI, FA (WY) Acquisition and each of the Management Owners has executed and delivered the Amended and Restated Limited Liability Company Agreement of the WY LLC (the "Restated WY LLC Agreement" and, collectively with the Restated DE LLC Agreement, the "Restated LLC Agreements"), each such agreement to become effective as of (and subject to) the Closing.

NOW, THEREFORE, in order to consummate the transactions contemplated hereby, and in consideration of the mutual agreements set forth herein and other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. PURCHASE OF THE MANAGEMENT OWNERS' WY LLC INTERESTS.

1.1 GENERAL. Upon the terms contained in this Agreement (including without limitation the conditions contained in Section 7), and on the basis of the representations, warranties and covenants herein set forth, AMG hereby agrees to cause FA (WY) Acquisition to purchase from each Management Owner (other than FF), and each Management Owner (other than FF) hereby agrees to sell to FA (WY) Acquisition, at the Closing all of the WY LLC Interests owned by such Management Owner (collectively, the "Management Owner Purchase").

1.2 PURCHASE PRICE; DELIVERY OF LLC INTERESTS.

(a) Upon the terms contained in this Agreement (including without limitation the conditions contained in Section 7), at the Closing AMG shall cause FA (WY) Acquisition to deliver by wire transfer to each Management Owner (other than FF), at bank accounts to be designated in writing by the WY LLC (which shall obtain such information from the Management Owners) to AMG at least two (2) business days prior to the Closing Date, the amount set forth opposite such Management Owner's name on SCHEDULE 1.2 hereto, in immediately available funds, in full consideration for the sale to AMG of the WY LLC Interests owned by such Management Owner.

(b) At the Closing, upon the terms contained in this Agreement (including without limitation the conditions contained in Section 8), each Management Owner (other than FF) shall deliver to FA (WY) Acquisition all of the WY LLC Interests owned by such Management Owner, including any certificates representing such interests duly endorsed for transfer to FA (WY) Acquisition or, if there are no certificates representing such interests, other customary written evidence of transfer, in either case in form and substance reasonably satisfactory to AMG, together with such other customary transfer documentation as AMG has reasonably requested.

(c) The Management Owner Purchase Price shall be allocated among the assets and liabilities of the WY LLC in a manner consistent with the allocation of the purchase price paid under the Purchase Agreement in respect of the purchase of WY LLC Interests thereunder (the "Management Owner Purchase Price Allocation"). AMG and each of the Management Owners (other than FF) agrees to file all tax returns and make all other necessary filings consistent with the Management Owner Purchase Price Allocation.

1.3 TIME AND PLACE OF CLOSING. The closing of the Management Owner Purchase (the "Closing") shall be held at the same place as, and immediately prior to the occurrence (if any) of, the closing of the purchase and sale provided for in Section 1 of the Purchase Agreement (the "Purchase Agreement Closing").

1.4 FURTHER ASSURANCES. The Management Owners shall, from time to time after the Closing, at the reasonable request of AMG and without further consideration, execute and deliver further customary instruments of transfer and assignment and take such other customary actions as AMG reasonably requests to fully implement the provisions of this Agreement.

1.5 TRANSFER TAXES. All transfer taxes and similar fees and duties under applicable law incurred in connection with the Management Owner Purchase will be borne and paid by FA (WY) Acquisition, and FA (WY) Acquisition shall promptly reimburse the Management Owners for any such tax, fee or duty which any of them is required to pay under applicable law.

1.6 RESTATED LLC AGREEMENTS. The parties hereto agree that each of the Restated LLC Agreements shall become effective as of the Purchase Agreement Closing.

SECTION 2. REPRESENTATIONS AND WARRANTIES OF THE MANAGEMENT OWNERS.

2.1 MAKING OF REPRESENTATIONS AND WARRANTIES. As a material inducement to AMG to enter into this Agreement and consummate the transactions contemplated hereby, each of the Majority Management Owners (other than FF) and the other Management Owners hereby severally makes to AMG, as of the date hereof and as of the Closing Date, the representations and warranties set forth in this Section 2 with respect to such Management Owner. From and after the Closing, none of the Management Owners shall have any right of indemnity or contribution from either of the LLCs (or any other right against either of the LLCs) with respect to any breach of any representation or warranty hereunder.

2.2 LLC INTERESTS OWNED BY THE MANAGEMENT OWNERS. Such Management Owner owns of record and beneficially the WY LLC Interests (including with respect to capital account balance and Subordinated LLC Points) set forth opposite such Management Owner's name in SCHEDULE 2.2 hereto. Such WY LLC Interests are, and when delivered by such Management Owner to AMG pursuant to this Agreement will be, free and clear of any and all Claims (other than restrictions on transfer contained in the limited liability company agreement



of the DE LLC and the WY LLC). The LLC Interests set forth opposite such Management Owner's name in SCHEDULE 2.2 hereto are the only membership or other ownership interests in either the WY LLC or the DE LLC held by such Management Owner (other than any such ownership interests created by the Restated LLC Agreements).

2.3 AUTHORITY OF THE MANAGEMENT OWNERS. Such Management Owner has full right, authority, power and capacity to enter into this Agreement and each agreement, document and instrument to be executed and delivered by or on behalf of such Management Owner pursuant to, or as contemplated by, this Agreement and to carry out the transactions contemplated hereby and thereby. The execution, delivery and performance by each Management Owner of this Agreement and each such other agreement, document and instrument have been duly authorized by all necessary action of (or on the part of) such Management Owner, and no other action on the part of such Management Owner is required in connection therewith. This Agreement and each agreement, document and instrument executed and delivered by such Management Owner pursuant to, or as contemplated by, this Agreement (including without limitation each of the Transaction Documents to which such Management Owner is a party) constitutes, or when executed and delivered will constitute, a valid and binding obligation of such Management Owner, enforceable against such Management Owner in accordance with its terms, except as enforceability may be restricted, limited or delayed by applicable bankruptcy or similar laws affecting creditors' rights generally. The execution, delivery and performance of this Agreement and each such other agreement, document and instrument by such Management Owner and the consummation of the

transactions contemplated hereby and thereby:

(i) does not and will not violate any Laws and Regulations applicable to such Management Owner or by which such Management Owner's assets are bound, or require such Management Owner to obtain any approval, consent or waiver of, or make any filing with, any person or entity (governmental or otherwise) that has not been obtained or made; and

(ii) does not and will not result in a breach of, constitute a default under, accelerate any material obligation under, or give rise to a right of termination of, any material agreement, contract, instrument, mortgage, lien, lease, permit, authorization, order, writ, judgment, injunction, decree, determination or arbitration award to which such Management Owner is a party or by which the property of such Management Owner is bound or affected, or result in the creation or imposition of any Claim on such Management Owner's interest in the WY LLC (including without limitation the WY LLC Interests).

2.4 INVESTMENT ADVISORY REPRESENTATION. Except for his or her own account and advice given to members of such Majority Management Owner's Immediate Family (which such Majority Management Owner is managing without a fee or any other remuneration), such Majority Management Owner does not provide Investment Management Services to any Person, other than on behalf of the Friess Companies or the WY LLC pursuant to an investment advisory agreement between one of the Friess Companies or the WY LLC and a client thereof.



2.5 AGREEMENTS.

(a) Except as set forth in SCHEDULE 2.5(a), such Majority Management Owner is not a party to any employment, non-competition, trade secret or confidentiality agreement, arrangement or understanding with any party other than the Friess Companies and the LLCs. There are no agreements or arrangements not contained herein or disclosed in a Schedule to the Purchase Agreement to which such Majority Management Owner is a party relating to the business of either of the Friess Companies or the LLCs or to such Majority Management Owner's rights and obligations as a stockholder, member, director, officer or employee of either of the Friess Companies or the LLCs.

(b) Except as set forth in SCHEDULE 2.5(b), such Majority Management Owner does not own, directly or indirectly on an individual or joint basis, any interest (excluding passive investments in the shares of any enterprise which are publicly traded, PROVIDED such Majority Management Owner's holdings therein, together with any holdings of his or her Affiliates and members of his or her Immediate Family members, are less than five percent (5%) of the outstanding shares of comparable interest in such entity in the aggregate) in, or serve as an employee, independent contractor, officer, director or in another similar capacity of, any competitor or client of the Friess Companies or the LLCs or any other organization which has or during the past one (1) year has had a material contract or arrangement with the Friess Companies or the LLCs.

2.6 GOOD HEALTH. Such Majority Management Owner is in good health as of the date of this Agreement, and as of the Closing will have given true and complete responses to all questions asked by insurance brokers and other insurance company agents in connection with the transactions contemplated hereby.

2.7 FINDER'S FEE. Such Management Owner has not incurred, become liable for or otherwise entered into any contract or agreement with respect to any broker's commission, finder's fee or similar payment relating to or in connection with the transactions contemplated by this Agreement.

SECTION 3. COVENANTS OF THE MANAGEMENT OWNERS.

3.1 MAKING OF COVENANTS AND AGREEMENTS. Each of the Management Owners (other than FF) hereby severally makes the covenants and agreements set forth in this Section 3. After the Closing, none of the Management Owners shall have any right of indemnity or contribution from either of the LLCs (or any other right against either of the LLCs) with respect to the breach of any covenant or agreement hereunder.

3.2 CONDUCT. Between the date of this Agreement and the Closing, without the prior written consent of AMG no Management Owner will take any action that would reasonably be expected to result in any of the representations and warranties with respect to such Management Owner set forth in Section 2 becoming false or inaccurate in any material respect.

3.3 NOTICE OF DEFAULT. Promptly upon the occurrence of, or promptly upon a Management Owner becoming aware of the threatened occurrence of, any event which would cause or constitute a breach or default, or would have caused or constituted a breach or default had such event occurred or been known to such Management Owner prior to the date hereof, of any of the representations, warranties or covenants of such Management Owner contained in or referred to in this Agreement, such Management Owner shall give written notice thereof to AMG in reasonable detail, and such Management Owner shall use his or her respective reasonable best efforts to prevent or promptly remedy the same.

3.4 CONSUMMATION OF AGREEMENT. Each of the Management Owners shall use his or her reasonable best efforts (except to the extent a different standard is expressly provided for under another provision of this Agreement with respect to particular obligations) to perform and fulfill all conditions and obligations to be performed and fulfilled under this Agreement, to the end that the transactions contemplated by this Agreement shall be fully carried out.

3.5 COOPERATION OF THE MANAGEMENT OWNERS. Each of the Management Owners shall cooperate with all reasonable requests of AMG and AMG's counsel and auditors in connection with the consummation of the transactions contemplated hereby. In addition, each of the Majority Management Owners shall (i) cooperate fully, as and to the extent requested by AMG or AMG's counsel or auditors, in connection with any litigation or other proceedings between AMG and a third party (other than the other Management Owners, the Friess Companies or the LLCs) arising in connection with the transactions contemplated hereby or by the Purchase Agreement, and (ii) cooperate in all reasonable respects with the Friess Companies and AMG in connection with the consummation of the transactions contemplated by the Purchase Agreement (and the making of any filings required in connection therewith). Each of the Management Owners shall file his or her tax returns (and will take tax positions) in a manner consistent with the provisions relating to the filing of Tax Returns set forth in the Purchase Agreement.

3.6 CONFIDENTIALITY. Each of the Management Owners agrees that, unless and until the Closing has been consummated, such Management Owner and his or her Affiliates, agents and representatives will hold in strict confidence, and will not use, any confidential or proprietary data or information obtained from AMG with respect to its business or financial condition except for the purpose of evaluating, negotiating and completing the transaction contemplated hereby. Information generally known in AMG's industry or which has been disclosed to the Management Owners by third parties which have a right to do so shall not be deemed confidential or proprietary information for purposes of this Agreement. If the transactions contemplated by this Agreement are not consummated, each of the Management Owners will return, and cause his or her respective Affiliates' agents and representatives to return, to AMG (or certify that they have destroyed) all copies of such data and information, including but not limited to financial information, customer lists, business and corporate records, worksheets, test reports, tax returns, lists, memoranda, and other documents prepared by or made available by AMG to such Management Owner (and/or to his or her respective Affiliates, agents and representatives) in connection with the transactions contemplated hereby.



3.7 LLC INTERESTS; OTHER AGREEMENTS. Between the date of this Agreement and the Closing, none of the Management Owners will sell, assign, pledge, subject to a Claim or otherwise transfer or restrict such Management Owner's WY LLC Interests without the prior written consent of AMG. Without the prior written consent of AMG and except as set forth in SCHEDULE 3.7, none of the Management Owners shall enter into any side letters or other agreements in connection with this Agreement or the Purchase Agreement.

SECTION 4. COVENANTS OF THE MANAGEMENT OWNERS AND AMG WITH RESPECT TO CERTAIN TAX MATTERS.

4.1 SECTION 197(f)(9). The parties hereto will use their respective reasonable efforts to amend the structure of the transactions contemplated hereby if necessary in order to avoid the application of the anti-churning rules of Section 197(f)(9) of the Code (PROVIDED that no party shall be required to agree to any changes that could materially adversely affect such party as determined in its sole discretion).

SECTION 5. REPRESENTATIONS AND WARRANTIES OF AMG.

5.1 MAKING OF REPRESENTATIONS AND WARRANTIES. As a material inducement to each of the Management Owners (other than FF) to enter into this

Agreement and consummate the transactions contemplated hereby, AMG hereby makes to each of the Management Owners (other than FF), as of the date hereof and as of the Closing Date, the representations and warranties contained in this Section 5.

5.2 ORGANIZATION. Each of AMG and FA (WY) Acquisition is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware with full power and authority to own or lease its assets and other properties and to conduct its business in the manner and in the places where such assets and other properties are owned or leased or such business is conducted by it.

5.3 AUTHORITY. AMG has full right, authority and power to enter into this Agreement, the Purchase Agreement and each agreement, document and instrument to be executed and delivered by AMG pursuant to or as contemplated by, this Agreement and the Purchase Agreement and to carry out the transactions contemplated hereby and thereby. The execution, delivery and performance by AMG of this Agreement, the Purchase Agreement and each such other agreement, document and instrument have been duly authorized by all necessary action of AMG and no other action on the part of AMG is required in connection therewith. This Agreement, the Purchase Agreement and each other agreement, document and instrument executed and delivered by AMG pursuant to this Agreement (including without limitation each of the Transaction Documents to which AMG is a party) constitute, or when executed and delivered will constitute, valid and binding obligations of AMG enforceable in accordance with their terms, except as enforceability may be restricted, limited or delayed by applicable bankruptcy or similar laws affecting creditors' rights generally. The execution, delivery and



performance by AMG of this Agreement, the Purchase Agreement and each such agreement, document and instrument and the consummation of the transactions contemplated hereby and thereby:

(i) does not and will not violate any provision of the Certificate of Incorporation or by-laws of AMG, each as amended to the date hereof;

(ii) does not and will not violate any Laws and Regulations applicable to AMG or require AMG to obtain any approval, consent or waiver of, or make any filing with, any person or entity (governmental or otherwise) which has not been obtained or made (other than any filings required to be made pursuant to the Exchange Act or with any stock exchange in connection with the transactions contemplated hereby); and

(iii) does not and will not result in a breach of, constitute a default under, accelerate any obligation under, or give rise to a right of termination of any agreement, contract, instrument, mortgage, lien, lease, permit, authorization, order, writ, judgment, injunction, decree, determination or arbitration award to which AMG is a party and which is material to the business and financial condition of AMG and its affiliated organizations on a consolidated basis.

5.4 LITIGATION. There is no litigation or other action, suit or proceeding pending or, to the knowledge of AMG, threatened against AMG, FA (WY) Acquisition or, to AMG's knowledge, investigations, at law or in equity, by or before any federal, state, municipal or other governmental department, commission, bureau, board, agency or instrumentality, domestic or foreign (including, without limitation, any voluntary or involuntary proceedings under the Bankruptcy Code or any action, suit, proceeding or investigation under any Federal or state securities law, rule or regulation) in which AMG, FA (WY) Acquisition or any director, officer or employee of either of them is engaged or with which either of them is threatened which would reasonably be expected (individually or in the aggregate) to prevent the consummation by AMG of the transactions contemplated by this Agreement, the Purchase Agreement or the other agreements, documents and instruments contemplated hereby or thereby, or which seeks damages from any such Person in connection with the transactions contemplated hereby or thereby which would reasonably be expected (individually or in the aggregate) to have a Material Adverse Effect on AMG.

5.5 ACQUISITION FOR INVESTMENT. Each of AMG and FA (WY) Acquisition has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of its purchase of the WY LLC Interests being sold by the Management Owners hereunder. AMG represents and warrants that each of AMG and FA (WY) Acquisition is an "accredited investor" within the meaning of Rule 501 under the Securities Act. AMG confirms that the Management Owners have made available to each of AMG and FA (WY) Acquisition the opportunity to ask questions of the Management Owners, and to acquire additional information about the business and financial condition of the Friess Companies and the LLCs. Each of AMG and FA (WY) Acquisition is acquiring the WY LLC

Interests for investment and not with a view toward or for sale in connection with any distribution thereof in violation of any federal or state securities or "blue sky" law, or with any present intention of



distributing or selling such shares in violation of any federal or state securities or "blue sky" law. Each of AMG and FA (WY) Acquisition understands and agrees that the WY LLC Interests may not be sold, transferred, offered for sale, pledged, hypothecated or otherwise disposed of without registration under the Securities Act, except pursuant to an exemption from such registration available under the Securities Act, and without compliance with state, local and foreign securities laws, in each case, to the extent applicable.

5.6 FINDER'S FEE. Neither of AMG or FA (WY) Acquisition has incurred, become liable for or otherwise entered into any contract or agreement with respect to any broker's commission, finder's fee or similar payment relating to or in connection with the transactions contemplated by this Agreement.

SECTION 6. COVENANTS OF AMG.

6.1 MAKING OF COVENANTS AND AGREEMENTS. AMG hereby makes the covenants and agreements set forth in this Section 6.

6.2 NOTICE OF DEFAULT. Promptly upon the occurrence of, or promptly upon AMG becoming aware of the impending or threatened occurrence of, any event which would cause or constitute a breach or default, or would have caused or constituted a breach or default had such event occurred or been known to AMG prior to the date hereof, of any of the representations, warranties or covenants of AMG contained in or referred to in this Agreement or in any Schedule or Exhibit referred to in this Agreement, AMG shall give written notice thereof to the Management Owners.

6.3 CONSUMMATION OF AGREEMENT. AMG shall use its reasonable best efforts to perform and fulfill all conditions and obligations to be performed and fulfilled by it under this Agreement, to the end that the transactions contemplated by this Agreement shall be fully carried out.

SECTION 7. CONDITIONS TO THE OBLIGATIONS OF AMG.

The obligation of AMG to consummate the transactions contemplated by this Agreement is subject to the fulfillment (or waiver by AMG), prior to or at the Closing, of the following conditions precedent:

7.1 REPRESENTATIONS, WARRANTIES AND COVENANTS.

(a) Each of the representations and warranties of the Management Owners contained in this Agreement or, in the case of the Majority Management Owners, in any of the Restated LLC Agreements or the Employment Agreements, in each case shall be true and complete in all material respects (except for such representations and warranties that are qualified by their terms as to materiality or Material Adverse Effect, which representations and



warranties as so qualified shall be true in all respects) as of the date of this Agreement and at and as of the Closing; PROVIDED, HOWEVER, that the accuracy of any representation or warranty that by its terms speaks only as of a specified date shall be determined solely as of such date.

(b) Each of the agreements to be performed by any of the Management Owners (other than FF) hereunder and under the other agreements, documents and instruments contemplated hereby at or prior to the Closing shall have been duly performed in all material respects.

(c) Each of the Management Owners (other than FF) shall have furnished AMG with a certificate or certificates dated as of the date of the Closing with respect to each of the foregoing.

7.2 DELIVERY. Each of the Management Owners (other than FF) shall have executed and delivered to AMG (or shall have caused to be executed and delivered to AMG by the appropriate Person, where applicable) the following:

(a) true and complete copies of each of the agreements, documents and instruments contemplated hereby to which such Management Owner is a party (including, without limitation, the Restated LLC Agreements), and all

agreements, documents, instruments and certificates delivered or to be delivered by such Management Owner in connection therewith;

(b) a release of the LLCs from all liabilities, other than those arising out of the transactions and agreements contemplated hereby, from each of the Management Owners, in the form attached hereto as EXHIBIT 7.2(b).

(c) such other certificates and documents as are required hereby or are customary and reasonably requested by AMG.

7.3 INSURANCE. AMG shall have received such evidence as it shall deem necessary or appropriate as to the insurability of each of the Majority Management Owners with respect to both key-man life insurance and disability insurance policies, in such amounts as AMG shall reasonably have determined.

7.4 PURCHASE AGREEMENT CLOSING. Each of the conditions to the Purchase Agreement Closing set forth in the Purchase Agreement shall have been (and shall remain) satisfied or waived, and the Purchase Agreement Closing shall be set to occur as of immediately following the Closing hereunder.

SECTION 8. CONDITIONS TO OBLIGATIONS OF THE MANAGEMENT OWNERS.

The obligation of each of the Management Owners (other than FF) to consummate the transactions contemplated by this Agreement is subject to the fulfillment (or



waiver by the Management Owners), prior to or at the Closing, of the following conditions precedent:

8.1 REPRESENTATIONS, WARRANTIES AND COVENANTS.

(a) Each of the representations and warranties of AMG made to the Management Owners (other than FF) and contained in this Agreement shall be true and correct in all material respects (except for such representations and warranties that are qualified by their terms as to materiality, which representations or warranties as so qualified shall be true in all respects) as of the date of this Agreement and at and as of the Closing; PROVIDED, HOWEVER, that the accuracy of any representation or warranty that by its terms speaks only as of a specified date shall be determined solely as of such date.

(b) Each of the agreements with the Management Owners (other than FF) to be performed by AMG hereunder and under the other agreements, documents and instruments contemplated hereby at or prior to the Closing shall have been duly performed in all material respects.

(c) AMG shall have furnished the Management Owners (other than FF) with a certificate dated as of the date of the Closing to the foregoing effect.

8.2 DELIVERY. AMG shall have executed and delivered to the Management Owners (other than FF) true and complete copies of each of the agreements, documents and instruments contemplated hereby to which AMG and any Management Owner (other than FF) is a party, and all agreements, documents, instruments and certificates delivered or to be delivered by AMG to such Management Owner in connection therewith.

8.3 PURCHASE AGREEMENT CLOSING. Each of the conditions to the Purchase Agreement Closing shall have been (and shall remain) satisfied or waived, and the Purchase Agreement Closing shall be set to occur as of immediately following the Closing hereunder.

SECTION 9. TERMINATION OF AGREEMENT; RIGHTS TO PROCEED.

9.1 TERMINATION. This Agreement shall automatically terminate upon a termination of the Purchase Agreement pursuant Section 11 thereof occurring at any time prior to the Closing (and, for the avoidance of doubt, no party hereto otherwise shall have the right to terminate this Agreement except upon the unanimous written agreement of all parties hereto).

9.2 EFFECT OF TERMINATION. All obligations of the parties hereunder shall cease upon any termination pursuant to Section 9.1; PROVIDED, HOWEVER, that (a) the provisions of this Section 9, Section 3.6 and the provisions of Section 12 hereof shall survive any termination of this Agreement; and (b) nothing herein shall relieve any party from any liability for (i) any material breach of a representation or warranty of such party contained herein (except for such representations and warranties that are qualified by their terms as to materiality or Material Adverse Effect, with respect to which a party shall be liable for any breach) as of the date such

representation or warranty was made, PROVIDED that no party shall have liability for any material breach of representation or warranty unless such party knew or should have known of such breach at the time such representation or warranty was made, or (ii) any failure to perform and satisfy in all material respects all of the agreements and covenants of such party to be performed hereunder and under the agreements, documents and instruments contemplated hereby at or prior to the Closing.

9.3 RIGHT TO PROCEED. Anything in this Agreement to the contrary notwithstanding, (i) if any of the conditions specified in Section 7 hereof have not been satisfied, AMG shall have the right to elect to proceed with the transactions contemplated hereby without waiving any of its rights hereunder, and (ii) if any of the conditions specified in Section 8 hereof have not been satisfied, any Management Owner shall have the right to elect to proceed with the transactions contemplated hereby without waiving any of his or her rights hereunder.

SECTION 10. BREACHES OF REPRESENTATIONS, ETC.

10.1 SATISFACTION OF OBLIGATIONS. In order to satisfy any liability of a Management Owner (other than FF) for damages, losses, costs and expenses of AMG and its subsidiaries and Affiliates (and their respective officers, directors, members, employees, agents and representatives) resulting from, arising out of or based upon a breach of any representation, warranty, covenant or agreement of such Management Owner under this Agreement or under any agreement, document or instrument contemplated hereby, AMG shall have the right (in addition to collecting directly from such Management Owner) to set off its claims against (a) any and all amounts of interest and principal under any promissory note issued to such Management Owner pursuant to the provisions of Section 3.11 of either of the Restated LLC Agreements (whether or not then due and payable), and/or (b) any and all amounts to be distributed to such Management Owner by either of the LLCs, whether or not such right of set-off is specifically provided for in the relevant Restated LLC Agreement, and/or (c) any and all amounts owed or which become owed to such Management Owner or any Permitted Transferee (as such term is defined in the relevant Restated LLC Agreement) of such Management Owner by the Manager Member (as such term is defined in the Restated LLC Agreements) or any of its Affiliates pursuant to the provisions of Sections 3.11 or 7.1 of either of the Restated LLC Agreements; PROVIDED, HOWEVER, that the offset right described in clause (b) of this sentence shall only be available to AMG from and after the rendering of a settlement, judgment or arbitral decision establishing such liability of such Management Owner.

10.2 RELATED MATTERS. Each of the Management Owners (other than FF) and AMG agrees to treat any payment made by such Management Owner in respect of a liability described in Section 10.1 above (or any such payment that would have been made but for the operation of any offset provision contained in this Agreement or one of the Restated LLC Agreements) as an adjustment to the portion of the Management Owner Purchase Price paid to such Management Owner for federal, state, local and foreign income tax purposes.



10.3 SURVIVAL OF REPRESENTATIONS, WARRANTIES, COVENANTS AND AGREEMENTS. Each of the representations, warranties, covenants and agreements contained herein or in any schedule, exhibit or certificate delivered by any party to any other parties incident to the transactions contemplated hereby are material and shall be deemed to have been relied upon by the other parties. Each of the representations and warranties contained herein or in any schedule, exhibit or certificate delivered by any party to any other parties incident to the transactions contemplated hereby shall survive the Closing until the second anniversary of the date of the Closing, except for the representations and warranties made in Sections 2.2, 2.3, 2.7, 5.3 and 5.6, which shall survive indefinitely. The expiration of any representation or warranty shall not affect any claim asserted in writing by a party hereto prior to the date of such expiration in the manner provided in this Section 10. All covenants and agreements contained herein or in any schedule, exhibit or certificate delivered by any party to any other parties incident to the transactions contemplated hereby not fully performed prior to the Closing shall survive the Closing and continue thereafter until fully performed (except to the extent such covenants or agreements are by their terms to be performed solely prior to Closing and performance thereof is waived in conjunction with the Closing). Any investigation, audit or other examination that may have been made or may be made at any time by or on behalf of the party to whom any such representation or

warranty is made shall not limit or diminish such representations and warranties, and the parties may rely on the representations and warranties set forth in this Agreement irrespective of any information obtained by them by any investigation, audit or examination or otherwise.

SECTION 11. DEFINITIONS.

11.1 DEFINITIONS. For purposes of this Agreement and the Exhibits and Schedules hereto, the following terms shall have the respective meanings set forth in this Section 11.1:

"AFFILIATE" shall mean with respect to any person or entity (herein the "first party"), any other person or entity that directly or indirectly controls, or is controlled by, or is under common control with, such first party. The term "control" as used herein (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to (a) vote twenty-five percent (25%) or more of the outstanding voting securities of such person or entity, or (b) otherwise direct the management or policies of such person or entity by contract or otherwise.

"AGREEMENT" shall have the meaning specified in the preamble hereto.

"AMG" shall have the meaning specified in the preamble hereto.

"BANKRUPTCY CODE" shall mean Title 11 of the United States Code entitled "Bankruptcy" as the same may be amended, modified, succeeded or replaced, from time to time.

"CFJH" shall have the meaning specified in the recitals hereto.



"CHARITIES" shall have the meaning specified in the recitals hereto.

"CLAIMS" shall mean any restrictions, liens, claims, charges, security interests, assignments, mortgages, deposit arrangements, pledges or encumbrances of any kind or nature whatsoever, excluding restrictions on transferability imposed by federal and state securities laws.

"CLOSING" shall have the meaning specified in Section 1.3 hereof.

"CODE" shall mean the Internal Revenue Code of 1986, as amended from time to time, and any successor code thereto. For purposes of this Agreement, all references to Sections of the Code shall include any predecessor provisions to such Sections and any similar provisions of federal, state, local or foreign law.

"DE LLC" shall have the meaning specified in the recitals hereto.

"EMPLOYMENT AGREEMENTS" shall have the meaning specified in the recitals hereto.

"EXCHANGE ACT" shall mean the Securities Exchange Act of 1934, as amended from time to time, and any successor to such Act.

"FA (DE) ACQUISITION" shall have the meaning specified in the recitals hereto.

"FA (WY) ACQUISITION" shall have the meaning specified in the recitals hereto.

"FAI" shall have the meaning specified in the recitals hereto.

"FAID" shall have the meaning specified in the recitals hereto.

"FF" shall have the meaning specified in the preamble hereto.

"FRIESS COMPANIES" shall have the meaning specified in the recitals hereto.

"IMMEDIATE FAMILY" shall mean, with respect to any natural person, (a) such person's spouse, parents, grandparents, children, grandchildren and siblings and (b) such person's former spouse(s) and current spouses of such person's children, grandchildren and siblings and (c) estates, trusts, partnerships and other entities of which substantially all of the interest is held directly or indirectly by the foregoing.

"INVESTMENT ADVISERS ACT" shall mean the Investment Advisers Act of 1940, as the same may be amended from time to time, and any successor to such

act.

"INVESTMENT MANAGEMENT SERVICES" shall mean any services which involve (a) the management of an investment account or fund (or portions thereof or a group of investment accounts or funds) for compensation, (b) the giving of advice with respect to the investment and/or reinvestment of assets or funds (or any group of assets or funds) for compensation or (c) otherwise acting as an "investment adviser" within the meaning of the Investment Advisers Act



of 1940, (as the same may be amended from time to time, and any successor to such act), and performing activities related or incidental thereto.

"JF" shall have the meaning specified in the preamble hereto.

"JR" shall have the meaning specified in the preamble hereto.

"LAWS AND REGULATIONS" shall mean, collectively, all laws and governmental rules and regulations, domestic or foreign, including, without limitation, the Investment Advisers Act of 1940, the Securities Exchange Act of 1934, the Investment Company Act of 1940, the Securities Act of 1933 and the regulations promulgated under each of the foregoing, all laws regulating, relating to or imposing liability or standards of conduct concerning protection of human health or the environment, the rules and regulations of self-regulatory organizations including, without limitation, the National Association of Securities Dealers, Inc., and each applicable exchange (as defined under the Securities Exchange Act of 1934); and all other foreign, federal or state securities laws and regulations applicable to the business or affairs or properties or assets of either of the Friess Companies or the LLCs or any Management Owner.

"LLCS" shall have the meaning specified in the recitals hereto.

"MAJORITY MANAGEMENT OWNERS" shall have the meaning specified in the preamble hereto.

"MANAGEMENT OWNERS" shall have the meaning specified in the preamble hereto.

"MANAGEMENT OWNER PURCHASE" shall have the meaning specified in Section 1.1 hereof.

"MANAGEMENT OWNER PURCHASE PRICE" shall mean the sum of the amounts paid to the Management Owners (other than FF) at the Closing pursuant to Section 1.2(a) hereof.

"MANAGEMENT OWNER PURCHASE PRICE ALLOCATION" shall have the meaning specified in Section 1.2(c) hereof.

"MATERIAL ADVERSE EFFECT" shall mean, with respect to a Person, a material adverse effect on the condition (financial or otherwise), properties, assets, liabilities, business, operations, results of operations or prospects of such Person and its subsidiaries, taken as a whole (and in the case of a "Material Adverse Effect on the Friess Companies" or a "Material Adverse Effect on the LLCs", shall mean the Friess Companies or the LLCs, as applicable, in either case taken together as a whole).

"NCCF" shall have the meaning specified in the recitals hereto.

"NON-SOLICITATION AGREEMENTS" shall have the meaning specified in the recitals hereto.



"PERSON" shall mean any individual, partnership (general or limited), corporation, limited liability company, limited liability partnership, association, trust, joint venture, unincorporated organization, and any government, governmental department or agency or political subdivision thereof.

"PURCHASE AGREEMENT" shall have the meaning specified in the recitals hereto.

"PURCHASE AGREEMENT CLOSING" shall have the meaning specified in Section 1.3 hereof.

"RESTATED DE LLC AGREEMENT" shall have the meaning specified in the

recitals hereto.

"RESTATED LLC AGREEMENTS" shall have the meaning specified in the recitals hereto.

"RESTATED WY LLC AGREEMENT" shall have the meaning specified in the recitals hereto.

"SECURITIES ACT" shall mean the Securities Act of 1933, as the same may be amended from time to time, and any successor to such act.

"TRANSACTION DOCUMENTS" shall mean, collectively, this Agreement and each of the other agreements, documents, instruments, certificates, exhibits and schedules delivered by any of the Friess Companies, the LLCs, the Charities, the holders of capital stock in the Friess Companies or the Management Owners pursuant to or as contemplated by this Agreement (including without limitation the Restated LLC Agreements, the Employment Agreements and the Non-Solicitation Agreements).

"WD" shall have the meaning specified in the preamble hereto.

"WY LLC" shall have the meaning specified in the recitals hereto.

"WY LLC INTERESTS" shall have the meaning specified in the recitals hereto.

SECTION 12. MISCELLANEOUS.

12.1 FEES AND EXPENSES. AMG shall pay its own expenses incident to the negotiation and consummation of the transactions contemplated by this Agreement and the agreements, instruments and documents contemplated hereby. Each Management Owner (other than FF) shall pay his or her own expenses incident to the negotiation and consummation of the transactions contemplated by this Agreement and the agreements, instruments and documents contemplated hereby (except to the extent otherwise expressly contemplated by Section 1.5 hereof).



12.2 DISPUTE RESOLUTION. All disputes arising in connection with this Agreement shall be resolved by binding arbitration in accordance with the applicable rules of the American Arbitration Association. The arbitration shall be held in Wilmington, Delaware before a single arbitrator selected in accordance with Section 12 of the American Arbitration Association Commercial Arbitration Rules who shall have substantial business experience in the investment advisory industry, and shall otherwise be conducted in accordance with the American Arbitration Association Commercial Arbitration Rules. The parties covenant that they will participate in the arbitration in good faith and that they will share equally its costs except as otherwise provided herein. The provisions of this Section 12.2 shall be enforceable in any court of competent jurisdiction, and the parties shall bear their own costs in the event of any proceeding to enforce this Agreement except as otherwise provided herein. The arbitrator shall assess costs and expenses (including the reasonable legal fees and expenses of the prevailing party or parties and any expenses incurred in connection with compelling arbitration) in favor of the prevailing party or parties against the other party or parties to such proceeding. Any party unsuccessfully refusing to comply with an order of the arbitrators shall be liable for costs and expenses, including attorneys' fees, incurred by the other party in enforcing the award.

12.3 WAIVERS. Any waiver of any terms or conditions or of the breach of any covenant, agreement, representation or warranty of this Agreement in any one instance, shall not operate as or be deemed to be or construed as a further or continuing waiver of any other breach of such term, condition, covenant, representation or warranty or any other term, condition, covenant, agreement, representation or warranty, nor shall any failure or delay at any time or times to enforce or require performance of any provision hereof operate as a waiver of or affect in any manner a party's right at a later time to enforce or require performance of such provision or of any provision hereof; PROVIDED, HOWEVER, that no such waiver, unless it, by its own terms, explicitly provides to the contrary, shall be construed to effect a continuing waiver of the provision being waived and no such waiver in any instance shall constitute a waiver in any other instance or for any other purpose or impair the right of the party against whom such waiver is claimed in all other instances or for all other purposes to require full compliance.

12.4 GOVERNING LAW. This Agreement shall be construed under and governed by the laws of the State of Delaware, without applying the choice of law or conflicts of law provisions thereof.

12.5 NOTICES. Any notice, request, demand or other communication required or permitted hereunder shall be in writing and shall be deemed to have been given if delivered or sent by facsimile transmission, upon receipt, or if sent by registered or certified mail, upon the sooner of the date on which receipt is acknowledged or the expiration of three (3) days after deposit in United States post office facilities properly addressed with postage prepaid. All notices to a party will be sent to the addresses set forth below or to such other address or person as such party may designate by notice to each other party hereunder:



| | |
|---|---|
| TO AMG: | Affiliated Managers Group, Inc.<br>Two International Place, 23rd Floor<br>Boston, MA 02110<br>Attn: Nathaniel Dalton, Executive Vice President<br>Facsimile No.: (617) 747-3380 |
| With a copy to: | Simpson Thacher & Bartlett<br>425 Lexington Avenue<br>New York, NY 10017<br>Attn: Robert D. Goldbaum<br>Facsimile No.: (212) 455-2502 |
| TO ANY MANAGEMENT OWNER: | |
| | To that Management Owner at the address set forth under such Management Owner's name on SCHEDULE 1.2 hereto. |
| In case of John Ragard, with a copy to: | Richards, Layton & Finger, P.A.<br>One Rodney Square<br>P.O. Box 551<br>Wilmington, DE 19899<br>Attn: Julian H. Baumann, Jr.<br>Facsimile No.: (302) 651-7701 |
| In each case, with a copy to: | Skadden, Arps, Slate, Meagher & Flom LLP<br>Four Times Square<br>New York, NY 10036<br>Attn: Russell G. D'Oench<br>Facsimile No.: (212) 735-2000 |

Any notice given hereunder may be given on behalf of any party by his counsel or other authorized representatives.

12.6 ENTIRE AGREEMENT. This Agreement, including the Schedules and Exhibits referred to herein and the other writings specifically identified herein or contemplated hereby, is complete, reflects the entire agreement of the parties with respect to its subject matter, and supersedes all previous written or oral negotiations, commitments and writings (PROVIDED that the existing confidentiality agreement between AMG and certain of the parties hereto shall survive until the earlier of the Closing or expiration in accordance with its terms, at which time it shall expire). No promises, representations, understandings, warranties and agreements have been made by any of the parties hereto except as referred to herein or in such Schedules and Exhibits or in such other writings; and all inducements to the making of this Agreement and the transactions contemplated hereby which were relied upon by any party hereto have been expressed herein or in such Schedules or Exhibits or in such other writings.



12.7 ASSIGNABILITY; BINDING EFFECT. This Agreement or any of the obligations or rights hereunder: (a) may not be assigned by AMG, without the prior written consent of FAI (on behalf of each of the Management Owners (other than the Majority Management Owners), and FAI shall be authorized to consent on behalf of each of such Management Owners other than the Majority Management Owners), other than to an entity under the control of AMG (for which consent shall not be required), and it being further understood and agreed that AMG shall be permitted at any time prior to the Closing (without the consent of any other party hereto) to designate another direct or indirect subsidiary of AMG to replace FA (WY) Acquisition for any purpose hereunder; PROVIDED that, in all cases, no such assignment by AMG shall relieve AMG of its obligations under this Agreement; and (b) may not be assigned by any of the Management Owners without

the prior written consent of AMG. This Agreement shall be binding upon and enforceable by, and shall inure to the benefit of, the parties hereto and their respective successors, heirs, executors, administrators and permitted assigns.

12.8 CAPTIONS AND GENDER. The captions in this Agreement are for convenience only and shall not affect the construction or interpretation of any term or provision hereof. The use in this Agreement of the masculine pronoun in reference to a party hereto shall be deemed to include the feminine or neuter, as the context may require.

12.9 EXECUTION IN COUNTERPARTS. For the convenience of the parties and to facilitate execution, this Agreement may (a) be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same document, and (b) be executed by facsimile.

12.10 AMENDMENTS. This Agreement may not be amended or modified, nor may compliance with any condition or covenant set forth herein be waived, except by a writing duly and validly executed by AMG, each of the Majority Management Owners (other than FF) and FAI (on behalf of each of the Management Owners other than the Majority Management Owners); for all purposes of this Agreement, any amendment or modification of this Agreement, or waiver of any provision hereof, executed by FAI shall be binding upon each of the Management Owners (other than the Majority Management Owners), and FAI shall be authorized to so bind each of the Management Owners (other than the Majority Management Owners) thereby.

12.11 PUBLICITY AND DISCLOSURES. No press releases or public disclosure, either written or oral, of the transactions contemplated by this Agreement, shall be made by a party to this Agreement or any representative or agent thereof without the prior written consent of AMG and FAI (on its own behalf and on behalf of each of the Management Owners), which consent shall not be unreasonably withheld, except as is otherwise required by applicable laws, rules and regulations (including, without limitation, the Securities Act, the Exchange Act and the rules and regulations promulgated thereunder).

12.12 CONSENT TO JURISDICTION. Each of the parties hereby consents to personal jurisdiction, service of process and venue in the federal or state courts of Delaware for any claim, suit or proceeding arising under this Agreement and hereby irrevocably agrees that all claims in respect of such action or proceeding may be heard and determined in such state's courts or, to the



extent permitted by law, in any federal court sitting in such state (in each case subject to Section 12.2 hereof). Each of the parties hereby irrevocably consents to the service of process in any such action or proceeding by the mailing by certified mail of copies of any service or copies of the summons and complaint and any other process to such party at the address specified in Section 12.5 hereof. The parties agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit or in any other manner permitted by law, and nothing contained herein shall affect the right of a party to service of legal process or to bring any action or proceeding in the courts of other jurisdictions (subject to Section 12.2 hereof).

12.13 SCHEDULES AND EXHIBITS. All Exhibits and Schedules attached to this Agreement are incorporated and shall be treated as if set forth herein. Each Management Owner shall have the right to receive a copy of this Agreement and the Exhibits and Schedules and Annexes attached hereto, provided that SCHEDULE 1.2 hereto will be redacted as to all information pertaining to any Management Owner other than the Management Owner receiving a copy of SCHEDULE 1.2, and such Management Owner shall have the right to review only that information regarding such Management Owner's own financial information.

12.14 CONSENT. The WY LLC consents to the transfers contemplated by this Agreement.

[END OF TEXT]



IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed as of the date set forth above by their duly authorized representatives.

AFFILIATED MANAGERS GROUP, INC.

By: /s/ Seth W. Brennan
---
Name: Seth W. Brennan
Title: Executive Vice President

/s/ Lynda J. Campbell
---
Lynda J. Campbell

/s/ William F. D'Alonzo
---
William F. D'Alonzo

/s/ Nathan Dougall
---
Nathan Dougall

/s/ William Dugdale
---
William Dugdale

/s/ Jon S. Fenn
---
Jon S. Fenn

/s/ Carl S. Gates
---
Carl S. Gates

/s/ Christopher G. Long
---
Christopher G. Long

/s/ Francis Okoniewski
---
Francis Okoniewski

/s/ John P. Ragard
---
John P. Ragard

/s/ Ethan Steinberg
---
Ethan Steinberg

For purposes of providing the consent contained in Section 12.14:

FRIESS ASSOCIATES, LLC

By: /s/ Foster S. Friess
---
Name: Foster S. Friess
Title: President

Exhibit 10.23

# EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (hereafter the "Employment Agreement") is entered into as of August 28, 2001, by and among FA (WY) Acquisition Company, Inc., a Delaware corporation (the "Manager Member"), Friess Associates, LLC, a Delaware limited liability company (the "Employer"), and Foster S. Friess (the "Employee").

W I T N E S S E T H:

WHEREAS, (i) Friess Associates, Inc., a Delaware corporation ("FAI"), (ii) The Community Foundation of Jackson Hole, a Wyoming non-profit corporation ("CFJH"), (iii) NCCF Support, Inc., a Georgia non-profit corporation ("NCCF" and, collectively with CFJH, the "Charities") and (iv) certain other key employees of the Employer and its affiliated company, Friess Associates of Delaware, LLC, a Delaware limited liability company (the "DE LLC") together own all of the outstanding membership interests in the Employer as of the date hereof and the DE LLC, as an affiliated company of the Employer will engage in the business of investment management with the Employer, and together they will conduct the Friess business formerly conducted by the Friess Companies (as defined below);

WHEREAS, pursuant to that certain Purchase Agreement, dated as of August 28, 2001 (the "Purchase Agreement") by and among Affiliated Managers Group, Inc. ("AMG"), a Delaware corporation and the holder of all of the outstanding capital stock of the Manager Member, FAI, Friess Associates of Delaware, Inc., a Delaware corporation ("FAID" and, collectively with FAI, the "Friess Companies") and certain other parties as set forth therein, and as a condition precedent to the Employee having agreed to enter into this Employment Agreement, AMG has agreed to cause the Manager Member to purchase (i) from FAI and FAID at the "Closing" (as defined in the Purchase Agreement) (the "Closing") all of the membership interests in the Employer and in the DE LLC owned by FAI and FAID, respectively (other than certain retained minority membership interests to be held by FAI and FAID as of immediately following the Closing), (ii) from each of the Charities at the Closing all of the membership interests in the Employer owned by such Charity, (iii) from the Employee at the Closing all of the membership interests in the DE LLC owned by the Employee, and (iv) from FAI and FAID on the third anniversary of the Closing (subject to certain conditions set forth in the Purchase Agreement) a portion of the retained minority membership interests held by FAI and FAID in the Employer and the DE LLC, respectively, as of immediately following the Closing, and as of the Closing the Manager Member will become the "manager" of each of the Employer and of the DE LLC within the meaning of the Act;

WHEREAS, pursuant to that certain Management Owner Purchase Agreement, dated as of August 28, 2001, by and among AMG and certain other key employees of the Employer, AMG has agreed (subject to the conditions set forth in the Management Owner Purchase Agreement) to cause the Manager Member to purchase from such other key employees of the Employer at the Closing all of the ownership interests in the Employer owned by such other key employees of the Employer;

WHEREAS, as the owner of fifty percent (50%) of the outstanding capital stock of FAI and FAID, and as a condition precedent to the Employee having agreed to enter into this Employment Agreement, the Employee personally will receive approximately at the Closing in respect of the sale of the business of FAI and FAID provided for in the Purchase

Agreement, with an additional approximately to be received at the Closing by (or for the benefit of) the Employee's wife as the owner of the remaining fifty percent (50%) of the outstanding capital stock of FAI and FAID (subject to adjustment in the circumstances provided for in the Purchase Agreement), and the Employee may receive substantial additional payments in connection with the subsequent sale of membership interests to AMG contemplated to occur on the third anniversary of the Closing Date as provided in the Purchase Agreement;

WHEREAS, as a further condition precedent to the Employee having agreed to enter into this Employment Agreement, on the Closing Date the Employee (through FAI and FAID) will retain (subject to the conditions set forth in the Purchase Agreement) minority membership interests in the Employer and the DE LLC, and will (through FAI and FAID) become a Non-Manager Member of the Employer and the DE LLC and a member of their respective Management Committees as of immediately following the Closing; reference is hereby made to that certain

Amended and Restated Limited Liability Company Agreement of the Employer dated as of the date hereof and effective as of the Closing, as the same may be amended and/or restated from time to time (the "LLC Agreement");

WHEREAS, in addition to his receipt (through his and his wife's ownership of FAI) of the majority of the proceeds resulting from the sale of the business of the Employer and the DE LLC to AMG (as described in the foregoing recitals), the Employee will receive substantial economic and other benefits if the transactions contemplated by the Purchase Agreement are consummated, both as a Non-Manager Member (through FAI and FAID) of the Employer and the DE LLC from and after the Closing and pursuant to the terms of this Employment Agreement, the LLC Agreement and the DE LLC Agreement;

WHEREAS, it is a condition precedent to the obligation of AMG to consummate the transactions contemplated by the Purchase Agreement that the Employee, as a seller (through FAI) of ownership interests in the Employer and a key employee of the Employer, enter into and be bound by an employment agreement with the Employer in the form hereof, supplanting as of the Closing any previous employment agreement or arrangement that Employee may have had with the Employer or either of the Friess Companies;

WHEREAS, it is a condition precedent to the Employee becoming a Non-Manager Member of the Employer at the Closing that the Employee enter into and be bound by an employment agreement with the Employer in the form hereof;

WHEREAS, the Manager Member and the Employer recognize the importance of the Employee to the Employer and the DE LLC and to the Employer's and the DE LLC's ability to retain their client relationships, and desire that the Employer employ the Employee for the period of employment and upon and subject to the terms herein provided;

WHEREAS, the Manager Member and the Employer wish to be assured that the Employee will not compete with the Employer, the DE LLC or any of their respective Controlled Affiliates during the period of employment and for a period thereafter, and that the Employee will not solicit any Past, Present, or Potential Clients of FAI, FAID or the Employer during the period of employment and for a period thereafter upon and subject to the terms herein provided,

as any such competition or solicitation by the Employee would damage the Employer's goodwill among Clients and the general public;

WHEREAS, the Employee desires to be employed by the Employer and to refrain from competing with the Employer, the DE LLC or any of their respective Controlled Affiliates or soliciting Past, Present or Potential Clients for the periods and upon and subject to the terms herein provided; and

WHEREAS, the Employee has been employed by the Employer and its predecessors and has, together with his wife, owned the Friess Companies since 1974, has while so employed contributed to the acquisition and retention of Clients, and will continue to seek to acquire and retain Clients and to generate goodwill in the future as an officer, employee and agent of the Employer.

Initially capitalized terms used and not otherwise defined herein shall have their respective meanings as such terms are defined in the LLC Agreement in the form executed and delivered by the parties thereto on the date hereof (a conformed copy of which is attached hereto as Exhibit A), or as such terms may be defined in any subsequent amendment to such Agreement solely to the extent the Employee has consented in writing to such amendment.

AGREEMENTS

In consideration of the premises, the mutual covenants and the agreements hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

SECTION 1. EFFECTIVENESS; TERM OF EMPLOYMENT; COMPENSATION; EXPENSES.

(a) This Employment Agreement shall constitute a binding agreement between the parties as of the date hereof; PROVIDED, HOWEVER, that, in the event that the Purchase Agreement is terminated for any reason without the Closing having occurred, this Employment Agreement shall be terminated without further obligation or liability on the part of any party hereto (other than with respect to any breaches of the terms of this Employment Agreement occurring prior to the date of such termination of this Employment Agreement, for which the party breaching this Employment Agreement shall remain liable notwithstanding such termination of the Purchase Agreement or termination of employment, as the case may be).

(b) The Employer hereby agrees to employ the Employee for a period of ten (10) years beginning on the Closing Date (the "Term"), and the Employee hereby accepts such employment and agrees to be employed by the Employer for the Term (in each case subject to termination of the Employee's employment solely as provided herein). As consideration for the Employee's performance hereunder, the Employer will pay the Employee for his services during the Term hereof such amounts as shall be determined by the Management Committee or its delegate(s) consistent with the provisions of Article III of the LLC Agreement (including, by way of example and not of limitation, the provisions of Section 3.5(c) of the LLC Agreement with regard to the use of Operating Allocation), subject to such payroll and withholding deductions as are required by law. Consistent with the provisions of Section 3.5(c) of the LLC Agreement, the Employee's compensation (including salary and bonus) will be periodically reviewed and adjusted (with respect to both increases and/or decreases). During the Term, the Employer shall reimburse the Employee for his reasonable out-of-pocket expenses incurred, and make available to the Employee business resources of the Employer, in each case in connection with the business of the Employer, the DE LLC and their respective Controlled Affiliates on a basis consistent with the past practices of FAI and FAID (but taking into account the Employee's level of duties and activities during such period (including without limitation the reductions therein provided for in Section 2 hereof) and the performance of the business of the Employer, the DE LLC and their respective Controlled Affiliates over time).

(c) For purposes of the definition of "Retirement" set forth in the LLC Agreement, the Employee may Retire (subject to the notification requirements contained in such definition) any time on or after the tenth (10th) anniversary of the Closing Date.

SECTION 2. OFFICE AND DUTIES. During the Term of this Employment Agreement and while employed by the Employer, the Employee shall hold the following positions and perform the following duties relating to the Employer's businesses and operations during the following respective periods (except to the extent otherwise agreed to in writing by the Employee, the Management Committee and the Manager Member):

(A) During the first six months immediately following the Closing Date (consistent with his current level of active devotion to his duties at FAI and FAID), the Employee shall be employed as the Chief Executive Officer of the Employer and the Chairman of its Management Committee (and shall hold the same officer positions at the DE LLC but shall not be an employee of the DE LLC), and shall devote substantially all of his working time during such period to those duties and shall, to the best of his ability, perform those duties in a manner which will further the business and interests of the Employer, the DE LLC and their respective Controlled Affiliates;

(B) During the four and one-half year period immediately following the period described in clause (A) of this Section 2, the Employee shall be employed by the Employer as the Chairman of its Management Committee (and shall hold the same officer position at the DE LLC but shall not be an employee of the DE LLC) on an active basis (but shall no longer be the Chief Executive Officer of the Employer or the DE LLC), and shall devote substantially all of his working time during such period to such duties as Chairman of the Management Committee of the Employer and the DE LLC (which, by way of illustration and not of limitation, shall include periodic attendance at

client meetings, attendance at fund board meetings and interviews and other public appearances representing the Company, all consistent with levels of activity prior to the date hereof), and shall, to the best of his ability, perform those duties in a manner which will further the business and interests of the Employer, the DE LLC and their respective Controlled Affiliates; PROVIDED, HOWEVER, that the Employee may request at any time after the third anniversary of the Closing Date to continue his employment with the Employer as Chairman of the Management Committee on a semi-active basis (with a concurrent reduction in his level of activities as Chairman of the Management Committee of the DE LLC) and, upon the written agreement of the Manager Member in its sole discretion that it is appropriate for the Employee to proceed to the level of responsibility described in clause (C) of this Section 2, the Employee's duties and responsibilities shall be governed during the remainder of the Term of this Agreement (and thereafter while employed by the Employer) by clause (C) of this Section 2; and

(C) From and after the end of the period described in clause (B) of this Section 2 and for the remainder of the Term of this Agreement (and thereafter while employed by the Employer), the Employee shall be employed

by the Employer as the Chairman of its Management Committee (and shall hold the same officer position at the DE LLC but shall not be an employee of the DE LLC) on a semi-active basis, and shall devote at least a majority of his working time during such period to those duties (provided that no specific number of hours shall be required, so long as his time devoted to the business is appropriate in light of his duties) and shall, to the best of his ability, perform those duties in a manner which will further the business and interests of the Employer, the DE LLC and their respective Controlled Affiliates.

During the Term of this Employment Agreement (and thereafter while employed by the Employer), the Employee shall be permitted to serve as a member of the board of directors of charitable organizations and private or public companies only if, after notifying AMG of his intent to serve in any such capacity (which notification may be made by telephonic or other reasonable means, provided it is communicated to a member of the senior management of AMG), AMG has not, within five (5) business days after its receipt of such notification, made a Reasonable Objection to such service. A "Reasonable Objection" shall exist if (and only if) such board service (i) would, individually or in the aggregate with the Employee's existing duties in any other similar capacities, materially interfere with the performance of the Employee's duties and responsibilities to the Employer and its Affiliates as described in clauses (A), (B) or (C) above (as applicable), (ii) would conflict (or create the appearance of conflict) with the business of the Employer, AMG or their respective Affiliates, or create the appearance of either full-time involvement with other endeavors or a lack of involvement with the business of the Employer and its Affiliates, (iii) is for or on behalf of an entity that competes with the business of the Employer, AMG or their respective Affiliates or (iv) would otherwise be materially harmful to the Employer, AMG or their respective Affiliates.

The Employee agrees that the Employee will travel to whatever extent is reasonably necessary in the conduct of the Employer's business, and will otherwise work at the principal business offices of the Employer in Delaware, Wyoming and Arizona (subject to telecommuting on a reasonable basis and consistent with the past practices of the Employer and its predecessors).

The Manager Member and the Employer agree that the Employee shall be an "Eligible Person" within the meaning of the LLC Agreement and the DE LLC Agreement for so long as he is employed by the Employer in any of the capacities described in this Section 2 (including without limitation as the semi-active Chairman of the Management Committee).

SECTION 3. BENEFITS. During the Term of this Employment Agreement, the Employee shall participate, to the extent he is eligible and in a manner and to an extent that is fair and appropriate in light of his position and duties with the Employer at such time, in all bonus, pension, profit sharing, group insurance, or other fringe benefit plans which the Employer may hereafter in its sole and absolute discretion make available generally to its officers pursuant to the provisions of Article III of the LLC Agreement, but the Employer will not be required to establish any such program or plan. The Employee shall be entitled to such vacations and to such reimbursement of expenses as the Employer's policies allow, from time to time, to officers having comparable responsibilities and duties.

SECTION 4. TERMINATION OF EMPLOYMENT. Notwithstanding any other provision of this Employment Agreement, Employee's employment with the Employer shall be terminated only in the following circumstances:

(a) At any time by the Manager Member (with prior or concurrent notice to the Management Committee specifying the reasons for the decision), or by the Management Committee (including for all purposes the Employee) with the prior written consent of the Manager Member, if For Cause; or

(b) At any time by the Management Committee (including for all purposes the Employee) with the prior written consent of the Manager Member, if not For Cause; or

(c) At any time by the Manager Member, or by the Management Committee (including for all purposes the Employee) with the prior written consent of the Manager Member, upon the Permanent Incapacity of the Employee; or

(d) Upon the death of the Employee.

SECTION 5. ALL BUSINESS TO BE THE PROPERTY OF THE EMPLOYER; ASSIGNMENT OF INTELLECTUAL PROPERTY; CONFIDENTIALITY.

(a) The Employee agrees that any and all presently existing investment advisory businesses of the Employer, the DE LLC and their respective Controlled Affiliates (including business of either of their predecessors, FAI

and FAID, or any predecessor thereto), and all businesses developed by the Employer, the DE LLC, any of their respective Controlled Affiliates or any predecessor thereto, including by such Employee or any other employee of the Employer, the DE LLC or any of their respective Controlled Affiliates or any predecessor thereto, including, without limitation, all investment methodologies, all investment advisory contracts, fees and fee schedules, commissions, records, data, client lists, agreements, trade secrets, and any other incident of any business developed by the Employer, the DE LLC, their respective Controlled Affiliates or any predecessor thereto, or earned or carried on by the

Employee for the Employer, the DE LLC, any of their respective Controlled Affiliates or any predecessor thereto, and all trade names, service marks and logos under which the Employer, the DE LLC or any of their respective Controlled Affiliates (or any predecessor thereto) do or have done business, and any combinations or variations thereof and all related logos, are and shall be the exclusive property of the Employer, the DE LLC or such Controlled Affiliate, as applicable, for its or their sole use, and (where applicable) shall be payable directly to the Employer, the DE LLC or such Controlled Affiliate (as applicable). In addition, the Employee acknowledges and agrees that the investment performance of the accounts managed by the Employer, the DE LLC or any Controlled Affiliate of either of them (or any predecessor thereto, including without limitation FAI or FAID, and any predecessors thereto) was attributable to the efforts of the team of professionals at the Employer, the DE LLC, such Controlled Affiliate or such predecessor thereto, and not to the efforts of any single individual or subset of such team of professionals, and that therefore, the performance records of the accounts managed by the Employer, the DE LLC or any of their respective Controlled Affiliates (or any predecessor to any of them) are and shall be the exclusive property of the Employer, the DE LLC or such Controlled Affiliate, as applicable (and not of any other Person or Persons).

(b) The Employee acknowledges that, in the course of performing services hereunder and otherwise (including, without limitation, for the Employer's predecessors, FAI and FAID or any predecessor thereto), the Employee has had, and will from time to time have, access to information of a confidential or proprietary nature, including without limitation, all confidential or proprietary investment methodologies, trade secrets, proprietary or confidential plans, client identities and information, client lists, service providers, business operations or techniques, records and data ("Intellectual Property") owned or used in the course of business by the Employer, the DE LLC or their respective Controlled Affiliates. The Employee agrees always to keep secret and not ever publish, divulge, furnish, use or make accessible to anyone (otherwise than in the regular business of the Employer, the DE LLC and their respective Controlled Affiliates or as required by court order or by law (after consultation with outside counsel)) any Intellectual Property of the Employer, the DE LLC or any Controlled Affiliate of either of them unless such information can be shown to be publicly available (other than as a result of a breach of this paragraph (b) by the Employee). At the termination of the Employee's services to the Employer and its Affiliates, all data, memoranda, client lists, notes, programs and other papers, items and tangible media, and reproductions thereof relating to the foregoing matters in the Employee's possession or control, shall be returned to the Employer and remain in its possession.

(c) The Employee acknowledges that, in the course of entering into this Employment Agreement, the Employee has had and, in the course of the operation of the Employer and any Controlled Affiliates thereof, the Employee will from time to time have, access to Intellectual Property owned by or used in the course of business by AMG. The Employee agrees, for the benefit of the Employer and its Members, and for the benefit of the Manager Member and AMG, always to keep secret and not ever publish, divulge, furnish, use or make accessible to anyone (otherwise than at the Manager Member's request or by court order or by law (after consultation with outside counsel)) any knowledge or information regarding Intellectual Property (including, by way of example and not of limitation, the transaction structures utilized by AMG) of AMG unless such information can be shown to be publicly available (other than as a result of a breach of this paragraph (c) by the Employee). At the

termination of the Employee's service to the Employer and its Affiliates, all data, memoranda, documents, notes and other papers, items and tangible media, and reproductions thereof relating to the foregoing matters in the Employee's possession or control shall be returned to AMG and remain in its possession.

(d) The provisions of this Section 5 shall not be deemed to limit any of the rights of the Employer or the Members under the LLC Agreement or under applicable law, but shall be in addition to the rights set forth in the LLC Agreement and those which arise under applicable law.

SECTION 6. NON-COMPETITION COVENANT.

(a) Until the later of (i) two (2) years following the termination of the Employee's employment with the Employer and all of its Affiliates or (ii) twelve (12) years from the Closing Date, the Employee shall not, directly or indirectly, engage in any Prohibited Competition Activity.

(b) In addition to, and not in limitation of, the provisions of Section 6(a), the Employee agrees, for the benefit of the Employer, the Manager Member and their respective Affiliates, that from and after the termination of the Employee's employment with the Employer and its Affiliates and until the later of (i) two (2) years following the termination of the Employee's employment with the Employer and all of its Affiliates or (ii) twelve (12) years from the Closing Date, the Employee shall not, directly or indirectly, whether as owner, part owner, shareholder, partner, member, director, officer, trustee, employee, agent or consultant, or in any other capacity, on behalf of himself or any Person other than the Employer, the DE LLC and their respective Controlled Affiliates:

(i) provide Investment Management Services to any Person that is a Past, Present or Potential Client, PROVIDED, HOWEVER, that this clause (i) shall not be applicable to Clients (including Potential Clients) who are also members of the Immediate Family of the Employee;

(ii) solicit or induce, whether directly or indirectly, any Person for the purpose (which need not be the sole or primary purpose) of (A) causing any funds (other than funds of which the Employee and/or members of his Immediate Family are the sole beneficial owners, subject to those restrictions relating thereto set forth in the Purchase Agreement) with respect to which the Employer, the DE LLC or any of their respective Controlled Affiliates provides Investment Management Services to be withdrawn from such management, or (B) causing any Client (including any Potential Client) not to engage the Employer, the DE LLC or any of their respective Controlled Affiliates to provide Investment Management Services for any additional funds, PROVIDED, HOWEVER, that this clause (ii)(B) shall not be applicable to Clients (including Potential Clients) who are also members of the Immediate Family of the Employee;

(iii) contact or communicate with, whether directly or indirectly, any Past, Present or Potential Clients in connection with Investment Management Services;

PROVIDED, HOWEVER, that this clause (iii) shall not be applicable to Clients (including Potential Clients) who are also members of the Immediate Family of the Employee; or

(iv) (A) solicit or induce, or attempt to solicit or induce, directly or indirectly, any employee or agent of, or consultant to, the Employer, the DE LLC or any of their respective Controlled Affiliates to terminate its, his or her relationship therewith, (B) hire any employee, external researcher or similar agent or consultant, or former employee, external researcher or similar agent or consultant of the Employer, the DE LLC or any of their respective Controlled Affiliates who was employed by or acted as an external researcher or similar agent or consultant of the Employer or the DE LLC (or either of their predecessors, FAI and FAID or any predecessor thereto) or their respective Controlled Affiliates at any time during the two (2) year period preceding such hiring of such Person or (C) work in any enterprise involving Investment Management Services with any employee, external researcher or similar agent or consultant or former employee, external researcher or similar agent or consultant, of the Employer, the DE LLC or any of their respective Controlled Affiliates who was employed by or acted as an agent or consultant to the Employer, the DE LLC (or either of their predecessors, FAI and FAID or any predecessor thereto) or their respective Controlled Affiliates at any time during the two (2) year period preceding the termination of the Employee's employment (excluding for all purposes of this sentence, secretaries and persons holding other similar positions);

PROVIDED, HOWEVER, that this Section 6(b) shall not prohibit any firm, corporation or other business organization of which the Employee is an employee (but of which he is not a holder of any equity or other ownership interests therein, other than holdings of publicly traded stock which (in the aggregate with the holdings of his Affiliates and Immediate Family members) constitutes less than five percent (5%) of the outstanding stock of such entity) from engaging in such activities so long as the Employee can affirmatively demonstrate that he did not cause or induce such activities, has no participation or other involvement in such activities whatsoever and does not assist or facilitate in such activities in any manner (whether through the

provision of information or otherwise) and PROVIDED, FURTHER, that Section 6(b)(iv)(C) shall not prohibit the Employee from working at any firm, corporation or other business organization of which the Employee is an employee (but of which he is not a holder of any equity or other ownership interests therein, other than holdings of publicly traded stock which (in the aggregate with the holdings of his Affiliates and Immediate Family members) constitute less than five percent (5%) of the outstanding stock of such entity) provided that (I) such firm, corporation or other business organization has at least one hundred (100) employees as of the date the Employee becomes an employee thereof and (II) the Employee can affirmatively demonstrate that he does not personally work (directly or indirectly) with any employee, external researcher or similar agent or consultant (or former employee, external researcher or similar agent or consultant) described in Section 6(b)(iv)(C).

For purposes of this Section 6(b), (x) the term "Past Client" shall be limited to those Past Clients who were recipients of Investment Management Services, directly or indirectly, from the Employer or the DE LLC (including either of their predecessors, FAI and FAID or any predecessor thereto) and/or their respective Controlled Affiliates at the date of

termination of the Employee's employment or at any time during the two (2) years immediately preceding the date of such termination and (y) the term "Potential Client" shall be limited to those Persons to whom an offer (as described in the definition of "Potential Client") to provide Investment Management Services was made within two (2) years prior to the date of termination of the Employee's employment.

Notwithstanding the provisions of Sections 6(a) and 6(b), the Employee may make passive personal investments in an enterprise which is competitive with AMG or the Employer the shares or other equity interests of which are publicly traded; PROVIDED, his holdings therein, together with any holdings of his Affiliates and members of his Immediate Family, are less than five percent (5%) of the outstanding shares or comparable interests in such entity.

The Employee, the Employer and the Manager Member agree that the periods of time and the unlimited geographic area applicable to the covenants of this Section 6 are reasonable, in view of (i) the Employee's sale to the Manager Member (through FAI and FAID) of his and his wife's ownership interests in the Employer and the DE LLC (including without limitation the resulting transfer of goodwill of the Employer and the DE LLC associated therewith, which goodwill the parties hereto acknowledge will be amortized by the Manager Member over a period of time greater in length than the period of such non-competition covenants, giving the Manager Member and the Employer a continuing protectable interest in the enforcement of such non-competition covenants during the entire stated term thereof)) in connection with the sale of the Friess business provided for in the Purchase Agreement and Management Owner Purchase Agreement, (ii) the Employee's and his wife's receipt (through FAI and FAID) of more than one hundred and fifty million dollars ($150,000,000) at the Closing in connection with the business sale described in the preceding clause (i), (iii) the Employee's retention (through FAI and FAID) of a significant minority membership interest in the Employer and the DE LLC on the Closing Date (and his resulting status as a Non-Manager Member of the Employer and the DE LLC from and after such date), (iv) the Employee's receipt of the payments specified in Section 1 above, (v) the geographic scope and nature of the business in which the Employer, the DE LLC and their respective Controlled Affiliates are engaged (including the Employer's and the DE LLC's predecessors, FAI and FAID), (vi) the Employee's knowledge of the Employer's and the DE LLC's (and their predecessors, FAI's and FAID's) businesses and (vii) the Employee's relationships with the Employer's and the DE LLC's (and their predecessors, FAI's and FAID's) investment advisory clients. Each of the Employee, the Employer and the Manager Member acknowledges and agrees that it has been represented by legal counsel in connection with the transactions contemplated hereby. However, if such period or such area nonetheless should be adjudged unreasonable in any judicial proceeding, then the period of time shall be reduced by such number of months or such area shall be reduced by elimination of such portion of such area, or both, as are deemed unreasonable, so that this covenant may be enforced in such maximum area and during such maximum period of time as are adjudged to be reasonable.

(c) The Employee agrees (on behalf of himself and parties under his control) not to make any communication to any third party (including, by way of example and not of limitation, any Client (including Potential Clients) or employee of the Employer, AMG or any other Affiliate of AMG), which would, or is reasonably likely to, disparage, create a negative impression of, or in any way be harmful to the business or business reputation of the Employer, AMG, any of AMG's other Affiliates or their respective successors and assigns, and the then

current and former officers, directors, partners, members and employees of each of the foregoing.

(d) The Manager Member agrees that none of the senior executives of the Manager Member or AMG will make any communication to any third party (including, by way of example and not of limitation, any Client (including Potential Clients) or employee of the Employer) which would, or is reasonably likely to, disparage, create a negative impression of, or in any way be harmful to the business reputation of the Employee.

SECTION 7. NOTICES. All notices hereunder shall be in writing and shall be delivered, sent by recognized overnight courier or mailed by registered or certified mail, postage and fees prepaid, to the party to be notified at the party's address shown below. Notices which are hand delivered or delivered by recognized overnight courier shall be effective on delivery. Notices which are mailed shall be effective on the third day after mailing.

(i) If to the Employer:

Friess Associates, LLC
115 East Snow King Avenue
Jackson, WY 83001
Attention: Chief Executive Officer
Facsimile No.:

with a copy to:

Affiliated Managers Group, Inc.
Two International Place, 23rd Floor
Boston, MA 02110
Attention: Nathaniel Dalton, Executive Vice President
Facsimile No.: (617) 747-3380

(ii) if to the Employee, to the most recent address of the Employee on file with the Employer.

with a copy to:

Skadden, Arps, Slate, Meagher & Flom LLP
Four Times Square
New York, NY 10036
Attention: Russell G. D'Oench
Facsimile No.: (212) 735-2000

(iii) if to the Manager Member:

c/o Affiliated Managers Group, Inc.
Two International Place, 23rd Floor
Boston, MA 02110

Attention: Nathaniel Dalton, Executive Vice President
Facsimile No.: (617) 747-3380

with a copy to:

Simpson Thacher & Bartlett
425 Lexington Avenue
New York, NY 10017
Attention: Robert D. Goldbaum
Facsimile No.: (212) 455-2502

unless and until notice of another or different address shall be given as provided herein.

SECTION 8. THIRD-PARTY BENEFICIARY; ASSIGNABILITY. AMG is an intended third-party beneficiary of the provisions of this Employment Agreement. This Employment Agreement may be assigned by the Employer, AMG or the Manager Member (in each case with respect to its rights hereunder) without the consent of the Employee or the Management Committee, but in the case of the Employer, only to a successor of the business of the Employer; and PROVIDED, HOWEVER, that no such assignment by the Manager Member or AMG shall relieve the Manager Member or AMG (as applicable) of its respective obligation to make any payment pursuant to that certain Put Option Agreement with the Employee of even date herewith (except to the extent otherwise expressly provided therein with respect to AMG). This Employment Agreement shall be binding upon and inure to the benefit of the Employer and the Manager Member, and to any person or firm who may succeed to substantially all of the assets of the Employer or the Manager Member. This Employment Agreement shall not be assignable by the Employee.

SECTION 9. ENTIRE AGREEMENT. This Employment Agreement contains the entire agreement between the Employer and the Employee with respect to the subject matter hereof, and from and after the Closing supersedes all prior oral and written agreements between the Employer and the Employee with respect to the subject matter hereof, including without limitation any oral agreements relating to compensation. In the event of any conflict between the provisions hereof and of the LLC Agreement, the provisions hereof shall control.

SECTION 10. REMEDIES UPON BREACH.

(a) In the event that the Employee breaches any of the non-competition or non-solicitation provisions of this Employment Agreement (or otherwise violates any of the stated terms of any such provisions) (including without limitation following the termination of his employment with the Employer and its Affiliates), and in any such case such breach or violation has resulted or is reasonably likely to result in harm that is not immaterial or insignificant to (x) AMG or any of its Controlled Affiliates (other than the Employer, the DE LLC and their respective Controlled Affiliates), or (y) the Employer, the DE LLC and their respective Controlled Affiliates (taken as a whole), then in any such case (A) the Employee (and any related Non-Manager Member and Permitted Transferees thereof) shall forfeit its right to receive any payment for its LLC Interests under Section 3.11 or Section 7.1 of the LLC Agreement and for its DE LLC Interests under Section 3.11 or Section 7.1 of the DE LLC

Agreement, although it shall cease to be a Non-Manager Member in accordance with the provisions of Section 3.11 of the LLC Agreement and a "Non-Manager Member" of the DE LLC in accordance with the provisions of Section 3.11 of the DE LLC Agreement (provided that this clause (A) shall not apply to Subsequent Purchase LLC Points until such time as it has become objectively determinable that AMG will not be required to consummate the Subsequent Purchase pursuant to Section 12 of the Purchase Agreement, at which time such Subsequent Purchase LLC Points shall become subject to this clause (A)), (B) AMG (and any of its assignees thereunder) shall have no further obligations under any promissory note theretofore issued to the Employee (or to any related Non-Manager Member or Permitted Transferee thereof) pursuant to Section 3.11 of the LLC Agreement or Section 3.11 of the DE LLC Agreement, (C) the Manager Member (and any of its assignees thereunder) shall have no further obligations under any Contingent Consideration theretofor issued to the Employee (or to any related Non-Manager Member or Permitted Transferee thereof) pursuant to Section 3.11 or 7.1 of the LLC Agreement or any "Contingent Consideration" theretofor issued to the Employee (or to any related "Non-Manager Member" or "Permitted Transferee" thereof) pursuant to Section 3.11 or 7.1 of the DE LLC Agreement, and (D) the Employer and the DE LLC shall be entitled to withhold any other payments to which the Employee (or its related Non-Manager Member) otherwise would be entitled to offset damages resulting from such breach; PROVIDED, HOWEVER, that the Employer and the DE LLC shall not be permitted to withhold any compensation, distribution or other payments that the Employee (or its related Non-Manager Member) is otherwise entitled to receive out of the Operating Allocation or the Owners' Allocation of the Employer or the DE LLC absent either an admission of such breach by the Employee (or its related Non-Manager Member) or the rendering of a settlement, judgment or arbitral decision establishing such breach.

(b) The Employee agrees that any breach of the provisions of this Employment Agreement by the Employee could cause irreparable damage to the Employer and the other Members, and that the Employer (by action of the Management Committee) and the Manager Member shall have the right to an injunction or other equitable relief (in addition to other legal remedies) to prevent any violation of the Employee's obligations hereunder.

SECTION 11. ARBITRATION OF DISPUTES. Any controversy or claim arising out of or relating to this Employment Agreement or the breach hereof or otherwise arising out of the Employee's employment or the termination of that employment (including, without limitation, any claims of unlawful employment discrimination whether based on age or otherwise) shall, to the fullest extent permitted by law, be settled by arbitration in any forum and form agreed upon by the parties or, in the absence of such an agreement, under the auspices of the American Arbitration Association ("AAA") in New Castle County, Delaware in accordance with the Employment Dispute Resolution Rules of the AAA, including, but not limited to, the rules and procedures applicable to the selection of arbitrators, except that the arbitrator shall apply the law as established by decisions of the U.S. Supreme Court, the Court of Appeals for the Third Circuit and the U.S. District Court for the District of Delaware in deciding the merits of claims and defenses under federal law or any state or federal antidiscrimination law, and any awards to the Employee for violation of any antidiscrimination law shall not exceed the maximum award to which the Employee would be entitled under the applicable (or most analogous) federal antidiscrimination or civil rights laws. In the event that any person or entity other than the Employee, the Employer or the Manager Member may be a party with

regard to any such controversy or claim, such controversy or claim shall be submitted to arbitration subject to such

other person or entity's agreement. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The parties covenant that they will participate in the arbitration in good faith. Each party to such arbitration shall bear its own costs and expenses in connection therewith. This Section 11 shall be specifically enforceable. Notwithstanding the foregoing, this Section 11 shall not preclude any party hereto from pursuing a court action for the sole purpose of obtaining a temporary restraining order and/or a preliminary injunction in circumstances in which such relief is appropriate; PROVIDED, that any other relief shall be pursued through an arbitration proceeding pursuant to this Section 11. Furthermore, this Section 11 shall not be construed in any way to prevent the Employer or the Manager Member from pursuing a court action against any person not a party to this Agreement for claims under local, state or federal law.

SECTION 12. CONSENT TO JURISDICTION. To the extent that any court action is permitted consistent with or to enforce Section 6 of this Employment Agreement, the parties hereby consent to the jurisdiction of the Chancery Court of the State of Delaware and the United States District Court for the District of Delaware and the courts of original jurisdiction in Wyoming for the geographical area including Jackson, Wyoming. Accordingly, with respect to any such court action, the Employee (a) submits to the personal jurisdiction of such courts; (b) consents to service of process at the address determined pursuant to the provisions of Section 7 hereof; and (c) waives any other requirement (whether imposed by statute, rule of court, or otherwise) with respect to personal jurisdiction or service of process. Nothing contained in this section shall affect the right of the Employer or the Manager Member to serve legal process in any other manner permitted by law or affect the right of the Employer or the Manager Member to bring any court action against any person not a party to this Agreement for claims under local, state or federal law.

SECTION 13. THIRD-PARTY AGREEMENTS AND RIGHTS.

(a) The Employee hereby confirms that the Employee is not bound by the terms of any agreement with any previous employer or other party which restricts in any way the Employee's use or disclosure of information or the Employee's engagement in any business. The Employee represents to the Employer that the Employee's execution of this Employment Agreement, the Employee's employment with the Employer and the performance of the Employee's proposed duties for the Employer will not violate any obligations the Employee may have to any such previous employer or other party. In the Employee's work for the Employer, the Employee will not disclose or make use of any information in violation of any agreements with or rights of any such previous employer or other party, and the Employee will not bring to the premises of the Employer any copies or other tangible embodiments of non-public information belonging to or obtained from any such previous employment or other party.

(b) The Employee agrees to provide written notice of the provisions of Section 6 of this Agreement (and shall provide a copy of such notice concurrently to the Employer), together with a copy thereof, to any enterprise engaged in whole or in part in the provision of Investment Management Services for which the Employee acts as an employee following his termination of employment with the Employer prior to acting in such capacity.

SECTION 14. LITIGATION AND REGULATORY COOPERATION. During and after the Employee's employment, the Employee shall cooperate fully with the Employer in the defense or prosecution of any claims or actions now in existence or which may be brought in the future against or on behalf of the Employer or the Manager Member or their Affiliates which relate to events or occurrences that transpired while the Employee was employed by the Employer (including, without limitation, its predecessor, the Manager Member, or any predecessor thereto). The Employee's full cooperation in connection with such claims or actions shall include, but not be limited to, being available to meet with counsel to prepare for discovery or trial and to act as a witness on behalf of the Employer or the Manager Member or their Affiliates at mutually convenient times. During and after the Employee's employment, the Employee also shall cooperate fully with the Employer, the Manager Member and their Affiliates in connection with any investigation or review of any federal, state or local regulatory, quasi-regulatory or self-governing authority (including, without limitation, the Securities and Exchange Commission) as any such investigation or review relates to events or occurrences that transpired while the Employee was employed by the Employer (including, without limitation, its predecessor, the Manager Member, and any predecessor thereto). The Employer shall reimburse the Employee for any reasonable out-of-pocket expenses incurred in connection with the Employee's performance of obligations pursuant to this Section 14.

SECTION 15. WAIVERS AND FURTHER AGREEMENTS. Neither this Employment Agreement nor any term or condition hereof, including without limitation the terms and conditions of this Section 15, may be waived or modified in whole or in part as against the Manager Member, the Employer or the Employee, except by written instrument executed by or on behalf of each of the parties hereto other than the party seeking such waiver or modification, expressly stating that it is intended to operate as a waiver or modification of this Employment Agreement or the applicable term or condition hereof, it being understood that any action under this Section 15 on behalf of the Employer may be taken only with the approval of the Manager Member as the Manager Member of the Employer. Each of the parties hereto agrees to execute all such further instruments and documents and to take all such further action as the other party may reasonably require in order to effectuate the terms and purposes of this Employment Agreement.

SECTION 16. AMENDMENTS; EMPLOYER'S CONSENTS. This Employment Agreement may not be amended, nor shall any change, modification, consent, or discharge be effected except by written instrument executed by or on behalf of the party against whom enforcement of any change, modification, consent or discharge is sought, provided that any action under this Section 16 on behalf of the Employer may be taken only with the prior written approval of the Manager Member. Whenever under this Agreement the consent of the Employer is required, that consent shall only be effective if given with the prior written consent of the Manager Member.

SECTION 17. SEVERABILITY. If any provision of this Employment Agreement shall be held or deemed to be invalid, inoperative or unenforceable in any jurisdiction or jurisdictions, because of conflicts with any constitution, statute, rule or public policy or for any other reason, such circumstance shall not have the effect of rendering the provision in question unenforceable in any other jurisdiction or in any other case or circumstance or of rendering any other provisions herein contained unenforceable to the extent that such other provisions are not themselves

actually in conflict with such constitution, statute or rule of public policy, but this Employment Agreement shall be reformed and construed in any such jurisdiction or case as if such invalid, inoperative, or unenforceable provision had never been contained herein and such provision reformed so that it would be enforceable to the maximum extent permitted in such jurisdiction or in such case.

SECTION 18. GOVERNING LAW. This Employment Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Delaware, without regard to any rules or principles regarding conflicts or choice of law, or any rule or canon of construction which interprets agreements against the drafting party.

SECTION 19. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

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IN WITNESS WHEREOF the parties have executed this Employment Agreement as of the date first above written.

FRIESS ASSOCIATES, LLC

By: /s/ Foster S. Friess
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Name: Foster S. Friess
Title: President

FA (WY) ACQUISITION COMPANY, INC., as the Manager Member from and after the Closing

By: /s/ Seth W. Brennan
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Name: Seth W. Brennan
Title: Executive Vice President

EMPLOYEE:

/s/ Foster S. Friess

---

Foster S. Friess

Exhibit 10.24

FORM OF FRIESS
EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (hereafter the "Employment Agreement") is entered into as of August 28, 2001, by and among FA (DE) Acquisition Company, LLC, a Delaware limited liability company (the "Manager Member"), Friess Associates of Delaware, LLC, a Delaware limited liability company (the "Employer"), and (the "Employee").

W I T N E S S E T H:

WHEREAS, (i) Friess Associates of Delaware, Inc., a Delaware corporation ("FAID") and (ii) Foster S. Friess together own all of the outstanding membership interests in the Employer as of the date hereof;

WHEREAS, (i) Friess Associates, Inc., a Delaware corporation ("FAI"), (ii) The Community Foundation of Jackson Hole, a Wyoming non-profit corporation ("CFJH"), (iii) NCCF Support, Inc., a Georgia non-profit corporation ("NCCF" and, collectively with CFJH, the "Charities"), (iv) the Employee and (v) certain other key employees of Friess Associates, LLC, a Delaware limited liability company (the "WY LLC") together own all of the outstanding membership interests in the WY LLC as of the date hereof, and the WY LLC, as an affiliated company of the Employer, will engage in the business of investment management with the Employer, and together they will conduct the Friess business formerly conducted by FAI and FAID;

WHEREAS, pursuant to that certain Purchase Agreement, dated as of August 28, 2001 (the "Purchase Agreement") by and among Affiliated Managers Group, Inc. ("AMG"), a Delaware corporation and the manager member of, and holder of all of the outstanding membership interests in, the Manager Member, FAID, Friess Associates, Inc., a Delaware corporation ("FAI" and, collectively with FAID, the "Friess Companies") and certain other parties as set forth therein, AMG has agreed to cause the Manager Member to purchase (i) from FAID at the "Closing" (as such term is defined in the Purchase Agreement) (the "Closing") all of the membership interests in the Employer owned by FAID (other than certain retained minority membership interests to be held by FAID as of immediately following the Closing), (ii) from Foster S. Friess at the Closing all of the membership interests in the Employer owned by Foster S. Friess and (iii) from FAID on the third anniversary of the Closing (subject to certain conditions set forth in the Purchase Agreement) a portion of the retained minority membership interest held by FAID as of immediately following the Closing, and as of the Closing the Manager Member will become the "manager" of the Employer within the meaning of the Act;

WHEREAS, pursuant to that certain Management Owner Purchase Agreement, dated as of August 28, 2001 (the "Management Owner Purchase Agreement") by and among AMG, the Employee and certain other key employees of the Employer and the WY LLC, and as a condition precedent to the Employee having agreed to enter into this Employment Agreement, AMG has agreed (subject to the conditions set forth in the Management Owner Purchase

Agreement) to cause the Manager Member to purchase from the Employee and such other key employees of the Employer and the WY LLC at the Closing all of the ownership interests in the WY LLC owned by the Employee and such other key employees of the Employer and the WY LLC, and to pay to the Employee at the Closing a cash purchase price in respect of such purchased ownership interest of approximately ;

WHEREAS, as a further condition precedent to the Employee having agreed to enter into this Employment Agreement, at the Closing the Employee will be granted (subject to the conditions set forth in the Management Owner Purchase Agreement) new membership interests in the Employer and the WY LLC, and will become a Non-Manager Member of the Employer and the WY LLC and a member of their respective Management Committees as of immediately following the Closing; reference is hereby made to that certain Amended and Restated Limited Liability Company Agreement of the Employer dated as of the date hereof and effective as of the Closing, as the same may be amended and/or restated from time to time (the "LLC Agreement");

WHEREAS, in addition to his material participation in the proceeds resulting from the sale of the business of the WY LLC to AMG (as described in the foregoing recitals), the Employee will receive substantial economic and other benefits if the transactions contemplated by the Purchase Agreement and

the Management Owner Purchase Agreement are consummated, both as a Non-Manager Member of the Employer from and after the Closing and pursuant to the terms of this Employment Agreement and the LLC Agreement;

WHEREAS, it is a condition precedent to the obligation of AMG to consummate the transactions contemplated by the Purchase Agreement and the Management Owner Purchase Agreement that the Employee, as a seller of membership interests in the Employer and a key employee of the Employer, enter into and be bound by an employment agreement with the Employer in the form hereof, supplanting as of the Closing any previous employment agreement or arrangement that Employee may have had with the Employer or either of the Friess Companies;

WHEREAS, it is a condition precedent to the Employee becoming a Non-Manager Member of the Employer at the Closing that the Employee enter into and be bound by an employment agreement with the Employer in the form hereof;

WHEREAS, the Manager Member and the Employer recognize the importance of the Employee to the Employer and the WY LLC and to the Employer's and the WY LLC's ability to retain their client relationships, and desire that the Employer employ the Employee for the period of employment and upon and subject to the terms herein provided;

WHEREAS, the Manager Member and the Employer wish to be assured that the Employee will not compete with the Employer, the WY LLC or any of their respective Controlled Affiliates during the period of employment and for a period thereafter, and that the Employee will not solicit any Past, Present, or Potential Clients of FAID, FAI or the Employer during the period of employment and for a period thereafter upon and subject to the terms herein

provided, as any such competition or solicitation by the Employee would damage the Employer's goodwill among Clients and the general public;

WHEREAS, the Employee desires to be employed by the Employer and to refrain from competing with the Employer, the WY LLC or any of their respective Controlled Affiliates or soliciting Past, Present or Potential Clients for the periods and upon and subject to the terms herein provided; and

WHEREAS, the Employee has been employed by the Employer or the Friess Companies for approximately years, has while so employed contributed to the acquisition and retention of Clients, and will continue to seek to acquire and retain Clients and to generate goodwill in the future as an officer, employee and agent of the Employer.

Initially capitalized terms used and not otherwise defined herein shall have their respective meanings as such terms are defined in the LLC Agreement in the form executed and delivered by the parties thereto on the date hereof (a conformed copy of which is attached hereto as Exhibit A), or as such terms may be defined in any subsequent amendment to such Agreement solely to the extent the Employee has consented in writing to such amendment.

AGREEMENTS

In consideration of the premises, the mutual covenants and the agreements hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

SECTION 1. EFFECTIVENESS; TERM OF EMPLOYMENT; COMPENSATION.

(a) This Employment Agreement shall constitute a binding agreement between the parties as of the date hereof; PROVIDED, HOWEVER, that in the event that (i) the Purchase Agreement is terminated for any reason without the Closing (as such term is defined in the Purchase Agreement) having occurred, (ii) prior to the Closing, the Employee's employment with the DE LLC is terminated at the election of the DE LLC for any reason or (iii) the Closing shall not have occurred for any reason within after the date hereof, then in any such event this Employment Agreement shall be terminated without further obligation or liability on the part of any party hereto (other than with respect to any breaches of the terms of this Employment Agreement occurring prior to the date of such termination of this Employment Agreement, for which the party breaching this Employment Agreement shall remain liable notwithstanding such termination of the Purchase Agreement or termination of employment, as the case may be).

(b) The Employer hereby agrees to employ the Employee for a period of

ten (10) years beginning on the Closing Date (the "Term"), and the Employee hereby accepts such employment and agrees to be employed by the Employer for the Term (in each case subject to termination of the Employee's employment solely as provided herein). As consideration for the Employee's performance hereunder, the Employer will pay the Employee for his services during the Term hereof such amounts as shall be determined by the Management Committee or its delegate(s) consistent with the provisions of Article III of the LLC Agreement (including, by way of example and not of limitation, the provisions of Section 3.5(c) of the LLC Agreement with regard to the use of Operating Allocation and the provisions of Schedule B to the LLC Agreement), subject to such payroll and withholding deductions as are required by law. Consistent with the provisions of Section 3.5(c) of the LLC Agreement (but subject to the provisions of Schedule B to the LLC Agreement), the Employee's compensation (including salary and bonus) will be periodically reviewed and adjusted (with respect to both increases and/or decreases).

(c) For purposes of the definition of "Retirement" set forth in the LLC Agreement, the Employee may Retire (subject to the notification requirements contained in such definition) any time on or after the anniversary of the Closing Date; PROVIDED, HOWEVER, that, solely in the event that the Employee and together deliver to the Employer and the Manager Member an irrevocable written notice, jointly executed and delivered by each such person in his sole discretion, on or prior to the anniversary of the Closing Date of their determination to exchange their respective minimum Retirement dates set forth in their Employment Agreements, then in such event, the Employee thereafter shall be permitted to Retire (subject to the notification requirements contained in the definition of "Retirement") any time on or after the anniversary of the Closing Date.

SECTION 2. OFFICE AND DUTIES.

(a) During the Term of this Employment Agreement and while employed by the Employer, the Employee shall hold such positions and perform such duties relating to the Employer's businesses and operations as may from time to time be assigned to him in accordance with the provisions of Article III of the LLC Agreement. During the Term of this Employment Agreement and while employed by the Employer, the Employee shall devote substantially all of his working time to his duties hereunder and shall, to the best of his ability, perform such duties in a manner which will further the business and interests of the Employer, the WY LLC and their respective Controlled Affiliates. The Employee agrees that the Employee will travel to whatever extent is reasonably necessary in the conduct of the Employer's business.

(b) During the Term of this Employment Agreement (and thereafter while employed by the Employer), the Employee shall, solely with the prior written consent of the Management Committee and the Manager Member (such consent not to be unreasonably withheld or withdrawn), be permitted to serve as a member of the board of directors of charitable organizations and private or public companies, PROVIDED that the Manager Member in its reasonable discretion determines that such directorships do not, individually or in the aggregate, (i) interfere with the performance of the Employee's duties and responsibilities hereunder or (ii)

conflict, or create the appearance of conflict, with the business of the Employer or create the appearance of significant involvement with any other endeavor.

SECTION 3. BENEFITS. During the Term of this Employment Agreement, the Employee shall participate, to the extent he is eligible and in a manner and to an extent that is fair and appropriate in light of his position and duties with the Employer at such time, in all bonus, pension, profit sharing, group insurance, or other fringe benefit plans which the Employer may hereafter in its sole and absolute discretion make available generally to its officers pursuant to the provisions of Article III of the LLC Agreement, but the Employer will not be required to establish any such program or plan. The Employee shall be entitled to such vacations and to such reimbursement of expenses as the Employer's policies allow, from time to time, to officers having comparable responsibilities and duties.

SECTION 4. TERMINATION OF EMPLOYMENT. Notwithstanding any other provision of this Employment Agreement, Employee's employment with the Employer shall be terminated only in the following circumstances:

(a) At any time by the Manager Member (with prior or concurrent notice to the Management Committee specifying the reasons for the decision), or by the Management Committee (including for all purposes the Employee) with the prior written consent of the Manager Member, if For Cause; or

(b) At any time by the Management Committee (including for all

purposes the Employee) with the prior written consent of the Manager Member, if not For Cause; or

(c) At any time by the Manager Member, or by the Management Committee (including for all purposes the Employee) with the prior written consent of the Manager Member, upon the Permanent Incapacity of the Employee; or

(d) Upon the death of the Employee.

SECTION 5. ALL BUSINESS TO BE THE PROPERTY OF THE EMPLOYER; ASSIGNMENT OF INTELLECTUAL PROPERTY; CONFIDENTIALITY.

(a) The Employee agrees that any and all presently existing investment advisory businesses of the Employer, the WY LLC and their respective Controlled Affiliates (including business of either of their predecessors, FAID and FAI, or any predecessor thereto), and all businesses developed by the Employer, the WY LLC, any of their respective Controlled Affiliates or any predecessor thereto, including by such Employee or any other employee of the Employer, the WY LLC or any of their respective Controlled Affiliates or any predecessor thereto, including, without limitation, all investment methodologies, all investment advisory contracts, fees and fee schedules, commissions, records, data, client lists, agreements, trade secrets, and any other incident of any business developed by the Employer, the WY LLC, their respective Controlled Affiliates or any predecessor thereto, or earned or carried on by the Employee for the Employer, the WY LLC, any of their respective Controlled Affiliates or any predecessor thereto, and all trade names, service marks and logos under which the Employer, the WY LLC or any of their respective Controlled Affiliates (or any predecessor thereto) do or have done business, and any combinations or variations thereof and all related logos, are and shall be the exclusive property of the Employer, the WY LLC or such Controlled Affiliate, as applicable, for its or their sole use, and (where applicable) shall be payable directly to the Employer, the WY LLC or such Controlled Affiliate (as applicable). In addition, the Employee acknowledges and agrees that the investment performance of the accounts managed by the Employer, the WY LLC or any Controlled Affiliate of either of them (or any predecessor thereto, including without limitation FAID or FAI, and any predecessors thereto) was attributable to the efforts of the team of professionals at the Employer, the WY LLC, such Controlled Affiliate or such predecessor thereto, and not to the efforts of any single individual or subset of such team of professionals, and that therefore, the performance records of the accounts managed by the Employer, the WY LLC or any of their respective Controlled Affiliates (or any predecessor to any of them) are and shall be the exclusive property of the Employer, the WY LLC or such Controlled Affiliate, as applicable (and not of any other Person or Persons).

(b) The Employee acknowledges that, in the course of performing services hereunder and otherwise (including, without limitation, for the Employer's predecessors, FAID and FAI or any predecessor thereto), the Employee has had, and will from time to time have, access to information of a confidential or proprietary nature, including without limitation, all confidential or proprietary investment methodologies, trade secrets, proprietary or confidential plans, client identities and information, client lists, service providers, business operations or techniques, records and data ("Intellectual Property") owned or used in the course of business by the Employer, the WY LLC or their respective Controlled Affiliates. The Employee agrees always to keep secret and not ever publish, divulge, furnish, use or make accessible to anyone (otherwise than in the regular business of the Employer, the WY LLC and their respective Controlled Affiliates or as required by court order or by law (after consultation with outside counsel)) any Intellectual Property of the Employer, the WY LLC or any Controlled Affiliate of either of them unless such information can be shown to be publicly available (other than as a result of a breach of this paragraph (b) by the Employee). At the termination of the Employee's services to the Employer and its Affiliates, all data, memoranda, client lists, notes, programs and other papers, items and tangible media, and reproductions thereof relating to the foregoing matters in the Employee's possession or control, shall be returned to the Employer and remain in its possession.

(c) The Employee acknowledges that, in the course of entering into this Employment Agreement, the Employee has had and, in the course of the operation of the Employer and any Controlled Affiliates thereof, the Employee will from time to time have, access to Intellectual Property owned by or used in the course of business by AMG. The Employee agrees, for the benefit of the Employer and its Members, and for the benefit of the Manager Member and AMG, always to keep secret and not ever publish, divulge, furnish, use or make accessible to anyone (otherwise than at the Manager Member's request or by court order or by law (after consultation with outside counsel)) any

knowledge or information regarding Intellectual Property (including, by way of example and not of limitation, the transaction structures utilized by AMG) of AMG unless such information can be shown to be publicly available (other than as a result of a breach of this paragraph (c) by the Employee). At the termination of the Employee's service to the Employer and its Affiliates, all data, memoranda, documents, notes and other papers, items and tangible media, and reproductions thereof relating to the foregoing matters in the Employee's possession or control shall be returned to AMG and remain in its possession.

(d) The provisions of this Section 5 shall not be deemed to limit any of the rights of the Employer or the Members under the LLC Agreement or under applicable law, but shall be in addition to the rights set forth in the LLC Agreement and those which arise under applicable law.

SECTION 6. NON-COMPETITION COVENANT.

(a) Until the later of (i) two (2) years following the termination of the Employee's employment with the Employer and all of its Affiliates or (ii) twelve (12) years from the Closing Date, the Employee shall not, directly or indirectly, engage in any Prohibited Competition Activity.

(b) In addition to, and not in limitation of, the provisions of Section 6(a), the Employee agrees, for the benefit of the Employer, the Manager Member and their respective Affiliates, that from and after the termination of the Employee's employment with the Employer and its Affiliates and until the later of (i) two (2) years following the termination of the Employee's employment with the Employer and all of its Affiliates or (ii) twelve (12) years from the Closing Date, the Employee shall not, directly or indirectly, whether as owner, part owner, shareholder, partner, member, director, officer, trustee, employee, agent or consultant, or in any other capacity, on behalf of himself or any Person other than the Employer, the WY LLC and their respective Controlled Affiliates:

(i) provide Investment Management Services to any Person that is a Past, Present or Potential Client, PROVIDED, HOWEVER, that this clause (i) shall not be applicable to Clients (including Potential Clients) who are also members of the Immediate Family of the Employee;

(ii) solicit or induce, whether directly or indirectly, any Person for the purpose (which need not be the sole or primary purpose) of (A) causing any funds (other than funds of which the Employee and/or members of his Immediate Family are the sole

beneficial owners) with respect to which the Employer, the WY LLC or any of their respective Controlled Affiliates provides Investment Management Services to be withdrawn from such management, or (B) causing any Client (including any Potential Client) not to engage the Employer, the WY LLC or any of their respective Controlled Affiliates to provide Investment Management Services for any additional funds, PROVIDED, HOWEVER, that this clause (ii)(B) shall not be applicable to Clients (including Potential Clients) who are also members of the Immediate Family of the Employee;

(iii) contact or communicate with, whether directly or indirectly, any Past, Present or Potential Clients in connection with Investment Management Services; PROVIDED, HOWEVER, that this clause (iii) shall not be applicable to Clients (including Potential Clients) who are also members of the Immediate Family of the Employee; or

(iv) (A) solicit or induce, or attempt to solicit or induce, directly or indirectly, any employee or agent of, or consultant to, the Employer, the WY LLC or any of their respective Controlled Affiliates to terminate its, his or her relationship therewith, (B) hire any employee, external researcher or similar agent or consultant, or former employee, external researcher or similar agent or consultant of the Employer, the WY LLC or any of their respective Controlled Affiliates who was employed by or acted as an external researcher or similar agent or consultant of the Employer or the WY LLC (or either of their predecessors, FAID and FAI or any predecessor thereto) or their respective Controlled Affiliates at any time during the two (2) year period preceding such hiring of such Person or (C) work in any enterprise involving Investment Management Services with any employee, external researcher or similar agent or consultant or former employee, external researcher or similar agent or consultant, of the Employer, the WY LLC or any of their respective Controlled Affiliates who was employed by or acted as an agent or consultant to the Employer, the WY LLC (or either of their predecessors, FAID and FAI or any predecessor thereto) or their respective Controlled Affiliates at any time during the two (2) year period preceding the termination of the Employee's employment (excluding for all purposes of

this sentence, secretaries and persons holding other similar positions);

PROVIDED, HOWEVER, that this Section 6(b) shall not prohibit any firm, corporation or other business organization of which the Employee is an employee (but of which he is not a holder of any equity or other ownership interests therein, other than holdings of publicly traded stock which (in the aggregate with the holdings of his Affiliates and Immediate Family members) constitutes less than five percent (5%) of the outstanding stock of such entity) from engaging in such activities so long as the Employee can affirmatively demonstrate that he did not cause or induce such activities, has no participation or other involvement in such activities whatsoever and does not assist or facilitate in such activities in any manner (whether through the provision of information or otherwise) and PROVIDED, FURTHER, that Section 6(b)(iv)(C) shall not prohibit the Employee from working at any firm, corporation or other business organization of which the Employee is an employee (but of which he is not a holder of any equity or other ownership interests therein, other than holdings of publicly traded stock which (in the aggregate with the holdings of his Affiliates and Immediate Family members) constitute less than five percent (5%) of the outstanding stock of such entity) provided that (I) such firm, corporation or other business

organization has at least one hundred (100) employees as of the date the Employee becomes an employee thereof and (II) the Employee can affirmatively demonstrate that he does not personally work (directly or indirectly) with any employee, external researcher or similar agent or consultant (or former employee, external researcher or similar agent or consultant) described in Section 6(b)(iv)(C).

For purposes of this Section 6(b), (x) the term "Past Client" shall be limited to those Past Clients who were recipients of Investment Management Services, directly or indirectly, from the Employer or the WY LLC (including either of their predecessors, FAID and FAI or any predecessor thereto) and/or their respective Controlled Affiliates at the date of termination of the Employee's employment or at any time during the two (2) years immediately preceding the date of such termination and (y) the term "Potential Client" shall be limited to those Persons to whom an offer (as described in the definition of "Potential Client") to provide Investment Management Services was made within two (2) years prior to the date of termination of the Employee's employment.

Notwithstanding the provisions of Sections 6(a) and 6(b), the Employee may make passive personal investments in an enterprise which is competitive with AMG or the Employer the shares or other equity interests of which are publicly traded; PROVIDED, his holdings therein, together with any holdings of his Affiliates and members of his Immediate Family, are less than five percent (5%) of the outstanding shares or comparable interests in such entity.

(c) The Employee, the Employer and the Manager Member agree that the periods of time and the unlimited geographic area applicable to the covenants of this Section 6 are reasonable in view of (i) the Employee's sale to the Manager Member of his ownership interest in the WY LLC, an affiliated company of the Employer that engages in the business of investment management with the Employer and together with the Employer conducts the business formerly conducted by the Friess Companies, (including without limitation the resulting transfer of goodwill of the WY LLC associated therewith, which goodwill the parties hereto acknowledge will be amortized by the Manager Member over a period of time greater in length than the period of such non-competition covenants, giving the Manager Member and the Employer a continuing protectable interest in the enforcement of such non-competition covenants during the entire stated term thereof)) in connection with the sale of the Friess business provided for in the Purchase Agreement and Management Owner Purchase Agreement, (ii) the Employee's receipt of approximately dollars ( ) in connection with the business sale described in the preceding clause (i), (iii) the Employee's receipt of a significant minority membership interest in the Employer and the WY LLC on the Closing Date (and his resulting status as a Non-Manager Member of the Employer and the WY LLC from and after such date), (iv) the Employee's receipt of the payments specified in Section 1 above, (v) the geographic scope and nature of the business in which the Employer, the WY LLC and their respective Controlled Affiliates are engaged (including the Employer's and the WY LLC's predecessors, FAID and FAI), (vi) the Employee's knowledge of the Employer's and the WY LLC's (and their predecessors, FAID's and FAI's) businesses and (vii) the Employee's relationships with the Employer's and the WY LLC's (and their predecessors, FAID's and FAI's) investment advisory clients. Each of the Employee, the Employer and the Manager Member acknowledges and agrees that it has been represented by legal counsel in connection with the transactions contemplated hereby. However, if such period or such area

nonetheless should be adjudged unreasonable in any judicial proceeding, then the period of time shall be reduced by such number of months or such area shall be reduced by elimination of such portion of such area, or both, as are deemed unreasonable, so that this covenant may be enforced in such maximum area and during such maximum period of time as are adjudged to be reasonable.

(d) The Employee agrees (on behalf of himself and parties under his control) not to make any communication to any third party (including, by way of example and not of limitation, any Client (including Potential Clients) or employee of the Employer, AMG or any other Affiliate of AMG), which would, or is reasonably likely to, disparage, create a negative impression of, or in any way be harmful to the business or business reputation of the Employer, AMG, any of AMG's other Affiliates or their respective successors and assigns, and the then current and former officers, directors, partners, members and employees of each of the foregoing.

(e) The Manager Member agrees that none of the senior executives of the Manager Member or AMG. will make any communication to any third party (including, by way of example and not of limitation, any Client (including Potential Clients) or employee of the Employer) which would, or is reasonably likely to, disparage, create a negative impression of, or in any way be harmful to the business reputation of the Employee.

SECTION 7. NOTICES. All notices hereunder shall be in writing and shall be delivered, sent by recognized overnight courier or mailed by registered or certified mail, postage and fees prepaid, to the party to be notified at the party's address shown below. Notices which are hand delivered or delivered by recognized overnight courier shall be effective on delivery. Notices which are mailed shall be effective on the third day after mailing.

(i) If to the Employer:

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with a copy to:

Affiliated Managers Group, Inc.
Two International Place, 23rd Floor
Boston, MA 02110
Attention: Nathaniel Dalton, Executive Vice President
Facsimile No.: (617) 747-3380

(ii) if to the Employee, to the most recent address of the Employee on file with the Employer with a copy to:

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(iii) if to the Manager Member:

c/o Affiliated Managers Group, Inc.
Two International Place, 23rd Floor
Boston, MA 02110
Attention: Nathaniel Dalton, Executive Vice President
Facsimile No.: (617) 747-3380

with a copy to:

Simpson Thacher & Bartlett
425 Lexington Avenue
New York, NY 10017
Attention: Robert Goldbaum
Facsimile No.: (212) 455-2502

unless and until notice of another or different address shall be given as provided herein.

SECTION 8. THIRD-PARTY BENEFICIARY; ASSIGNABILITY. AMG is an intended third-party beneficiary of the provisions of this Employment Agreement. This Employment Agreement may be assigned by the Employer, AMG or the Manager Member (in each case with respect to its rights hereunder) without the consent of the Employee or the Management Committee, but in the case of the Employer, only to a successor of the business of the Employer; and PROVIDED, HOWEVER, that no such assignment by the Manager Member or AMG shall relieve the Manager Member or AMG (as applicable) of its respective obligation to make any payment pursuant to that certain Put Option Agreement with the Employee of even date herewith (except to the extent otherwise expressly provided therein with respect to AMG). This Employment Agreement shall be binding upon and inure to the benefit of the Employer and the Manager Member, and to any person or firm who may succeed to substantially all of the assets of the Employer or the Manager Member. This Employment Agreement shall not be assignable by the Employee.

SECTION 9. ENTIRE AGREEMENT. This Employment Agreement contains the entire agreement between the Employer and the Employee with respect to the subject matter hereof, and supersedes from and after the Closing all prior oral and written agreements between the Employer and the Employee with respect to the subject matter hereof, including without limitation any oral agreements relating to compensation. In the event of any conflict between the provisions hereof and of the LLC Agreement, the provisions hereof shall control.

SECTION 10. REMEDIES UPON BREACH.

(a) In the event that the Employee breaches any of the non-competition or non-solicitation provisions of this Employment Agreement (or otherwise violates any of the stated terms of any such provisions) (including without limitation following the termination of his employment with the Employer and its Affiliates), and in any such case such breach or violation has resulted or is reasonably likely to result in harm that is not immaterial or insignificant to (x) AMG or any of its Controlled Affiliates (other than the Employer, the WY LLC and their respective Controlled Affiliates), or (y) the Employer, the WY LLC and their respective Controlled Affiliates (taken as a whole), then in any such case (A) the Employee (and any related Non-Manager Member and Permitted Transferees thereof) shall forfeit its right to receive any payment for its LLC Interests under Section 3.11 or Section 7.1 of the LLC Agreement and for its WY LLC Interests under Section 3.11 or Section 7.1 of the WY LLC Agreement, although it shall cease to be a Non-Manager Member in accordance with the provisions of Section 3.11 of the LLC Agreement and a "Non-Manager Member" of the WY

LLC in accordance with the provisions of Section 3.11 of the WY LLC Agreement, (B) AMG (and any of its assignees thereunder) shall have no further obligations under any promissory note theretofore issued to the Employee (or to any related Non-Manager Member or Permitted Transferee thereof) pursuant to Section 3.11 of the LLC Agreement or Section 3.11 of the WY LLC Agreement, (C) the Manager Member (and any of its assignees thereunder) shall have no further obligations under any Contingent Consideration theretofor issued to the Employee (or to any related Non-Manager Member or Permitted Transferee thereof) pursuant to Section 3.11 or 7.1 of the LLC Agreement or any "Contingent Consideration" theretofor issued to the Employee (or to any related "Non-Manager Member" or "Permitted Transferee" thereof) pursuant to Section 3.11 or 7.1 of the WY LLC Agreement, and (D) the Employer and the WY LLC shall be entitled to withhold any other payments to which the Employee (or its related Non-Manager Member) otherwise would be entitled to offset damages resulting from such breach; PROVIDED, HOWEVER, that the Employer and the WY LLC shall not be permitted to withhold any compensation, distribution or other payments that the Employee (or its related Non-Manager Member) is otherwise entitled to receive out of the Operating Allocation or the Owners' Allocation of the Employer or the WY LLC absent either an admission of such breach by the Employee (or its related Non-Manager Member) or the rendering of a settlement, judgment or arbitral decision establishing such breach.

(b) The Employee agrees that any breach of the provisions of this Employment Agreement by the Employee could cause irreparable damage to the

Employer and the other Members, and that the Employer (by action of the Management Committee) and the Manager Member shall have the right to an injunction or other equitable relief (in addition to other legal remedies) to prevent any violation of the Employee's obligations hereunder.

SECTION 11. ARBITRATION OF DISPUTES. Any controversy or claim arising out of or relating to this Employment Agreement or the breach hereof or otherwise arising out of the Employee's employment or the termination of that employment (including, without limitation, any claims of unlawful employment discrimination whether based on age or otherwise) shall, to the fullest extent permitted by law, be settled by arbitration in any forum and form agreed upon by the parties or, in the absence of such an agreement, under the auspices of the American Arbitration Association ("AAA") in New Castle County, Delaware in accordance with the Employment Dispute Resolution Rules of the AAA, including, but not limited to, the rules and procedures applicable to the selection of arbitrators, except that the arbitrator shall apply the law as established by decisions of the U.S. Supreme Court, the Court of Appeals for the Third Circuit and the U.S. District Court for the District of Delaware in deciding the merits of claims and defenses under federal law or any state or federal antidiscrimination law, and any awards to the Employee for violation of any antidiscrimination law shall not exceed the maximum award to which the Employee would be entitled under the applicable (or most analogous) federal antidiscrimination or civil rights laws. In the event that any person or entity other than the Employee, the Employer or the Manager Member may be a party with regard to any such controversy or claim, such controversy or claim shall be submitted to arbitration subject to such other person or entity's agreement. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The parties covenant that they will participate in the arbitration in good faith. Each party to such arbitration shall bear its own costs and expenses in connection therewith. This Section 11 shall be specifically enforceable. Notwithstanding the

foregoing, this Section 11 shall not preclude any party hereto from pursuing a court action for the sole purpose of obtaining a temporary restraining order and/or a preliminary injunction in circumstances in which such relief is appropriate; PROVIDED, that any other relief shall be pursued through an arbitration proceeding pursuant to this Section 11. Furthermore, this Section 11 shall not be construed in any way to prevent the Employer or the Manager Member from pursuing a court action against any person not a party to this Agreement for claims under local, state or federal law.

SECTION 12. CONSENT TO JURISDICTION. To the extent that any court action is permitted consistent with or to enforce Section 6 of this Employment Agreement, the parties hereby consent to the jurisdiction of the Chancery Court of the State of Delaware and the United States District Court for the District of Delaware. Accordingly, with respect to any such court action, the Employee (a) submits to the personal jurisdiction of such courts; (b) consents to service of process at the address determined pursuant to the provisions of Section 7 hereof; and (c) waives any other requirement (whether imposed by statute, rule of court, or otherwise) with respect to personal jurisdiction or service of process. Nothing contained in this section shall affect the right of the Employer or the Manager Member to serve legal process in any other manner permitted by law or affect the right of the Employer or the Manager Member to bring any court action against any person not a party to this Agreement for claims under local, state or federal law.

SECTION 13. THIRD-PARTY AGREEMENTS AND RIGHTS.

(a) The Employee hereby confirms that the Employee is not bound by the terms of any agreement with any previous employer or other party which restricts in any way the Employee's use or disclosure of information or the Employee's engagement in any business. The Employee represents to the Employer that the Employee's execution of this Employment Agreement, the Employee's employment with the Employer and the performance of the Employee's proposed duties for the Employer will not violate any obligations the Employee may have to any such previous employer or other party. In the Employee's work for the Employer, the Employee will not disclose or make use of any information in violation of any agreements with or rights of any such previous employer or other party, and the Employee will not bring to the premises of the Employer any copies or other tangible embodiments of non-public information belonging to or obtained from any such previous employment or other party.

(b) The Employee agrees to provide written notice of the provisions of Section 6 of this Agreement (and shall provide a copy of such notice concurrently to the Employer), together with a copy thereof, to any enterprise engaged in whole or in part in the provision of Investment Management Services for which the Employee acts as an employee following his

termination of employment with the Employer prior to acting in such capacity.

SECTION 14. LITIGATION AND REGULATORY COOPERATION. During and after the Employee's employment, the Employee shall cooperate fully with the Employer in the defense or prosecution of any claims or actions now in existence or which may be brought in the future against or on behalf of the Employer or the Manager Member or their Affiliates which relate to events or occurrences that transpired while the Employee was employed by the Employer

(including, without limitation, its predecessor, the Manager Member, or any predecessor thereto). The Employee's full cooperation in connection with such claims or actions shall include, but not be limited to, being available to meet with counsel to prepare for discovery or trial and to act as a witness on behalf of the Employer or the Manager Member or their Affiliates at mutually convenient times. During and after the Employee's employment, the Employee also shall cooperate fully with the Employer, the Manager Member and their Affiliates in connection with any investigation or review of any federal, state or local regulatory, quasi-regulatory or self-governing authority (including, without limitation, the Securities and Exchange Commission) as any such investigation or review relates to events or occurrences that transpired while the Employee was employed by the Employer (including, without limitation, its predecessor, the Manager Member, and any predecessor thereto). The Employer shall reimburse the Employee for any reasonable out-of-pocket expenses incurred in connection with the Employee's performance of obligations pursuant to this Section 14.

SECTION 15. WAIVERS AND FURTHER AGREEMENTS. Neither this Employment Agreement nor any term or condition hereof, including without limitation the terms and conditions of this Section 15, may be waived or modified in whole or in part as against the Manager Member, the Employer or the Employee, except by written instrument executed by or on behalf of each of the parties hereto other than the party seeking such waiver or modification, expressly stating that it is intended to operate as a waiver or modification of this Employment Agreement or the applicable term or condition hereof, it being understood that any action under this Section 15 on behalf of the Employer may be taken only with the approval of the Manager Member as the Manager Member of the Employer. Each of the parties hereto agrees to execute all such further instruments and documents and to take all such further action as the other party may reasonably require in order to effectuate the terms and purposes of this Employment Agreement.

SECTION 16. AMENDMENTS; EMPLOYER'S CONSENTS. This Employment Agreement may not be amended, nor shall any change, modification, consent, or discharge be effected except by written instrument executed by or on behalf of the party against whom enforcement of any change, modification, consent or discharge is sought, provided that any action under this Section 16 on behalf of the Employer may be taken only with the prior written approval of the Manager Member. Whenever under this Agreement the consent of the Employer is required, that consent shall only be effective if given with the prior written consent of the Manager Member.

SECTION 17. SEVERABILITY. If any provision of this Employment Agreement shall be held or deemed to be invalid, inoperative or unenforceable in any jurisdiction or jurisdictions, because of conflicts with any constitution, statute, rule or public policy or for any other reason, such circumstance shall not have the effect of rendering the provision in question unenforceable in any other jurisdiction or in any other case or circumstance or of rendering any other provisions herein contained unenforceable to the extent that such other provisions are not themselves actually in conflict with such constitution, statute or rule of public policy, but this Employment Agreement shall be reformed and construed in any such jurisdiction or case as if such invalid, inoperative, or unenforceable provision had never been contained herein and such provision

reformed so that it would be enforceable to the maximum extent permitted in such jurisdiction or in such case.

SECTION 18. GOVERNING LAW. This Employment Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Delaware, without regard to any rules or principles regarding conflicts or choice of law, or any rule or canon of construction which interprets agreements against the drafting party.

SECTION 19. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF the parties have executed this Employment Agreement as of the date first above written.

FRIESS ASSOCIATES OF DELAWARE, LLC

By:
---
Name: Foster S. Friess
Title: President

FA (DE) ACQUISITION COMPANY, LLC,
as the Manager Member from and
after the Closing

By: AFFILIATED MANAGERS GROUP, INC.,
its manager member

By:
---
Name:
Title:

EMPLOYEE:

---
Name:

Exhibit 10.25

FORM OF FRIESS
PUT OPTION AGREEMENT

THIS PUT OPTION AGREEMENT (this "Agreement") is entered into as of August 28, 2001, by and among FA (WY) Acquisition Company, Inc., a Delaware corporation (the "WY Manager Member"), FA (DE) Acquisition Company, LLC, a Delaware limited liability company (the "DE Manager Member" and, collectively with the WY Manager Member, the "Manager Members"), Friess Associates, LLC, a Delaware limited liability company (the "WY LLC"), Friess Associates of Delaware, LLC, a Delaware limited liability company (the "DE LLC" and, collectively with the WY LLC, the "LLCs"), and the "Non-Manager Member Parties").

W I T N E S S E T H:

WHEREAS, pursuant to the Purchase Agreement, dated as of August 28, 2001, by and among Affiliated Managers Group, Inc. ("AMG"), FAI, FAID, and the other parties named therein, and the Management Owner Purchase Agreement, dated as of August 28, 2001, by and among AMG and the other parties named there, AMG has agreed (on the terms and subject to the conditions set forth therein) (i) to cause the WY Manager Member to purchase at the "Closing" (as such term is defined in the Purchase Agreement) (the "Closing") a majority interest in the WY LLC, and (ii) to cause the DE Manager Member to purchase at the Closing a majority interest in the DE LLC.

NOW THEREFORE, in consideration of the premises, the mutual covenants and the agreements hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

AGREEMENTS

SECTION 1. DEFINITIONS.

Initially capitalized terms used and not otherwise defined herein shall have their respective meanings as defined in the Amended and Restated Limited Liability Company Agreement of the WY LLC (with respect to purchases of WY LLC Points provided for herein) (the "WY LLC Agreement") or the Amended and Restated Limited Liability Company Agreement of the DE LLC (with respect to purchases of DE LLC Points provided for herein) (the "DE LLC Agreement" and, collectively with the WY LLC Agreement, the "LLC Agreements"). In the event that the Purchase Agreement is terminated without the Closing having occurred, this Agreement automatically shall terminate simultaneously.

SECTION 2. ACCELERATED PUT RIGHTS.

(a) Notwithstanding any provisions contained in the LLC Agreements to the contrary (including Article III and Article VII thereof), upon any exercise by either of the Manager Members of any of their rights under Section 3.2(b)(v) of either of the LLC Agreements (a "Put Acceleration Event"), upon the request of the Non-Manager Member Parties made in accordance with the terms of this Agreement, (i) the WY Manager Member or its assigns shall purchase all of the Vested LLC Points in the WY LLC then held by the Non-Manager Member Parties and their Permitted Transferees pursuant to the terms and conditions of



this Section 2, and (ii) the DE Manager Member or its assigns shall purchase all of the Vested LLC Points in the DE LLC then held by the Non-Manager Member Parties and their Permitted Transferees pursuant to the terms and conditions of this Section 2 (collectively, an "Accelerated Put").

(b) If the Non-Manager Member Parties desire to exercise their rights under Section 2(a), they shall give the LLCs and the Manager Members irrevocable written notice (an "Accelerated Put Notice") within sixty (60) days after the Put Acceleration Event stating that the Non-Manager Member Parties are electing to sell all (but not less than all) of the Vested LLC Points in the WY LLC and the DE LLC then owned by the Non-Manager Member Parties and their Permitted Transferees.

(c) The aggregate purchase price payable by the WY Manager Member (or its assignee) to the Non-Manager Member Parties and their Permitted Transferees upon the purchase of Vested LLC Points in the WY LLC pursuant to an

Accelerated Put (the "WY Accelerated Put Price") shall be an amount equal to the fair value of such Vested LLC Points in the WY LLC, which shall be conclusively determined as follows:

(i) seven (7.0), multiplied by

(ii) the positive difference (if any) between (A) the sum of (I) fifty percent (50%) of the Base Owners' Allocation for the twenty-four (24) months ending on the last day of the calendar quarter in which the Put Acceleration Event occurred, plus (II) thirty-three and one-third percent (33-1/3%) of the Earned Performance Owners' Allocation for the thirty-six (36) months ending on the last day of the calendar quarter in which the Put Acceleration Event occurred, and (B) the amount by which the combined actual expenses of the WY LLC, the DE LLC and any Controlled Affiliates of the WY LLC or the DE LLC (determined on a basis consistent with the determination of the permitted uses of the Operating Allocation under the WY LLC Agreement) (other than any premiums on key-man life and/or disability insurance paid out of the Owners' Allocation, and other than expenses of the WY LLC consisting of payments made by the WY LLC to the DE LLC under the Services Agreement, PROVIDED that the ten percent (10%)margin payable by the WY LLC to the DE LLC under the Services Agreement shall be included in such determination as an expense of the WY LLC) exceeded the Operating Allocation of the WY LLC (including any previously reserved Operating Allocation of the WY LLC) during the twelve (12) months ending on the last day of the calendar quarter in which the Put Acceleration Event occurred, multiplied by

(iii) a fraction, the numerator of which is the number of Vested LLC Points in the WY LLC to be purchased pursuant to such Accelerated Put, and the denominator of which is the number of LLC Points in the WY LLC outstanding on the date the Put Acceleration Event occurred (before giving effect to any issuances, redemptions or vesting of LLC Points in the WY LLC on such date);

PROVIDED, HOWEVER, that WY Accelerated Put Price determined pursuant to this Section 2(c) shall be reduced by the amount of the "DE Accelerated Put Price" determined under Section 2(d) below in connection with the purchase of Vested LLC Points in the DE LLC pursuant to such Accelerated Put;



(d) The aggregate purchase price payable by the DE Manager Member (or its assignee) to the Non-Manager Member Parties and their Permitted Transferees upon the purchase of Vested LLC Points in the DE LLC pursuant to an Accelerated Put (the "DE Accelerated Put Price" and, collectively with the WY Accelerated Put Price, the "Accelerated Put Price") shall be an amount equal to the fair value of such Vested LLC Points in the DE LLC, which shall be conclusively determined as follows:

(i) the book value of the assets of the DE LLC, based upon the financial statements of the DE LLC as of the last day of the calendar quarter in which the Put Acceleration Event occurred (with such determination of book value to be made by the DE Manager Member in its sole discretion, such determination to be binding on all parties absent a mathematical error, and such book value not to include any items of intangible property resulting from the purchases of LLC Interests occurring pursuant to the Purchase Agreement and the Minority Purchase Agreement), multiplied by

(ii) a fraction, the numerator of which is the number of Vested LLC Points in the DE LLC to be purchased pursuant to such Accelerated Put, and the denominator of which is the number of LLC Points in the DE LLC outstanding on the date the Put Acceleration Event occurred (before giving effect to any issuances, redemptions or vesting of LLC Points in the DE LLC on such date);

PROVIDED, HOWEVER, that, if the DE Accelerated Put Price determined pursuant to this Section 2(d) exceeds the WY Accelerated Put Price determined under Section 2(c) above (before application of the proviso to Section 2(c) above) in connection with the purchase of Vested LLC Points in the WY LLC pursuant to such Accelerated Put, then the DE Accelerated Put Price determined under this Section 2(d) shall be reduced by the amount of such excess.

(e) If the WY Accelerated Put Price must be determined prior to (i) twenty-four (24) months after the Closing, then the amount of Base Owners' Allocation for the portion of the relevant twenty-four (24) month period before the Closing shall be calculated on a pro-forma basis such that the Base Owners' Allocation for the relevant period prior to the Closing shall be deemed to be

equal to the product of (A) the Owners' Allocation Percentage, multiplied by (B) the Revenues From Operations of the WY LLC and its predecessors (FAI and FAID) for such period, multiplied by (C) the lesser of (x) one (1) and (y) the Consenting Percentage, and (ii) thirty-six (36) months after the Closing, then the amount of the Earned Performance Owners' Allocation for the portion of the relevant thirty-six (36) month period before the Closing shall be zero (0).

(f) In the case of any Accelerated Put, the Accelerated Put Price shall be paid by the Manager Members (or their assigns) on a date (the "Accelerated Purchase Date") determined by the Manager Members (but no later than sixty (60) days following delivery of the Accelerated Put Notice) by wire transfer or certified check(s) issued to the Non-Manager Member Parties and their Permitted Transferees.

(g) AMG hereby unconditionally guarantees to the Non-Manager Member Parties the prompt performance by each of the Manager Members of their obligations under this Section 2; PROVIDED, HOWEVER, that the guaranty set forth in this Section 2(g) may be terminated with the prior written consent of the Management Committee, PROVIDED, FURTHER, HOWEVER, that such guaranty may not be terminated following a Put Acceleration Event.



(h) Upon payment of the Accelerated Put Price to the Non-Manager Member Parties and their Permitted Transferees, the Non-Manager Member Parties and each of their Permitted Transferees shall cease to hold any LLC Interests, and such Persons automatically shall be deemed to have withdrawn from the LLCs and shall cease to be Members of the LLCs and shall no longer have any rights under the LLC Agreements; PROVIDED, HOWEVER, that the provisions of Article III of each of the LLC Agreements shall continue to be binding upon such Persons (and any related Employee Stockholder thereof) as provided in Section 3.14 of each of the LLC Agreements.

SECTION 3. FURTHER ASSURANCES. Each of the parties hereto agrees to execute all such further instruments and documents and to take all such further action as any other party may reasonably request to effectuate the transfers of LLC Points contemplated by this Agreement.

SECTION 4. GOVERNING LAW. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Delaware, without applying the choice of law or conflicts of law provisions thereof.

SECTION 5. CONSENT TO JURISDICTION. The parties hereby consent to the jurisdiction of the Chancery Court of the State of Delaware and the United States District Court for the District of Delaware. Accordingly, with respect to any such court action, the Non-Manager Member Parties (a) submit to the personal jurisdiction of such courts; (b) consent to service of process at the address determined pursuant to the provisions of Section 6 hereof; and (c) waive any other requirement (whether imposed by statute, rule of court, or otherwise) with respect to personal jurisdiction or service of process.

SECTION 6. NOTICES. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered as set forth in the LLC Agreements or to such other address or facsimile, telex or telecopy number as such party may hereafter specify for the purpose by notice to the other parties hereto. Each such notice, request or other communication shall be effective (i) if given by facsimile, telex or telecopy, when such facsimile, telex or telecopy is transmitted to the facsimile, telex or telecopy number as specified in the LLC Agreements and the appropriate answer back is received, or (ii) if given by any other means, when actually delivered at the address specified as set forth in the LLC Agreements.

SECTION 7. PRIOR AGREEMENTS SUPERSEDED. This Agreement supersedes all prior understandings and agreements among the parties relating to the subject matter hereof.

SECTION 8. ASSIGNABILITY. This Agreement may be assigned by AMG and/or either of the Manager Members without the consent of the Non-Manager Member Parties (PROVIDED that any such assignment shall not relieve AMG or such Manager Member, as applicable, of its obligations hereunder to the extent not fully performed by any such assignee). Neither this Agreement nor any rights or obligations hereunder shall be assignable by the Non-Manager Member Parties to any other Person without the prior written consent of the Manager Members. This Agreement shall be binding upon and inure to the benefit of AMG, the Manager Members, the Non-Manager Member Parties and their successors and permitted assigns.

SECTION 9. WAIVERS. Neither this Agreement nor any term or condition hereof, including without limitation the terms and conditions of this Section 9, may be waived or modified in whole or in part as against either party hereto

except by written instrument executed



by or on behalf of such party expressly stating that it is intended to operate as a waiver or modification of this Agreement or the applicable term or condition hereof.

SECTION 10. AMENDMENTS; TERMINATION. This Agreement may not be amended, nor shall any change, modification, consent, or discharge be effected except by written instrument executed by or on behalf of each of the parties hereto. This Agreement shall terminate automatically at such time as neither the Non-Manager Member Parties nor any of their Permitted Transferees holds any LLC Points, PROVIDED that no such termination of this Agreement shall relieve the Manager Members or their assigns from the obligation to pay any Accelerated Put Price owed in respect of an Accelerated Put exercised hereunder by the Non-Manager Member Parties in accordance with the terms hereof prior to such termination of this Agreement.

SECTION 11. CAPTIONS. The captions in this Agreement are for convenience only and shall not affect the construction or interpretation of any term or provision hereof.

SECTION 12. GENDER. Whenever used herein, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

SECTION 13. SEVERABILITY. If any provision of this Agreement shall be held or deemed to be invalid, inoperative or unenforceable in any jurisdiction or jurisdictions, because of conflicts with any constitution, statute, rule or public policy or for any other reason, such circumstance shall not have the effect of rendering the provision in question unenforceable in any other jurisdiction or in any other case or circumstance or of rendering any other provisions herein contained unenforceable to the extent that such other provisions are not themselves actually in conflict with such constitution, statute or rule of public policy, but this Agreement shall be reformed and construed in any such jurisdiction or case as if such invalid, inoperative, or unenforceable provision had never been contained herein and such provision reformed so that it would be enforceable to the maximum extent permitted in such jurisdiction or in such case.

SECTION 14. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

SECTION 15. CONSENT. The LLCs consent to the transfers contemplated by this Agreement.

IN WITNESS WHEREOF the parties have executed this Agreement as a sealed instrument as of the date first above written.

FA (WY) ACQUISITION COMPANY, INC.

By:
---
Name:
Title:

FA (DE) ACQUISITION COMPANY, LLC

By: AFFILIATED MANAGERS GROUP, INC.,
its manager member

By:
---
Name:
Title:

AFFILIATED MANAGERS GROUP, INC., solely with respect to its obligations under Section 2(g) of this Agreement

By:
---
Name:
Title:

NON-MANAGER MEMBER PARTY

---
Name:

For purposes of providing the consent contained in Section 15

FRIESS ASSOCIATES, LLC

By:
---
Name: Foster S. Friess
Title: President

FRIESS ASSOCIATES OF DELAWARE, LLC

By:
---
Name: Foster S. Friess
Title: President

Exhbit 10.26

FORM OF FRIESS
MAKE-WHOLE BONUS AGREEMENT

THIS MAKE-WHOLE BONUS AGREEMENT (this "Agreement") is entered into as of August 28, 2001, by and among FA (WY) Acquisition Company, Inc., a Delaware corporation (the "WY Manager Member"), FA (DE) Acquisition Company, LLC, a Delaware limited liability company (the "DE Manager Member" and, collectively with the WY Manager Member, the "Manager Members"), Friess Associates, LLC, a Delaware limited liability company (the "WY LLC"), Friess Associates of Delaware, LLC, a Delaware limited liability company (the "DE LLC" and, collectively with the WY LLC, the "LLCs"), and (the "Employee").

W I T N E S S E T H:

WHEREAS, pursuant to the Purchase Agreement, dated as of August 28, 2001, by and among Affiliated Managers Group, Inc. ("AMG"), Friess Associates, Inc., a Delaware corporation ("FAI"), the Employee, and the other parties named therein, and the Management Owner Purchase Agreement, dated as of August 28, 2001, by and among AMG and the other parties named therein, AMG has agreed (on the terms and subject to the conditions set forth therein) (i) to cause the DE Manager Member to purchase at the "Closing" (as such term is defined in the Purchase Agreement) (the "Closing") a majority interest in the DE LLC, and (ii) to cause the WY Manager Member to purchase at the Closing a majority interest in the WY LLC.

NOW THEREFORE, in consideration of the premises, the mutual covenants and the agreements hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

AGREEMENTS

SECTION 1. DEFINITIONS. Initially capitalized terms used and not otherwise defined herein shall have their respective meanings as defined in the Amended and Restated Limited Liability Company Agreement of the WY LLC (with respect to payments provided for herein relating to purchases of WY LLC Points) (the "WY LLC Agreement") or the Amended and Restated Limited Liability Company Agreement of the DE LLC (with respect to payments provided for herein relating to purchases of DE LLC Points) (the "DE LLC Agreement" and, collectively with the WY LLC Agreement, the "LLC Agreements"). In the event that the Purchase Agreement is terminated without the Closing having occurred, this Agreement automatically shall terminate simultaneously.

SECTION 2. MAKE-WHOLE BONUS. If the Employee (or its related Non-Manager Member or Permitted Transferees, as applicable) holds LLC Points in the WY LLC or the DE LLC (as applicable) which are Purchase Program Points and the Purchase Program Points FMV (at the time when the Employee becomes a Selling Member under Section 3.11 of the applicable LLC Agreement, or at the time the Employee sells such Purchase Program Points pursuant to a Put under Section 7.1 of the applicable LLC Agreement, as applicable) is less than the amount calculated (assuming that the Employee's LLC Points in both LLCs were being sold under such provision of the LLC Agreements) under Section 3.11(c)(i) of the applicable LLC Agreement (in the case of Purchase Program Points which are Series A LLC Points and sold pursuant to Section 3.11 of the applicable LLC Agreement), Section 3.11(c)(ii) of the applicable LLC Agreement (in



the case of Purchase Program Points which are Series B-1 LLC Points and sold pursuant to Section 3.11 of the applicable LLC Agreement), Section 3.11(c)(iii) of the applicable LLC Agreement (in the case of Purchase Program Points which are Series B-2 LLC Points and sold pursuant to Section 3.11 of the applicable LLC Agreement), or Section 7.1(e)(i) of the applicable LLC Agreement (in the case of Purchase Program Points which are sold pursuant to Section 7.1 of the applicable LLC Agreement), then in any such case the Manager Members (or their respective assigns) shall pay to the Employee a compensatory cash bonus (the "Make-Whole Payment") equal to the positive difference, if any, between:

(i) The amount which would have been calculated (assuming that the Employee's (or its related Non-Manager Member's and Permitted Transferees', as applicable) LLC Points in both LLCs were being sold under such provision of the LLC Agreements) with respect to such Purchase Program Points under Section 3.11(c)(i) of the applicable LLC Agreement (if such Purchase Program Points are Series A LLC Points being sold

pursuant to Section 3.11 of the applicable LLC Agreement), Section 3.11(c)(ii) of the applicable LLC Agreement (if such Purchase Program Points are Series B-1 LLC Points being sold pursuant to Section 3.11 of the applicable LLC Agreement), under Section 3.11(c)(iii) of the applicable LLC Agreement (if such Purchase Program Points are Series B-2 LLC Points being sold pursuant to Section 3.11 of applicable the LLC Agreement), or under Section 7.1(e)(i) of the applicable LLC Agreement (if such Purchase Program Points are being sold pursuant to Section 7.1 of the applicable LLC Agreement), as applicable, and

(ii) the Purchase Program Points FMV paid to the Employee (or its related Non-Manager Member and Permitted Transferees, as applicable) with respect to such Purchase Program Points pursuant to Section 3.11(c)(iv) or Section 7.1(e)(ii) of the applicable LLC Agreement (as applicable);

PROVIDED, HOWEVER, that, if the Employee recognizes ordinary income on the Make-Whole Payment made to the Employee hereunder, and the Employee (or its related Non-Manager Member and Permitted Transferees, as applicable) recognizes long-term capital gain on the Purchase Program Points FMV paid to the Employee (or its related Non-Manager Member and Permitted Transferees, as applicable) with respect to such Purchase Program Points pursuant to Section 3.11(c)(iv) or Section 7.1(e)(ii) of the applicable LLC Agreement (as applicable), then the Manager Members shall indemnify and hold the Employee harmless (any such further payment, a "Tax Differential Payment") from any incremental taxes incurred as a result of (i) the combined (i.e., federal, state and local) marginal tax rate on ordinary income applicable to the Employee being higher than the combined (i.e., federal, state and local) marginal tax rate on long-term capital gain applicable to the Employee (or its related Non-Manager Member and Permitted Transferees, as applicable) and (ii) the receipt of any Tax Differential Payments; PROVIDED, FURTHER, that the Tax Differential Payment contemplated by the foregoing proviso initially shall be paid based upon the assumptions (absent available information to the contrary, and the Employee shall represent in writing to the Manager Members the absence of his knowledge of any such contrary information, provided that if such contrary information is available, the Tax Differential Payment shall be made based on such contrary information) that (i) the Employee will recognize ordinary income on the Make-Whole Payment at the highest combined federal, state and local marginal tax rate on ordinary income then applicable to an individual resident of the city and state in which the Employee (or its related Non-Manager Member and Permitted Transferees, as applicable) then resides, and (ii) the Employee (or its



related Non-Manager Member and Permitted Transferees, as applicable) will recognize long-term capital gains on the Purchase Program Points FMV paid to the Employee (or its related Non-Manager Member and Permitted Transferees, as applicable) with respect to such Purchase Program Points at the highest combined federal, state and local marginal tax rate on long-term capital gain then applicable to an individual resident of the city and state in which the Employee (or its related Non-Manager Member and Permitted Transferees, as applicable) then resides, PROVIDED that, in the event the Employee (or its related Non-Manager Member and Permitted Transferees, as applicable) subsequently does not in fact recognize ordinary income on the Make-Whole Payment and long-term capital gain on the Purchase Program Points FMV at the rates contemplated by the foregoing assumptions (whether by reason of reporting positions taken by them, on audit or otherwise), the Employee promptly shall reimburse to the Manager Members in cash the amount by which the Tax Differential Payment previously paid by the Manager Members exceeded the Tax Differential Payment which would have been payable in accordance with the preceding proviso based upon the tax treatment actually realized by the Employee (or its related Non-Manager Member and Permitted Transferees, as applicable) with respect to the Make-Whole Payment and Purchase Program Points FMV (and the Employee shall certify in writing to the Manager Members from time to time such information as may reasonably be requested by the Manager Members in connection with the operation of this paragraph, and provide reasonable access to the underlying tax documentation relating thereto). Any Make-Whole Payment provided for in this Section 2 (including without limitation any Tax Differential Payment associated therewith) shall be paid to the Employee at the same time that the Purchase Program Points FMV is required to be paid to the Employee (or its related Non-Manager Member and Permitted Transferees, as applicable) pursuant to the applicable LLC Agreement.

SECTION 3. ACCELERATED PUT BONUS. If the Employee is a party to a Put Option Agreement with the Manager Members dated as of the date hereof (the "Put Option Agreement") and sells (or its related Non-Manager Member and Permitted Transferees sell, as applicable) Vested LLC Points in the WY LLC to the WY Manager Member and Vested LLC Points in the DE LLC to the DE Manager Member (or its assigns) pursuant to an "Accelerated Put" thereunder, then the Manager Members (or their respective assigns) shall pay to the Employee a compensatory cash bonus (the "Accelerated Put Bonus Payment") equal to the

positive difference, if any, between:

(i) The "Accelerated Put Price" (as such term is defined in the Put Option Agreement) which would have been calculated under Section 2(c) of the Put Option Agreement in connection with such sale of Vested LLC Points in the LLCs if the multiple set forth in Section 2(c) of the Put Option Agreement had been seventeen (17.0) instead of seven (7.0), and

(ii) the "Accelerated Put Price" (as such term is defined in the Put Option Agreement) (the "Accelerated Put Price") calculated under Section 2(c) of the Put Option Agreement in connection with such sale of Vested LLC Points in the LLCs;

PROVIDED, HOWEVER, that, if the Employee recognizes ordinary income on the Accelerated Put Bonus Payment made to the Employee hereunder, and the Employee (or its related Non-Manager Member and Permitted Transferees, as applicable) recognizes capital gain on the Accelerated Put Price paid to the Employee (or its related Non-Manager Member and Permitted Transferees, as applicable) under the Put Option Agreement with respect to such sale of Vested LLC Points in the LLCs, then the Manager Members shall indemnify and hold the Employee harmless (any



such further payment, a "Tax Differential Payment") from any incremental taxes incurred as a result of (i) the combined (i.e., federal, state and local) marginal tax rate on ordinary income applicable to the Employee being higher than the combined (i.e., federal, state and local) marginal tax rate on long-term capital gain applicable to the Employee (or its related Non-Manager Member and Permitted Transferees, as applicable) and (ii) the receipt of any Tax Differential Payments; PROVIDED, FURTHER, that the Tax Differential Payment contemplated by the foregoing proviso initially shall be paid based upon the assumptions (absent available information to the contrary, and the Employee shall represent in writing to the Manager Members the absence of his knowledge of any such contrary information, provided that if such contrary information is available, the Tax Differential Payment shall be made based on such contrary information) that (i) the Employee will recognize ordinary income on the Accelerated Put Bonus Payment at the highest combined federal, state and local marginal tax rate on ordinary income then applicable to an individual resident of the city and state in which the Employee (or its related Non-Manager Member and Permitted Transferees, as applicable) then resides, and (ii) the Employee (or its related Non-Manager Member and Permitted Transferees, as applicable) will recognize long-term capital gain on the Accelerated Put Price paid to the Employee (or its related Non-Manager Member and Permitted Transferees, as applicable) under the Put Option Agreement with respect to such sale of Vested LLC Points in the LLCs at the highest combined federal, state and local marginal tax rate on long-term capital gain then applicable to an individual resident of the city and state in which the Employee (or its related non-Manager Member and Permitted Transferees, as applicable) then resides, PROVIDED that, in the event the Employee (or its related Non-Manager Member and Permitted Transferees, as applicable) subsequently does not in fact recognize ordinary income on the Accelerated Put Bonus Payment and long-term capital gain on the Accelerated Put Price at the rates contemplated by the foregoing assumptions (whether by reason of reporting positions taken by them, on audit or otherwise), the Employee promptly shall reimburse to the Manager Members in cash the amount by which the Tax Differential Payment previously paid by the Manager Members exceeded the Tax Differential Payment which would have been payable in accordance with the preceding proviso based upon the tax treatment actually realized by the Employee (or its related Non-Manager Member and Permitted Transferees, as applicable) with respect to the Accelerated Put Bonus Payment and the Accelerated Put Price (and the Employee shall certify in writing to the Manager Members from time to time such information as may reasonably be requested by the Manager Members in connection with the operation of this paragraph, and provide reasonable access to the underlying tax documentation relating thereto). Any Accelerated Put Bonus Payment provided for in this Section 3 (including without limitation any Tax Differential Payment associated therewith) shall be paid to the Employee at the same time that the Accelerated Put Price is required to be paid to the Employee (or its related Non-Manager Member and Permitted Transferees, as applicable) pursuant to the Put Option Agreement.

SECTION 4. AMG GUARANTY. AMG hereby unconditionally guarantees to the Employee the prompt performance by each of the Manager Members of their obligations under Sections 2 and 3 of this Agreement; PROVIDED, HOWEVER, that the guaranty set forth in this Section 4 may be terminated with the prior written consent of the Management Committee, and PROVIDED, FURTHER, that such guaranty with respect to obligations arising under Section 3 of this Agreement may not be terminated if the Manager Members have exercised any of their rights under Section 3.2(b)(v) of the LLC Agreements.

SECTION 5. GOVERNING LAW. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Delaware, without applying the choice of law or conflicts of law provisions thereof.

SECTION 6. CONSENT TO JURISDICTION. The parties hereby consent to the jurisdiction of the Chancery Court of the State of Delaware and the United States District Court for the District of Delaware. Accordingly, with respect to any such court action, the Employee (a) submits to the personal jurisdiction of such courts; (b) consents to service of process at the address determined pursuant to the provisions of Section 7 hereof; and (c) waives any other requirement (whether imposed by statute, rule of court, or otherwise) with respect to personal jurisdiction or service of process.

SECTION 7. NOTICES. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered as set forth in the LLC Agreements or to such other address or facsimile, telex or telecopy number as such party may hereafter specify for the purpose by notice to the other parties hereto. Each such notice, request or other communication shall be effective (i) if given by facsimile, telex or telecopy, when such facsimile, telex or telecopy is transmitted to the facsimile, telex or telecopy number as specified in the LLC Agreements and the appropriate answer back is received, or (ii) if given by any other means, when actually delivered at the address specified as set forth in the LLC Agreements.

SECTION 8. PRIOR AGREEMENTS SUPERSEDED. This Agreement supersedes all prior understandings and agreements among the parties relating to the subject matter hereof.

SECTION 9. ASSIGNABILITY. This Agreement may be assigned by AMG and/or either of the Manager Members without the consent of the Employee (provided that any such assignment shall not relieve AMG or such Manager Member, as applicable, of its obligations hereunder to the extent not fully performed by any such assignee). Neither this Agreement nor any rights or obligations hereunder shall be assignable by the Employee to any other Person without the prior written consent of the Manager Members. This Agreement shall be binding upon and inure to the benefit of AMG, the Manager Members, the Employee and their successors and permitted assigns.

SECTION 10. WAIVERS. Neither this Agreement nor any term or condition hereof, including without limitation the terms and conditions of this Section 10, may be waived or modified in whole or in part as against either party hereto except by written instrument executed by or on behalf of such party expressly stating that it is intended to operate as a waiver or modification of this Agreement or the applicable term or condition hereof.

SECTION 11. AMENDMENTS. This Agreement may not be amended, nor shall any change, modification, consent, or discharge be effected except by written instrument executed by or on behalf of each of the parties hereto.

SECTION 12. CAPTIONS. The captions in this Agreement are for convenience only and shall not affect the construction or interpretation of any term or provision hereof.

SECTION 13. GENDER. Whenever used herein, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.



SECTION 14. SEVERABILITY. If any provision of this Agreement shall be held or deemed to be invalid, inoperative or unenforceable in any jurisdiction or jurisdictions, because of conflicts with any constitution, statute, rule or public policy or for any other reason, such circumstance shall not have the effect of rendering the provision in question unenforceable in any other jurisdiction or in any other case or circumstance or of rendering any other provisions herein contained unenforceable to the extent that such other provisions are not themselves actually in conflict with such constitution, statute or rule of public policy, but this Agreement shall be reformed and construed in any such jurisdiction or case as if such invalid, inoperative, or unenforceable provision had never been contained herein and such provision reformed so that it would be enforceable to the maximum extent permitted in such jurisdiction or in such case.

SECTION 15. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF the parties have executed this Agreement as a sealed instrument as of the date first above written.

FA (WY) ACQUISITION COMPANY, INC

By:
---
Name:
Title:

FA (DE) ACQUISITION COMPANY, LLC

By: AFFILIATED MANAGERS GROUP, INC., its manager member

By:
---
Name:
Title:

AFFILIATED MANAGERS GROUP, INC., solely with respect to its obligations under Section 4 of this Agreement

By:
---
Name:
Title:

EMPLOYEE:

---
Name:

FRIESS ASSOCIATES, LLC

By:
---
Name: Foster S. Friess
Title: President

FRIESS ASSOCIATES OF DELAWARE, LLC

By:
---
Name: Foster S. Friess
Title: President

Exhibit 10.27

EXECUTION COPY

FRIESS ASSOCIATES, LLC

AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT

DATED AS OF AUGUST 28, 2001

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SCHEDULES





# FRIESS ASSOCIATES, LLC

## AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT

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This Amended and Restated Limited Liability Company Agreement (the "Agreement") of Friess Associates, LLC (the "LLC" or the "Company") is made and entered into as of August 28, 2001, to become effective as of (and subject to the occurrence of) the Effective Time (as defined herein), by and among the Persons identified as the Manager Member and the Non-Manager Members on SCHEDULE A attached hereto as members of the LLC, and any Persons who may become members of the LLC in the future in accordance with the provisions hereof.

WHEREAS, a limited liability company has been formed pursuant to the Delaware Limited Liability Company Act, 6 DEL. C ss.18-101, ET SEQ., as it may be amended from time to time and any successor to such Act (the "Act"), by filing a Certificate of Formation of the LLC with the office of the Secretary of State of the State of Delaware on May 1, 2001, and entering into a Limited Liability Company Agreement of the LLC, dated as of June 1, 2001; and

WHEREAS, pursuant to the Purchase Agreement, AMG has agreed, in each case on the terms and subject to the conditions set forth in the Purchase Agreement, to cause FA (WY) Acquisition Company, Inc. ("FA (WY) Acquisition") to purchase (i) from Friess Associates, Inc. ("FAI") (A) at the Closing, all of the LLC Interests owned by FAI, other than those LLC Points to be held by FAI as of immediately following the Effective Time (including the Preferred Capital Account Balance associated with such retained LLC Points as of immediately following the Effective Time) as set forth on SCHEDULE A hereto, and (B) at the Subsequent Closing, certain additional LLC Points owned by FAI, and (ii) from each of The Community Foundation of Jackson Hole and NCCF Support Inc. (each a "Charity") at the Closing, all of the LLC Interests owned by such Charity; and

WHEREAS, pursuant to the Management Owner Purchase Agreement, AMG has agreed, on the terms and subject to the conditions set forth in the Management Owner Purchase Agreement, to cause FA (WY) Acquisition to purchase from the Management Owners (other than Foster Friess) at the Closing all of the LLC Interests owned by such Management Owners; and

WHEREAS, the Members desire to continue the LLC as a limited liability company under the Act and to amend and restate the Limited Liability Company Agreement of the LLC, dated as of June 1, 2001, in its entirety as herein set forth, such amendment and restatement to become effective as of, and subject to the occurrence of, the Effective Time; and

WHEREAS, prior to the Effective Time and pursuant to the Purchase Agreement, the LLC will enter into a services agreement with the DE LLC (the "Services Agreement") pursuant to which, from and after the Effective Time, the DE LLC will perform various sub-advisory, sub-administrative and other investment management-related services for the LLC (all as more fully described in the Services Agreement) and be compensated for said services from and after the Effective Time in the manner provided for in the Services Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in consideration of the mutual covenants hereinafter set forth, the parties hereby agree as follows:

## ARTICLE I - DEFINITIONS.

SECTION 1.1. DEFINITIONS. Unless the context otherwise requires, the terms defined in this Article I shall, for the purposes of this Agreement, have the meanings herein specified.

"1940 ACT" shall mean the Investment Company Act of 1940, as it may be amended from time to time, and any successor to such act.

"ACT" shall have the meaning specified in the recitals hereto.

"ADDITIONAL NON-MANAGER MEMBERS" shall have the meaning specified in Section 5.5 hereof.

"ADVISERS ACT" shall mean the Investment Advisers Act of 1940, as it may be amended from time to time, and any successor to such act.

"AFFILIATE" shall mean, with respect to any person or entity (herein the "first party"), any other person or entity that directly or indirectly controls, or is controlled by, or is under common control with, such first party. The term "control" as used herein (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to (a) vote twenty-five percent (25%) or more of the outstanding voting securities of such person or entity, or (b) otherwise direct the management or policies of such person or entity by contract or otherwise. For purposes of this Agreement, the LLC is not an Affiliate of any Member; provided, however, that the LLC and the DE LLC shall be deemed Affiliates of each other for purposes of this Agreement. For purposes of this Agreement, FAI and FAID shall at all times be deemed Affiliates of each other and of Foster Friess.

"AGREEMENT" shall have the meaning specified in the preamble hereto.

"AMG" shall mean Affiliated Managers Group, Inc., a Delaware corporation, and any successors or assigns thereof.

"AMG SHARES" shall mean shares of AMG's common stock, par value $.01 per share.

"APPLICABLE AGGREGATE NON-MANAGER MEMBER ALLOCATION PERCENTAGE" shall mean, as of the date of any transaction described in Section 4.2(e) hereof, the quotient (expressed as a percentage) obtained by dividing (i) the aggregate number of Vested LLC Points held by the Non-Manager Members (other than FAI) as of the date of such transaction by (ii) the number of Vested LLC Points outstanding as of the date of such transaction.

"APPLICABLE CASH FLOW" shall have the meaning specified in Section 3.11(c)(i)(B) hereof.



"APPLICABLE MANAGER MEMBER ALLOCATION PERCENTAGE" shall mean, as of the date of any transaction described in Section 4.2(e) hereof, the quotient (expressed as a percentage) obtained by dividing (i) the aggregate number of Vested LLC Points held by the Manager Member and its Affiliates as of the date of such transaction by (ii) the number of Vested LLC Points outstanding as of the date of such transaction.

"APPLICABLE FAI ALLOCATION PERCENTAGE" shall mean, as of the date of any transaction described in Section 4.2(e) hereof, the quotient (expressed as a percentage) obtained by dividing (i) the number of Vested LLC Points held by FAI as of the date of such transaction by (ii) the number of Vested LLC Points outstanding as of the date of such transaction.

"APPLICABLE NEW INVESTED FUNDS" shall mean the one hundred and fifty five million dollars ($155,000,000) newly invested by FAI, FAID, Foster Friess and Lynnette Friess at the Effective Time in registered investment companies sponsored and managed by the LLC pursuant to Section 1.6(b) of the Purchase Agreement, together with all appreciation/depreciation, capital gains/losses, dividends, interest and other earnings thereon from and after the Effective Time (other than any "Tax Withdrawals" (as defined in the Purchase Agreement)).

"APPLICABLE SERIES A AGGREGATE NON-MANAGER MEMBER ALLOCATION PERCENTAGE" shall mean, as of the date of any transaction described in Section 4.2(e) hereof, the quotient (expressed as a percentage) obtained by dividing (i) the aggregate number of Vested Series A LLC Points held by the Non-Manager Members holding Series A LLC Points (other than FAI) as of the date of such transaction by (ii) the number of Vested LLC Points outstanding as of the date of such transaction.

"ASSERTED LIABILITY" shall have the meaning specified in Section 10.5(a) hereof.

"AVERAGE AMG STOCK PRICE" shall have the meaning specified in Section 7.1(i) hereof.

"BASE OWNERS' ALLOCATION" shall mean, for any period, the Owners' Allocation for that period minus the Performance Owners' Allocation for that period (determined on an accrual basis in accordance with GAAP consistently applied); PROVIDED, HOWEVER, that, for purposes of all calculations and valuations required to be performed pursuant to (i) Section 3.11 hereof, (ii) Section 7.1 hereof, (iii) any "Put Option Agreements" (or similar agreements) entered into between the Manager Member and any Employee Stockholder or

Non-Manager Member, or (iv) any "Make-Whole Bonus Agreements" (or similar agreements) entered into between the Manager Member and any Employee Stockholder or Non-Manager Member, the "Base Owners' Allocation" shall be adjusted downward to exclude in all respects any revenues derived by the LLC, the DE LLC or any of their respective Controlled Affiliates from management of Applicable New Invested Funds during all applicable periods (and, for the avoidance of doubt, all purchase prices and other payments made pursuant to any such section of this Agreement or other agreement shall thereby be reduced by virtue of the exclusion of such revenues derived from management of Applicable New Invested Funds).

"CAPITAL ACCOUNT" shall mean the capital account maintained by the LLC with respect to each Member in accordance with the capital accounting rules described in Section 4.2 hereof.



"CAPITAL CONTRIBUTION" shall mean, as to each Member, the amount of money and/or the agreed fair market value of any property (net of any liabilities encumbering such property that the LLC is considered to assume or take subject to) contributed to the capital of the LLC by such Member.

"CARRYING VALUE" shall mean, with respect to any LLC asset, the asset's adjusted basis for federal income tax purposes, except that the Carrying Values of all LLC assets shall be adjusted to equal their respective Fair Market Values in accordance with the rules set forth in Treasury Regulations Section 1.704-1(b)(2)(iv)(f), except as otherwise provided herein, immediately prior to: (a) the date of the acquisition of any additional LLC Interest by any new or existing Member in exchange for more than a de minimis Capital Contribution; (b) the date of the distribution of more than a de minimis amount of LLC property (other than a pro rata distribution) to a Member; or (c) the date of the termination of the LLC under Section 708(b)(1)(B) of the Code, provided that adjustments pursuant to clauses (a) and (b) above shall be made only if the Manager Member reasonably determines that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members. The Carrying Value of any LLC asset distributed to any Member shall be adjusted immediately prior to such distribution to equal its Fair Market Value.

"CEO" shall have the meaning specified in Section 3.3 hereof.

"CERTIFICATE" shall mean the Certificate of Formation of the LLC filed under the Act, as the same may be amended and/or restated from time to time in accordance with the terms hereof.

"CHARITY" shall have the meaning specified in the recitals hereto.

"CLAIMS NOTICE" shall have the meaning specified in Section 10.5(a) hereof.

"CLIENT" shall mean all Past Clients, Present Clients and Potential Clients, subject to the following general rules: (i) with respect to each Client, the term shall also include any Persons which are known to the Employee Stockholder to be Affiliates of such Client, directors, officers or employees of such Client or any such Affiliates thereof, or Persons who are members of the Immediate Family of any of the foregoing Persons or Affiliates of any of them; (ii) with respect to any Client that is a collective investment vehicle (provided that, for the avoidance of doubt, a 401(k) retirement plan shall not itself be considered a "collective investment vehicle" except to the extent a particular Employee Stockholder or Non-Manager Member (as applicable) has actual knowledge of the identities of investors therein), the term shall also include any investor or participant in such Client (provided that, in the case of any collective investment vehicle that is a registered investment company, an investor or participant therein shall not be deemed a "Client" hereunder unless such investor or participant has in the aggregate at least $500,000 under management by the LLC and its Controlled Affiliates (whether through investments in registered investment companies or otherwise)); and (iii) with respect to any Client that is a trust or similar entity, the term shall include the settlor and each of the beneficiaries of such Client and the Affiliates and Immediate Family members of any such Persons.

"CLOSING" shall have the meaning specified in the Purchase Agreement.



"CODE" OR "INTERNAL REVENUE CODE" shall mean the United States Internal Revenue Code of 1986, as from time to time amended, and any successor thereto, together with all regulations promulgated thereunder.

"COMMITTEE VOTE" shall have the meaning specified in Section 3.2(b)(iv) hereof.

"COMPANY" shall have the meaning specified in the preamble hereto.

"CONSENTING PERCENTAGE" shall have the meaning specified in the Purchase Agreement (PROVIDED, HOWEVER, that, solely for purposes of the use of such term in this Agreement and any "Put Option Agreements" (or similar agreements) entered into between the Manager Member and any Employee Stockholder or Non-Manager Member, the Consenting Percentage shall be recalculated as of the Closing True-Up Date (as defined in the Purchase Agreement) to take into account any increase thereto resulting from the inclusion of any Applicable Excluded Contracts as of such date).

"CONTINGENT CONSIDERATION" shall mean, with respect to the Manager Member's (or its assignee's) purchase of LLC Points pursuant to Section 3.11 or Section 7.1 (as applicable), an obligation on the part of the Manager Member (or its successor or assigns) to pay to the Selling Member (or its successors or assigns) on the Liquidation Date, an amount equal to the lesser of:

(i) the portion of the Purchase Price indicated in Section 3.11(f)(i)(D), Section 3.11(f)(ii), Section 3.11(f)(iii)(B) or Section 7.1(f)(ii)(B), as applicable; or

(ii) the amount calculated in clause (i) of this definition, multiplied by a fraction, (A) the numerator of which is the Applicable Cash Flow measured for the twenty-four (24) months (in the case of Base Owners' Allocation), or the thirty-six (36) months (in the case of Earned Performance Owners' Allocation), ending on the last day of the most recently completed calendar quarter prior to the Liquidation Date, and (B) the denominator of which is the Applicable Cash Flow measured for the twenty-four (24) months (in the case of Base Owners' Allocation), or the thirty-six (36) months (in the case of Earned Performance Owners' Allocation), ending on the last day of the calendar quarter in which the termination of the Selling Member's (or its related Employee Stockholder's, as applicable) employment with the LLC occurred.

Notwithstanding any provision of this Agreement to the contrary (including, without limitation, the provision of Section 3.11(f) hereof), the Manager Member may (without the need for any vote or consent of any Member or Members) assign and delegate its obligation to pay the Contingent Consideration (including, by way of example and not of limitation, to a transferee of LLC Interests pursuant to Section 6.1(a)).

In the event that a change is made in the definition of Applicable Cash Flow following the date on which a Contingent Consideration obligation initially is outstanding, an appropriate adjustment will be made to that Contingent Consideration obligation to give effect to that change in definition. Such an adjustment will be made by the Manager Member in its sole discretion, and such adjustment will be binding on all parties absent a mathematical error. The Manager



Member will notify all persons who owe or are owed Contingent Consideration of any such adjustment.

"CONTROLLED AFFILIATE" shall mean, with respect to a Person, any Affiliate of such Person with respect to which such Person possesses (directly or indirectly) the power to direct the management or relevant policies of such Affiliate (by ownership of voting securities, by contract or otherwise); PROVIDED, HOWEVER, that no bona fide collective investment vehicle in which at least a majority in interest of the economic interests are held by third parties shall be deemed a Controlled Affiliate of the LLC. For the avoidance of doubt, the DE LLC shall not be deemed a Controlled Affiliate of the LLC.

"CONVERT" shall have the meaning specified in Section 5.9, hereof, and "Conversion" shall have the corresponding meaning.

"COVERED PERSON" shall mean a Member, any Affiliate of a Member, any officer, director, shareholder, partner, employee or member of a Member or any of its Affiliates, any member of the Management Committee or any Officer.

"DE LLC" shall mean Friess Associates of Delaware, LLC, a Delaware limited liability company.

"DE LLC AGREEMENT" shall mean the Amended and Restated Limited Liability Company Agreement of the DE LLC of even date herewith, as the same may be amended from time to time in accordance with the terms thereof.

"DE LLC INTEREST" shall have the meaning specified in the DE LLC Agreement.

"DE LLC MANAGER MEMBER" shall mean the "Manager Member" of the DE LLC, as such term is defined in the DE LLC Agreement.

"DE LLC POINTS" shall have the meaning specified in the DE LLC Agreement.

"DESIGNATED INITIAL MEMBER" shall mean each of FAI, William D'Alonzo, John Ragard and Jon Fenn.

"EARNED PERFORMANCE OWNERS' ALLOCATION" shall mean, with respect to a calendar quarter in which any fees or other payments falling within the definition of Performance Owners' Allocation have been definitively allocated to or earned by the LLC and are no longer subject to any offset, reduction or return, an amount equal to such definitively allocated or earned Performance Owners' Allocation.

"EFFECTIVE TIME" shall mean the time of the Closing under the Purchase Agreement.

"ELIGIBLE PERSON" shall have the meaning specified in Section 3.2(b)(i) hereof.

"EMPLOYEE STOCKHOLDER" shall mean (a) in the case of any Non-Manager Member which is a natural person, such Non-Manager Member, and (b) in the case of any Non-Manager Member which is not a natural person, that certain employee of the LLC or the DE LLC who is



the settlor of or the owner of issued and outstanding capital stock of, or other equity interests in, such Non-Manager Member and is listed as such on SCHEDULE A hereto (including any such employee after such employee has transferred any of his or her interest in such Non-Manager Member to a Permitted Transferee) (and each such Employee Stockholder agrees to cause his or her related Non-Manager Member to comply with the provisions of this Agreement applicable to such Non-Manager Member).

"EMPLOYMENT AGREEMENT" shall have the meaning ascribed thereto in the Purchase Agreement.

"EQUITY PURCHASE PROGRAM" shall mean the LLC's Equity Purchase Program in the form attached hereto as EXHIBIT A.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time, and any successor to such Act.

"FA (WY) ACQUISITION" shall have the meaning specified in the recitals hereto.

"FAI" shall have the meaning specified in the recitals hereto.

"FAID" shall mean Friess Associates of Delaware, Inc., a Delaware corporation.

"FAIR MARKET VALUE" shall mean the fair market value as reasonably determined by the Manager Member or, for purposes of Section 4.4 hereof, if there shall be no Manager Member, the Liquidating Trustee.

"FOR CAUSE" shall mean, with respect to the termination of an Employee Stockholder's employment with the LLC or with the DE LLC, or his or her removal from the Management Committee or from his or her position as an Officer, any of the following:

(a) The Employee Stockholder has engaged in any criminal act which is or involves a violation of federal or state securities laws or regulations (or equivalent laws or regulations of any country or political subdivision thereof), embezzlement, fraud, wrongful taking or misappropriation of property, theft or any other crime involving dishonesty or other serious felony offense and has been convicted (whether or not subject to appeal) or pled nolo contendre (or any similar plea) to any criminal offense in connection with or relating to such act;

(b) The Employee Stockholder has (i) persistently and willfully failed to perform his or her duties or (ii) failed to devote substantially all of his or her working time to the performance of such duties, and in either such case such failure has continued for a period of

not less than thirty (30) days following written notice (provided that the Manager Member shall consult with the Management Committee to the extent practicable prior to making a determination that the actions of an Employee Stockholder constitute "Cause" under this paragraph (b)), except, in the case of an Employee Stockholder who is a party to an Employment Agreement or a Non-Solicitation Agreement, as may be specifically permitted by the terms of such Employment Agreement or Non-Solicitation Agreement; or



(c) The Employee Stockholder has (i) engaged in a Prohibited Competition Activity, (ii) violated or breached any material provision of his or her Employment Agreement or Non-Solicitation Agreement or of this Agreement or the DE LLC Agreement, or (iii) engaged in any of the activities prohibited by Section 3.9 hereof resulting (or reasonably likely to result) (solely in the case of this clause (iii)) in harm that is not immaterial or insignificant to AMG, the Manager Member, the LLC, the DE LLC or any of their respective Controlled Affiliates.

"GAAP" shall mean U.S. generally accepted accounting principles.

"GOVERNMENTAL AUTHORITY" shall mean any foreign, federal, state or local court, governmental authority or regulatory body.

"IMMEDIATE FAMILY" shall mean, with respect to any natural person, (a) such person's spouse, parents, grandparents, children, grandchildren and siblings, (b) such person's former spouse(s) and current spouses of such person's children, grandchildren and siblings and (c) estates, trusts, partnerships and other entities of which a majority of the interests are held directly or indirectly by the foregoing.

"INDEBTEDNESS" shall mean, with respect to a Person, (a) all indebtedness of such Person for borrowed money or for the deferred purchase price of property or services (other than current trade liabilities incurred in the ordinary course of business and payable in accordance with customary practices), (b) any other indebtedness of such Person which is evidenced by a note, bond, debenture or similar instrument, (c) all obligations of such Person under any financing leases, (d) all obligations of such person in respect of acceptances issued or created for the account of such Person, (e) all obligations of such Person under non-competition agreements reflected as liabilities on a balance sheet of such Person in accordance with GAAP, (f) all liabilities secured by any Lien on any property owned by such Persons even though such Person has not assumed or otherwise become liable for the payment thereof, and (g) all net obligations of such Person under interest rate, commodity, foreign currency and financial markets swaps, options, futures and other hedging obligations.

"INDEPENDENT PUBLIC ACCOUNTANTS" shall mean PricewaterhouseCoopers, or such other independent certified public accountant as may be retained by the LLC in the future with the prior written approval of the Manager Member.

"INITIAL DE LLC POINTS" shall mean "Initial LLC Points," as defined in the DE LLC Agreement.

"INITIAL LLC POINTS" means, with respect to a Non-Manager Member and its Permitted Transferees, those Series B LLC Points held by such Non-Manager Member in the LLC at the Effective Time together with any Series A LLC Points resulting from the Conversion of such Series B LLC Points and, with respect to FAI, the Subsequent Purchase LLC Points, provided that LLC Points shall cease to be Initial LLC Points from and after the date on which they are acquired by the Manager Member (or its assignee) or Transferred to any other Person who is not a Permitted Transferee of the transferor.

"INITIAL MEMBERS" shall mean those Persons who are Members at the Effective Time.



"INITIAL PUT LLC POINTS" shall have the meaning specified in Section 7.1(d) hereof.

"INTELLECTUAL PROPERTY" shall have the meaning specified in Section 3.9(d) hereof.

"INVESTMENT MANAGEMENT SERVICES" shall mean any services which involve (a) the management of an investment account or fund (or portions thereof or a group of investment accounts or funds) for compensation, (b) the giving of advice with

respect to the investment and/or reinvestment of assets or funds (or any group of assets or funds) for compensation or (c) otherwise acting as an "investment adviser" within the meaning of the Advisers Act, and performing activities related or incidental thereto.

"IRS" shall mean the Internal Revenue Service of the United States Department of the Treasury, and any successor Governmental Authority thereto.

"LIEN" shall mean any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge or other security interest or any preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement and any financing lease having substantially the same economic effect as any of the foregoing) or any other restrictions, liens or claims of any kind or nature whatsoever, excluding liens of lessors under operating leases that do not extend beyond the property leased. Notwithstanding the foregoing, the following items shall not constitute Liens under this Agreement (i) Liens for taxes, assessments, governmental charges or claims that are being contested in good faith by appropriate legal proceedings promptly instituted and diligently conducted and for which an adequate reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been made; (ii) statutory Liens of landlords and carriers, warehousemen, mechanics, suppliers, materialmen, repairmen or other similar Liens arising in the ordinary course of business and with respect to amounts not yet delinquent or being contested in good faith by appropriate legal proceedings promptly instituted and diligently conducted and for which an adequate reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been made; and (iii) statutory Liens incurred in the ordinary course of business in connection with workers' compensation, unemployment insurances and other types of social security.

"LIQUIDATION DATE" shall mean (a) the date upon which the final distribution is made to the Members under Section 4.4 hereof, or (b) the date of the closing of a transaction under the second paragraph of Section 6.1(a).

"LIQUIDATION PREFERENCE" shall mean, as of any time of determination, an amount equal to the sum of (i) the aggregate positive Capital Account balances of those Members holding Series A LLC Points and/or Series B-1 LLC Points as of such time of determination (or an allocable portion thereof, in the case of any Member holding both Series A LLC Points and Series B-1 LLC Points, on the one hand, and Series B-2 LLC Points, on the other hand, at such time of determination), plus (ii) one hundred million dollars ($100,000,000), plus (iii) accretion at a rate of ten percent (10%) per annum, calculated from the Effective Time through such time of determination, on a principal amount equal to the aggregate positive Capital Account balances as



of the Effective Time of those Members holding Series A LLC Points and/or Series B-1 LLC Points plus one hundred million dollars ($100,000,000) (compounded annually).

"LIQUIDATING TRUSTEE" shall have the meaning specified in Section 8.4 hereof.

"LLC" shall have the meaning specified in the preamble hereto.

"LLC INTEREST" means a Member's limited liability company interest in the LLC, which includes such Member's LLC Points (whether vested or unvested) as well as such Member's Capital Account and other rights under this Agreement and the Act.

"LLC POINTS" shall mean, collectively, the Series A LLC Points and the Series B LLC Points (including the Series B-1 LLC Points and the Series B-2 LLC Points) authorized by the LLC pursuant hereto, entitling the holders thereof to the relative rights, title and interests in the profits, losses, deductions and credits of the LLC at any particular time as are set forth in this Agreement, and any and all other benefits to which a holder thereof may be entitled as a Member as provided in this Agreement (including, without limitation, certain voting rights as set forth herein). With respect to a particular Member as of any date, "LLC Points" shall mean the aggregate number of Series A LLC Points, Series B-1 LLC Points and Series B-2 LLC Points belonging to such Member as set forth on SCHEDULE A hereto, as amended from time to time in accordance with the terms hereof, and as in effect on such date.

"LOSSES" shall have the meaning specified in Section 10.4 hereof.

"MAJORITY VOTE" shall mean the affirmative approval, by vote or written consent, of Non-Manager Members holding a majority of the outstanding LLC Points

then held by all Non-Manager Members.

"MANAGEMENT COMMITTEE" shall have the meaning specified in Section 3.2(a) hereof.

"MANAGEMENT OWNER PURCHASE AGREEMENT" shall mean that certain Management Owner Purchase Agreement, dated as of August 28, 2001, by and among AMG and each of the Management Owners (other than Foster Friess), as the same may be amended from time to time.

"MANAGEMENT OWNERS" shall have the meaning ascribed thereto in the Purchase Agreement.

"MANAGER MEMBER" shall mean FA (WY) Acquisition, and any Person who becomes a successor Manager Member as provided herein; PROVIDED, HOWEVER, that if any Affiliate of the Manager Member shall at any time hold LLC Points, such LLC Points shall be treated in the identical manner as LLC Points held by the Manager Member for all purposes under this Agreement (including without limitation the allocation provisions contained in Section 4.2 hereof, the distribution provisions contained in Sections 4.3 and 4.4 hereof, and the transfer provisions contained in Section 6 hereof).

"MEMBERS" shall mean any Person admitted to the LLC as a "member" within the meaning of the Act, which includes the Manager Member and the Non-Manager Members (unless otherwise indicated), and includes any Person admitted as a substitute Non-Manager



Member or an Additional Non-Manager Member pursuant to the provisions of this Agreement, in such Person's capacity as a member of the LLC (unless otherwise indicated). For purposes of the Act, the Members shall constitute one (1) class or group of members.

"NON-MANAGER MEMBER" shall mean any Person admitted to the LLC as a Member pursuant to the terms hereof, other than the Manager Member.

"NONRECOURSE DEDUCTIONS" shall have the meaning set forth in Treasury Regulations Section 1.704-2(b). The amount of Nonrecourse Deductions for a partnership taxable year equals the net increase, if any, in the amount of Partnership Minimum Gain during that partnership taxable year, reduced (but not below zero) by the aggregate distributions made during the year of proceeds of a nonrecourse liability that are allocable to an increase in Partnership Minimum Gain, determined according to the provisions of Treasury Regulations Section 1.704-2(c).

"NON-SOLICITATION AGREEMENT" shall have the meaning ascribed thereto in the Purchase Agreement.

"NOTICE DEADLINE" shall have the meaning specified in Section 7.1(d) hereof.

"NOTICES" shall have the meaning specified in Section 11.1 hereof.

"OFFICERS" shall have the meaning specified in Section 3.3 hereof.

"OPERATING ALLOCATION" shall mean, for any period, an amount equal to the sum of (i) the difference between Revenues From Operations for such period and the Owners' Allocation for such period plus (ii) any amounts expressly required by the proviso to the definition of "Revenues From Operations" to be added in their entirety directly to the Operating Allocation for such period (rather than constituting Revenues From Operations for such period).

"OWNERS' ALLOCATION" shall mean, for any period, the sum of (i) the Owners' Allocation Percentage multiplied by the Revenues From Operations for such period plus (ii) any amounts expressly required by the proviso to the definition of "Revenues From Operations" to be added in their entirety directly to the Owners' Allocation for such period (rather than constituting Revenues From Operations for such period); PROVIDED, HOWEVER, that, for purposes of all calculations and valuations required to be performed pursuant to (i) Section 3.11 hereof, (ii) Section 7.1 hereof, (iii) any "Put Option Agreements" (or similar agreements) entered into between the Manager Member and any Employee Stockholder or Non-Manager Member, or (iv) any "Make-Whole Bonus Agreements" (or similar agreements) entered into between the Manager Member and any Employee Stockholder or Non-Manager Member, the "Owners' Allocation" shall be adjusted downward to exclude in all respects any revenues derived by the LLC, the DE LLC or any of their respective Controlled Affiliates from management of Applicable New Invested Funds during all applicable periods (and, for the avoidance of doubt, all purchase prices and other payments made pursuant to any such section

of this Agreement or other agreement shall thereby be reduced by virtue of the exclusion of such revenues derived from management of Applicable New Invested Funds).



"OWNERS' ALLOCATION EXPENDITURE" shall have the meaning specified in Section 3.5(c) hereof.

"OWNERS' ALLOCATION PERCENTAGE" shall mean sixty two and one-half percent (62.5%).

"PARTNER NONRECOURSE DEBT MINIMUM GAIN" shall mean an amount with respect to each partner nonrecourse debt (as defined in Treasury Regulations Section 1.704-2(b)(4)) equal to the Partnership Minimum Gain that would result if such partner nonrecourse debt were treated as a nonrecourse liability (as defined in Treasury Regulations Section 1.752-1(a)(2)) determined in accordance with Treasury Regulations Section 1.704-2(i)(3).

"PARTNER NONRECOURSE DEDUCTIONS" shall have the meaning set forth in Treasury Regulations Section 1.704-2(i)(2).

"PARTNERSHIP MINIMUM GAIN" shall have the meaning set forth in Treasury Regulations Sections 1.704-2(b)(2) and 1.704-2(d).

"PAST CLIENT" shall mean at any particular time, any Person who at any point prior to such time had been an advisee or investment advisory customer of, or otherwise a recipient of Investment Management Services from, the LLC or the DE LLC (including, without limitation, either of their predecessors, FAI and FAID, or any predecessor thereto) or a Controlled Affiliate of the LLC, the DE LLC or any such predecessor, but at such time is not an advisee or investment advisory customer or client of, or recipient of Investment Management Services from, the LLC, the DE LLC or any of their Controlled Affiliates (directly or indirectly).

"PERFORMANCE OWNERS' ALLOCATION" shall mean the product of (i) the sum of (a) all "carried interests" and other items of gain allocated (directly or indirectly) to the LLC, the DE LLC and any Controlled Affiliates of the LLC or the DE LLC (other than allocations which are made pro rata based on contributed capital to all partners, members, beneficiaries or other holders of similar economic interests in a Client) and (b) all "performance fee" and other payments based, in whole or in part, on the investment performance of a Client or Client's account, multiplied by (ii) the Owners' Allocation Percentage); PROVIDED, HOWEVER, that, for purposes of all calculations and valuations required to be performed pursuant to (i) Section 3.11 hereof, (ii) Section 7.1 hereof, (iii) any "Put Option Agreements" (or similar agreements) entered into between the Manager Member and any Employee Stockholder or Non-Manager Member, or (iv) any "Make-Whole Bonus Agreements" (or similar agreements) entered into between the Manager Member and any Employee Stockholder or Non-Manager Member, the "Performance Owners' Allocation" shall be adjusted downward to exclude in all respects any revenues derived by the LLC, the DE LLC or any of their respective Controlled Affiliates from management of Applicable New Invested Funds during all applicable periods (and, for the avoidance of doubt, all purchase prices and other payments made pursuant to any such section of this Agreement or other agreement shall thereby be reduced by virtue of the exclusion of such revenues derived from management of Applicable New Invested Funds).

"PERMANENT INCAPACITY" shall mean, with respect to an Employee Stockholder, that such Employee Stockholder has been permanently and totally unable, by reason of injury, illness or other similar cause (determined pursuant to the process set forth in the following sentence) to



have performed his or her substantial and material duties and responsibilities for a period of three hundred sixty-five (365) consecutive days, which injury, illness or similar cause (as determined pursuant to such process) also would render such Employee Stockholder incapable of operating in a similar capacity during the twelve-month period following such three hundred sixty-five (365) days. The foregoing determination shall be made by a licensed physician selected jointly by the Management Committee and the Manager Member (in the case of a termination of an Employee Stockholder's employment with the LLC, if such Employee Stockholder is employed by the LLC), or in the manner provided for in the definition of "Permanent Incapacity" contained in the DE LLC Agreement (in the case of a termination of an Employee Stockholder's employment with the DE LLC, if such Employee Stockholder is employed by the DE LLC); PROVIDED, HOWEVER, that if such Employee Stockholder is employed by the LLC and the Manager Member

or the LLC (with the prior written consent of the Manager Member granted after the Effective Time) has purchased lump-sum key-man disability insurance with respect to such Employee Stockholder, which policy is then in effect, then such determination shall be made either (i) by an agreement between such physician and a physician selected by the insurance company with which the Manager Member or the LLC has entered into such insurance policy, or, if the two physicians cannot arrive at an agreement, a third physician will be chosen by the first two physicians, and the majority decision of the three physicians will then be binding, or (ii) if a different procedure is then required under such insurance policy, then by using such other procedure as may then be required by the insurance company issuing such policy.

"PERMITTED TRANSFEREE" shall mean, with respect to any Non-Manager Member, its transferees pursuant to the provisions of Sections 5.1(b) and 5.1(c) hereof and, solely to the extent expressly so provided in any consent of either the Management Committee or the Manager Member pursuant to Section 5.1(a), its transferees pursuant to Section 5.1(a) hereof (and in the absence of such an express provision, transferees pursuant to the provisions of Section 5.1(a) shall not be deemed "Permitted Transferees" of the transferor Non-Manager Member hereunder).

"PERSON" means any individual, partnership (limited or general), corporation, limited liability company, limited liability partnership, association, trust, joint venture, unincorporated organization or other entity.

"POTENTIAL CLIENT" shall mean, at any particular time, any Person to whom the LLC or the DE LLC (including, without limitation, either of their predecessors, FAI and FAID, or any predecessors thereto), a Controlled Affiliate of the LLC or the DE LLC or any such predecessor, or any director, officer employee, agent or consultant (or persons acting in any similar capacity) of any such Person (acting on their behalf), has, within two (2) years prior to such time, offered (whether by means of a personal meeting or by telephone call, letter, written proposal or otherwise) to provide Investment Management Services, but who is not at such time an investment advisory customer of, or otherwise a recipient of Investment Management Services from, the LLC, the DE LLC or any of their Controlled Affiliates (directly or indirectly). The preceding sentence is meant to exclude (i) advertising, if any, through mass media in which the offer, if any, is available to the general public, such as magazines, newspapers and sponsorships of public events and (ii) "cold calls" and mass-mailing form letters, in each case to the extent not directed towards any particular Person and not resulting in an indication of interest or a request for further information.



"PREFERRED CAPITAL ACCOUNT BALANCE" shall mean (i) with respect to the Manager Member, (A) the WY LLC Closing Purchase Price plus (B) from and after the date of the Subsequent Purchase, the WY LLC Subsequent Purchase Price, (ii) with respect to FAI, (A) the WY LLC Closing Purchase Price multiplied by 49/51, minus (B) from and after the date of the Subsequent Purchase, the dollar amount determined in clause (A) multiplied by 19/49, and (iii) with respect to each other Non-Manager Member, $0.

"PRESENT CLIENT" shall mean, at any particular time, any Person who is at such time an advisee or investment advisory customer of, or otherwise a recipient of Investment Management Services from, the LLC, the DE LLC or any of their Controlled Affiliates (directly or indirectly).

"PROGRAM PUT LLC POINTS" shall have the meaning specified in Section 7.1(d) hereof.

"PROGRAM TRANSFER" shall have the meaning specified in Section 7.1(c) hereof.

"PROHIBITED COMPETITION ACTIVITY" shall mean any of the following activities:

(a) directly or indirectly, whether as owner, part owner, member, director, officer, trustee, employee, agent or consultant for or on behalf of any Person other than the LLC, the DE LLC or any of their Controlled Affiliates: (i) diverting or taking away any funds or investment accounts with respect to which the LLC, the DE LLC or any of their Controlled Affiliates is performing Investment Management Services (other than funds of which the applicable Employee Stockholder or Non-Manager Member and/or members of its Immediate Family are the sole beneficial owners, subject to any applicable restrictions relating thereto set forth in the Purchase Agreement); or (ii) soliciting any Person to divert or take away any such funds or investment accounts (other than funds of which the applicable Employee Stockholder or Non-Manager Member

and/or members of its Immediate Family are the sole beneficial owners, subject to any applicable restrictions relating thereto set forth in the Purchase Agreement); or

(b) directly or indirectly, whether as owner, part owner, partner, member, director, officer, trustee, employee, agent or consultant for or on behalf of any Person other than the LLC, the DE LLC or any of their Controlled Affiliates, performing any Investment Management Services (provided that an Employee Stockholder who directly performs Investment Management Services for his or her own account or a member of his or her Immediate Family without a fee or other remuneration, shall not be considered to have engaged in a Prohibited Competition Activity).

"PURCHASE" shall have the meaning specified in Section 3.11(a).

"PURCHASE AGREEMENT" shall mean that certain Purchase Agreement, dated as of August 28, 2001, by and among AMG, FAI and its stockholders, FAID and its stockholders and the Charities, as the same may be amended from time to time.

"PURCHASE AGREEMENTS" shall mean, collectively, the Purchase Agreement and the Management Owner Purchase Agreement.

"PURCHASE CLOSING DATE" shall have the meaning specified in Section 3.11(b).



"PURCHASE PRICE" shall have the meaning specified in Section 3.11(c).

"PURCHASE PROGRAM POINTS" shall mean Series B-2 LLC Points that have been sold and transferred pursuant to the Equity Purchase Program, together with any Series A LLC Points resulting from the Conversion of such Series B-2 LLC Points following their sale and transfer pursuant to the Equity Purchase Program; provided that LLC Points shall cease to be Purchase Program Points at such time as they are purchased by the Manager Member (or its assignee) pursuant to Section 3.11 or Section 7.1 of this Agreement from a Member who acquired such Purchase Program Points in a sale and transfer pursuant to the Equity Purchase Program (but thereafter shall continue to be LLC Points notwithstanding such purchase).

"PURCHASE PROGRAM POINTS FMV" shall have the meaning set forth in Section 3.11(c)(iv).

"PURCHASE PROGRAM PUT LLC POINTS" shall have the meaning specified in Section 7.1(d).

"PURCHASE PROGRAM SALE" shall have the meaning specified in Section 7.1(c).

"PURCHASE RESERVE" shall mean the number of Series B-2 LLC Points available for sale and transfer pursuant to the Equity Purchase Program at any time. At the Effective Time, there are 5,000 Series B-2 LLC Points in the Purchase Reserve (all of which are outstanding and held by FAI as of the Effective Time (subject to subsequent Conversion to Series A LLC Points on the fifth (5th) anniversary of the Effective Time if such LLC Points continue to be held by FAI), subject to Conversion to Series B-2 LLC Points pursuant to Section 5.9 hereof upon sale and transfer pursuant to the Equity Purchase Program).

"PUT" shall have the meaning specified in Section 7.1(a) hereof.

"PUT LLC POINTS" shall have the meaning specified in Section 7.1(d) hereof.

"PUT NOTICE" shall have the meaning specified in Section 7.1(d) hereof.

"PUT PRICE" shall have the meaning specified in Section 7.1(e) hereof.

"PUT PURCHASE DATE" shall have the meaning specified in Section 7.1(b) hereof.

"REGULATORY ALLOCATIONS" shall have the meaning specified in Section 4.5(f) hereof.

"REMOVAL FOR ACTING CONTRARY TO THE BEST INTERESTS OF THE LLC" shall mean, with respect to a Non-Manager Member, a determination by (i) the Management Committee (excluding for all purposes the Non-Manager Member whose removal is being considered (or its related Employee Stockholder, as applicable), other than in the case of any Designated Initial Member, who shall be permitted to participate in such determination in accordance with Section 3.3 hereof), with

the prior written consent of the Manager Member granted after the Effective Time, or (ii) the Manager Member, in either such case to remove such Non-Manager Member as a member of the LLC following a termination of the employment of such Non-Manager Member (or the Employee Stockholder which is related to such Non-Manager Member, as applicable) after the Non-Manager Member (or its related Employee Stockholder, as applicable) has engaged in



conduct falling within the definition of For Cause hereunder or been found to have engaged in Unsatisfactory Performance hereunder.

"REMOVAL UPON THE INSTRUCTION OF THE MANAGEMENT COMMITTEE" shall mean, with respect to a Non-Manager Member, a determination by the Management Committee (excluding for all purposes the Non-Manager Member whose removal is being considered (or its related Employee Stockholder, as applicable) other than in the case of any Designated Initial Member, who shall be permitted to participate in such determination in accordance with Section 3.3 hereof), with the prior written consent of the Manager Member granted after the Effective Time, to remove such Non-Manager Member as a member of the LLC following a termination of the employment of such Non-Manager Member (or the Employee Stockholder which is related to such Non-Manager Member, as applicable) with the LLC for any reason other than those described in the definition of Removal For Acting Contrary to the Best Interests of the LLC (and, for the avoidance of doubt, any Purchase under Section 3.11 hereof following a termination at the election of the LLC of the employment of a Non-Manager Member (or its related Employee Stockholder) for any reason other than those described in the definition of Removal For Acting Contrary to the Best Interests of the LLC shall be deemed a Removal Upon the Instruction of the Management Committee).

"RETIREMENT" shall mean (i) with respect to an Employee Stockholder who is employed by the LLC, the termination by such Employee Stockholder of such Employee Stockholder's employment with the LLC (a) after the date such Employee Stockholder shall have been continuously employed by the LLC for a period of fifteen (15) years commencing with the later of the Effective Time or the date such Employee Stockholder commenced his or her employment with the LLC (not including its predecessors, FAI and FAID), as applicable, except to the extent a period shorter than fifteen (15) years has been expressly specified (with the Manager Member's prior written consent granted after the Effective Time in its sole discretion, provided that the Manager Member also shall be deemed to have consented after the Effective Time to those Retirement dates expressly set forth in the Employment Agreements and Non-Solicitation Agreements of even date herewith that have been executed by FA (WY) Acquisition or FA (DE) Acquisition) in any Employment Agreement or Non-Solicitation Agreement entered into between the LLC and such Employee Stockholder (in which case such shorter period shall apply in lieu of such fifteen (15) year period), and (b) pursuant to a written notice given to the LLC and the Manager Member not less than one (1) year prior to the date of such termination (or such longer notice period as may be expressly specified in such Employee Stockholder's Employment Agreement or Non-Solicitation Agreement with the Manager Member's prior written consent granted after the Effective Time in its sole discretion), and (ii) with respect to an Employee Stockholder who is employed by the DE LLC, such Employee Stockholder's retirement in accordance with the provisions therefor included in the definition of "Retirement" contained in the DE LLC Agreement.

"REVENUES FROM OPERATIONS" shall mean, for any period, the sum of (i) the consolidated gross revenues of the LLC and any Controlled Affiliates thereof (excluding any portion of the gross revenues of a Controlled Affiliate of the LLC attributable to minority equity interests therein held by Persons other than the LLC, the DE LLC, the Non-Manager Members or any of their respective Affiliates or Immediate Family members, in each case except to the extent otherwise agreed to in writing by the Management Committee and the Manager Member after



the Effective Time), and (ii) the consolidated gross revenues of the DE LLC and any Controlled Affiliates thereof (to the extent not already included pursuant to clause (i) of this definition) (excluding any portion of the gross revenues of a Controlled Affiliate of the DE LLC attributable to minority equity interests therein held by Persons other than the DE LLC, the LLC, the Members or any of their respective Affiliates or Immediate Family members, and excluding Services Payments received by the DE LLC), in each case determined on an accrual basis in accordance with GAAP consistently applied (but including other income such as interest, dividend income and proceeds from the sale of assets, except to the extent otherwise expressly provided in the following proviso); PROVIDED, HOWEVER, that Revenues From Operations shall not include (a) proceeds from the

sale, exchange or other disposition of all, or substantially all, of the assets of the LLC and its Controlled Affiliates and the DE LLC and its Controlled Affiliates (and any such proceeds shall be allocated in accordance with Sections 4.2(e) and 4.2(f) hereof), (b) revenues from the issuance by the LLC of additional LLC Points, other LLC Interests or other securities issued by the LLC or any of its Controlled Affiliates (and any such proceeds shall be utilized in accordance with Section 4.5(g) hereof), (c) payments received pursuant to insurance policies the premiums on which were paid from Operating Allocation (or the ratable portion attributable to those premiums paid out of the Operating Allocation, if not entirely paid out of the Operating Allocation) (and any such payments shall be added directly to the Operating Allocation for the period in which they are received), other than payments received pursuant to business interruption or similar insurance (payments on which shall constitute Revenues From Operations), (d) payments received pursuant to key-man life or disability insurance policies the premiums on which were paid from Owners' Allocation (or the ratable portion attributable to those premiums paid out of the Owners' Allocation, if not entirely paid out of the Owners' Allocation) (and any such payments shall be distributed in accordance with Section 4.5(h) hereof), (e) payments received from third parties (other than FAI, FAID, either of the Charities or any of the Management Owners) to the extent constituting direct reimbursements of expenses previously paid from the Operating Allocation (and any such payments shall be added directly to the Operating Allocation for the period in which they are received), (f) payments received from FAI, FAID, either of the Charities or any of the Management Owners by reason of indemnification obligations under the Purchase Agreement or the Management Owner Purchase Agreement (as applicable) (however provided, including pursuant to one of the offset mechanisms specified in Section 13 of the Purchase Agreement or Section 10 of the Management Owner Purchase Agreement resulting in such funds being retained by the LLC instead of being paid to any such Person) (and any such payments shall be deemed an adjustment to the Purchase Price under the Purchase Agreement and a corresponding Capital Contribution to the LLC by the Manager Member, and shall be utilized in accordance with the last paragraph of Section 3.5(c)), (g) proceeds from the sale of any tangible asset of the LLC, the DE LLC or any of their respective Controlled Affiliates (other than in connection with a sale, exchange or other disposition of all, or substantially all, of the assets of the LLC and its Controlled Affiliates and the DE LLC and its Controlled Affiliates) (i) for a sale price of at least $25,000 and (ii) solely to the extent such proceeds are (or are reasonably expected to be) used to purchase a similar replacement asset of the LLC, the DE LLC or any of their respective Controlled Affiliates within a reasonable period of time following such sale (and any such proceeds shall, to that extent, be added directly to the Operating Allocation for the period in which they are used for the purchase of such similar replacement asset, provided that such proceeds shall be returned to Revenues From Operations if not so used within a reasonable period of time), (h) solely to the extent the



Manager Member and the Management Committee have (in their respective sole discretions) each agreed in writing following the Effective Time to such an exclusion from Revenues From Operations in connection with the establishment of a particular distribution fee arrangement relating to a registered investment company, any fees received pursuant to a written distribution plan established under Rule 12b-1 under the Investment Company Act of 1940 or a written agreement providing for payment of "service fees" (within the meaning of Rule 2830 of the National Association of Securities Dealers), in each case solely to the extent such distribution or service fees are directly offset by payments made to third parties (other than the LLC, the DE LLC, any Member or any of their respective Affiliates or Immediate Family members) in respect of distribution services provided to such registered investment company (and any such fees shall, to that extent, be added directly to the Operating Allocation for the period in which they are used to make such offsetting payments to third parties) and (i) interest payments made by the LLC or the DE LLC to the other in respect of any Working Capital Loans outstanding from time to time (and any such payments shall be added directly to the Operating Allocation for the period in which they are accrued).

"SEC" shall mean the Securities and Exchange Commission, and any successor Governmental Authority thereto.

"SECURITIES ACT" shall mean the Securities Act of 1933, as it may be amended from time to time, and any successor thereto.

"SELLING MEMBER" shall have the meaning specified in Section 3.11(a).

"SERIES A LLC POINTS" shall mean, as of any date, with respect to a Member, the number of Series A LLC Points of such Member as set forth on Schedule A hereto, as amended from time to time in accordance with the terms hereof, and as in effect on such date. Series A LLC Points shall have the rights

and preferences set forth in this Agreement, but except where otherwise specified shall be treated as one class of LLC Points with the Series B-1 LLC Points and the Series B-2 LLC Points.

"SERIES B LLC POINTS" shall mean, as of any date, with respect to a Member, the aggregate number of Series B-1 LLC Points and Series B-2 LLC Points of such Member as set forth on Schedule A hereto, as amended from time to time in accordance with the terms hereof, and as in effect on such date. Series B LLC Points shall have the rights and preferences set forth in this Agreement, but except where otherwise specified shall be treated as one class of LLC Points with the Series A LLC Points.

"SERIES B-1 LLC POINTS" shall mean, as of any date, with respect to a Member, the number of Series B-1 LLC Points of such Member as set forth on Schedule A hereto, as amended from time to time in accordance with the terms hereof, and as in effect on such date. Series B-1 LLC Points shall have the rights and preferences set forth in this Agreement, but except where otherwise specified shall be treated as one class of LLC Points with the Series B-2 LLC Points and the Series A LLC Points.

"SERIES B-2 LLC POINTS" shall mean, as of any date, with respect to a Member, the number of Series B-2 LLC Points of such Member as set forth on Schedule A hereto, as amended



from time to time in accordance with the terms hereof, and as in effect on such date. Series B-2 LLC Points shall have the rights and preferences set forth in this Agreement, but except where otherwise specified shall be treated as one class of LLC Points with the Series B-1 LLC Points and the Series A LLC Points.

"SERVICES AGREEMENT" shall have the meaning specified in the recitals hereto.

"SERVICES PAYMENTS" shall mean payments required to be made to the DE LLC pursuant to the Services Agreement.

"STOCK PRICE" shall have the meaning specified in Section 7.1(i) hereof.

"SUBSEQUENT CLOSING" shall have the meaning specified in the Purchase Agreement.

"SUBSEQUENT PURCHASE" shall have the meaning specified in the Purchase Agreement.

"SUBSEQUENT PURCHASE LLC POINTS" shall mean those Series A LLC Points held by FAI to be purchased in the Subsequent Purchase pursuant to the Purchase Agreement.

"TRANSFER" shall have the meaning specified in Section 5.1 hereof, and "Transferred" shall have the correlative meaning.

"UNSATISFACTORY PERFORMANCE" shall mean (i) in the case of a termination of an Employee Stockholder's employment with the LLC (if such Employee Stockholder is employed by the LLC), a written determination by the CEO, with the written consent of the Manager Member granted after the Effective Time, that an Employee Stockholder has failed to meet minimum requirements of satisfactory performance of his or her job, after such Employee Stockholder has received written notice (with a copy to the Manager Member) that the Management Committee was considering such a determination and the Employee Stockholder has had a reasonable opportunity to respond in writing or in person (at such Employee Stockholder's request) after his or her receipt of such notice, and (ii) in the case of a termination of an Employee Stockholder's employment with the DE LLC (if such Employee Stockholder is employed by the DE LLC), a determination of unsatisfactory performance made in accordance with the provisions therefor included in the definition of "Unsatisfactory Performance" contained in the DE LLC Agreement.

"VESTED DE LLC POINTS" shall have the meaning specified in the DE LLC Agreement.

"VESTED LLC POINTS" shall mean, at any time and with respect to any Member, the number of LLC Points held by such Member which have vested at such time, as determined pursuant to an agreement among the LLC, the Manager Member and such Member in connection with the issuance or transfer of such LLC Points, and "Vested Series A LLC Points", "Vested Series B LLC Points", "Vested Series B-1 LLC Points" and "Vested Series B-2 LLC Points" shall have the corresponding meanings. The number of Vested LLC Points held by each member and the vesting schedule with respect to LLC Points which are not vested, shall be indicated on

SCHEDULE A hereto, which Schedule shall be updated by the Manager Member as additional LLC Points are issued and/or vest from time to time. For the avoidance of doubt, (i) all of the Initial LLC Points shall be deemed Vested LLC Points as of the Effective Time (including any such Initial LLC Points that are subsequently Transferred pursuant to the Equity Purchase Program),



(ii) any outstanding LLC Points held by the Manager Member or any of its Affiliates shall be deemed Vested LLC Points while held by any of such Persons, and (iii) any outstanding LLC Points which have not yet vested as of any time of determination shall nonetheless be deemed outstanding LLC Points (but not "Vested LLC Points") as of such time of determination for all purposes under this Agreement.

"WORKING CAPITAL LOAN" shall mean a loan made by the LLC to the DE LLC, or by the DE LLC to the LLC, in either case on arms' length terms either (i) in the reasonable discretion of the Management Committee and the "Management Committee" of the DE LLC, if such loan is to be made out of the Operating Allocation, or (ii) with the prior written consent of the Manager Member and the Management Committee granted after the Effective Time (in each of their sole discretion), if such loan is to be made out of the Owners' Allocation of the LLC, PROVIDED that, in either such case, the documentation relating to such loan shall be written and shall be in form and substance reasonably satisfactory to the Manager Member and the Management Committee (and to the "Manager Member" and the "Management Committee" of the DE LLC) and approved by each of them in writing after the Effective Time.

"WY LLC CLOSING PURCHASE PRICE" shall have the meaning specified in the Purchase Agreement.

"WY LLC SUBSEQUENT PURCHASE PRICE" shall have the meaning specified in the Purchase Agreement.

In addition to the foregoing, other capitalized terms used in this Agreement shall have the meaning ascribed thereto in the text of this Agreement.

## ARTICLE II - ORGANIZATION AND GENERAL PROVISIONS.

SECTION 2.1. CONTINUATION.

(a) Effective as of (and subject to the occurrence of) the Effective Time, the Members hereby agree to continue the LLC as a limited liability company under and pursuant to the provisions of the Act, and agree that the rights, duties and liabilities of the Members shall be as provided in the Act, except as otherwise provided herein; PROVIDED, HOWEVER, that, in the event that an Employee Stockholder's employment with FAI, FAID and all of their Affiliates (including without limitation the LLC) is terminated for any reason prior to the Effective Time, such Employee Stockholder (and its related Non-Manager Member, if any) shall cease to be a party hereto upon such termination of employment (and shall not have any rights, duties or liabilities hereunder). In the event that the Purchase Agreement is terminated in accordance with its terms prior to the Effective Time, this Agreement shall have no effect and shall be null and void without any Person being required to take any action.

(b) Upon the execution of this Agreement or a counterpart of this Agreement, the Initial Members shall continue as members of the LLC.



(c) The name, LLC Points and Capital Contribution of each Member (including the agreed value of such Capital Contribution) shall be listed on SCHEDULE A attached hereto. The Manager Member shall update SCHEDULE A from time to time as it deems necessary in accordance with this Agreement, to accurately reflect the information to be contained therein. Any amendment or revision to SCHEDULE A shall not be deemed an amendment to this Agreement. Any reference in this Agreement to SCHEDULE A shall be deemed to be a reference to SCHEDULE A as amended and in effect from time to time.

(d) The Manager Member, as an authorized person within the meaning of the Act, shall execute, deliver and file any certificates required or permitted by the Act to be filed in the office of the Secretary of State of the State of Delaware.

SECTION 2.2. NAME. The name of the LLC heretofore formed and continued

hereby is Friess Associates, LLC. At any time the Management Committee, with the written consent of the Manager Member granted after the Effective Time, may change the name of the LLC. The business of the LLC (and of any Controlled Affiliate of the LLC) may be conducted (upon compliance with all applicable laws) under any other name designated by the Management Committee with the prior written consent of the Manager Member granted after the Effective Time (and the LLC and its Controlled Affiliates shall in no event conduct business under other names without such agreement of the Management Committee and the Manager Member, subject to Section 2.6).

SECTION 2.3. TERM. The term of the LLC commenced on the date the Certificate was filed in the Office of the Secretary of State of the State of Delaware and shall continue until the LLC is dissolved in accordance with the provisions of this Agreement.

SECTION 2.4. REGISTERED AGENT AND REGISTERED OFFICE. The LLC's registered agent and registered office in Delaware shall be Corporation Service Company, 1013 Center Road, Wilmington, New Castle County, Delaware 19085. At any time, the Manager Member may designate another registered agent and/or registered office.

SECTION 2.5. PRINCIPAL PLACE OF BUSINESS. The principal place of business of the LLC (and any Controlled Affiliates of the LLC) shall be at 115 East Snow King Avenue, Jackson, WY 83001. At any time the Management Committee may change the location of the LLC's (or any Controlled Affiliate's) principal place of business (and the LLC's and its Controlled Affiliates' principal place of business shall in no event be changed without the written agreement of the Management Committee and, if such location is to be changed to outside of Jackson, Wyoming, the written agreement of the Manager Member).

SECTION 2.6. QUALIFICATION IN OTHER JURISDiCTIONS. The Management Committee shall cause the LLC (and any Controlled Affiliates thereof) to be qualified or registered (under assumed or fictitious names if necessary) in any jurisdiction in which they transact business or in which such qualification or registration otherwise is required.

SECTION 2.7. PURPOSES AND POWERS. The principal business activity and purposes of the LLC (and any Controlled Affiliates thereof) shall be to engage in the investment advisory and investment management business and any businesses related thereto or useful in connection



therewith (including the provision of trust and other fiduciary services). However, the business and purposes of the LLC (and any Controlled Affiliates thereof) shall not be limited to such initial principal business activities if the Management Committee and the Manager Member otherwise agree in writing, and in such event, the LLC (and any Controlled Affiliates thereof) shall have authority to engage in any other lawful business, purpose or activity permitted by the Act. The LLC shall possess and may exercise all of the powers and privileges granted by the Act, together with any powers incidental thereto, including such powers or privileges that are necessary or convenient to the conduct, promotion or attainment of the business purposes or activities of the LLC, including without limitation the following powers:

(a) to conduct its business and operations and to have and exercise the powers granted to a limited liability company by the Act in any state, territory or possession of the United States or in any foreign country or jurisdiction;

(b) to purchase, receive, take, lease or otherwise acquire, own, hold, improve, maintain, use or otherwise deal in and with, sell, convey, lease, exchange, transfer or otherwise dispose of, mortgage, pledge, encumber or create a security interest in all or any of its real or personal property, or any interest therein, wherever situated;

(c) to borrow or lend money or obtain or extend credit and other financial accommodations, to invest and reinvest its funds in any type of security or obligation of or interest in any public, private or governmental entity, and to give and receive interests in real and personal property as security for the payment of funds so borrowed, loaned or invested;

(d) to make contracts, including contracts of insurance, incur liabilities and give guaranties, including without limitation, guaranties of obligations of other Persons who are interested in the LLC or in whom the LLC has an interest;

(e) to employ Officers, employees, agents and other persons,

to fix the compensation and define the duties and obligations of such personnel, to organize committees of the Management Committee, to delegate to such personnel and committees the Management Committee's power and authority, to establish and carry out retirement, incentive and benefit plans for such personnel, and to indemnify such personnel to the extent permitted by this Agreement and the Act;

(f) to make donations irrespective of benefit to the LLC for the public welfare or for community, charitable, religious, educational, scientific, civic or similar purposes;

(g) to institute, prosecute, and defend any legal action or arbitration proceeding involving the LLC, and to pay, adjust, compromise, settle, or refer to arbitration any claim by or against the LLC or any of its assets;

(h) to indemnify any Person in accordance with the Act and to obtain any and all types of insurance;



(i) to negotiate, enter into, renegotiate, extend, renew, terminate, modify, amend, waive, execute, acknowledge or take any other action with respect to any lease, contract or security agreement in respect of any assets of the LLC;

(j) to form, sponsor, organize or enter into joint ventures, general or limited partnerships, limited liability companies, trusts and any other combinations or associations formed for investment purposes;

(k) to make, execute, acknowledge and file any and all documents or instruments necessary, convenient or incidental to the accomplishment of the purposes of the LLC; and

(l) to cease its activities and cancel its Certificate.

SECTION 2.8. TITLE TO PROPERTY. All property owned by the LLC, real or personal, tangible or intangible, shall be deemed to be owned by the LLC as an entity, and no Member, individually, shall have any ownership of such property.

## ARTICLE III - MANAGEMENT OF THE LLC.

SECTION 3.1. MANAGEMENT IN GENERAL.

Subject to the other terms and conditions of this Agreement, including the delegations of power and authority set forth herein, the management and control of the business of the LLC shall be vested exclusively in the Manager Member, and the Manager Member shall have exclusive power and authority, in the name of and on behalf of the LLC, to perform all acts and do all things which, in its sole discretion, it deems necessary or desirable to conduct the business of the LLC, with or without the vote or consent of the other Members in their capacity as such; PROVIDED, HOWEVER, that the Manager Member's power and authority over those matters delegated exclusively to the Management Committee pursuant to Section 3.5 of this Agreement shall be limited to (i) the Manager Member's power and authority under Section 3.2(b)(v) to designate members of the Management Committee and (ii) such other power and authority as is expressly granted or reserved to the Manager Member by other provisions of this Agreement (other than this Section 3.1(a)). Members, in their capacity as such, shall have no right to amend or terminate this Agreement or to appoint, select, vote for or remove the Manager Member, the Officers or their agents or to exercise voting rights or call a meeting of the Members, except as specifically provided in this Agreement. No Member other than the Manager Member shall have the power to sign for or bind the LLC in its capacity as a Member, but the Manager Member may delegate the power to sign for or bind the LLC to one or more Officers (including without limitation through delegation to the Management Committee).

(a) The Manager Member shall, subject to all applicable provisions of this Agreement and the Act, be authorized in the name of and on behalf of the LLC (subject to the limitations on the authority of the Manager Member set forth herein): (i) to enter into, execute, amend, supplement, acknowledge and deliver any and all contracts, agreements, leases or other instruments for the operation of the LLC's business; and (ii)

in general to do all things and execute all documents necessary or appropriate to conduct the business of the LLC as set forth in Section 2.7 hereof, or to protect and preserve the LLC's assets. The Manager Member may delegate any or all of the foregoing powers to one or more of the Officers (including without limitation through delegation to the Management Committee).

(b) The Manager Member is required to be a Member, and shall hold office until its resignation in accordance with the provisions hereof. The Manager Member is the "manager" (within the meaning of the Act) of the LLC. The Manager Member shall devote such time to the business and affairs of the LLC as it deems necessary, in its sole discretion, for the performance of its duties, but in any event, shall not be required to devote full time to the performance of such duties and may delegate its duties and responsibilities as provided herein.

(c) Any action taken by the Manager Member, and the signature of the Manager Member (or an authorized representative thereof) on any agreement, contract, instrument or other document on behalf of the LLC, shall be sufficient to bind the LLC and shall conclusively evidence the authority of the Manager Member and the LLC with respect thereto (in each case subject to the limitations on the authority of the Manager Member set forth herein).

(d) Any Person dealing with the LLC, the Manager Member or any Member may rely upon a certificate signed by the Manager Member as to (i) the identity of the Manager Member or any other Member; (ii) any factual matters relevant to the affairs of the LLC; (iii) the Persons who are authorized to execute and deliver any document on behalf of the LLC; or (iv) any action taken or omitted by the LLC or the Manager Member.

SECTION 3.2. MANAGEMENT COMMITTEE OF THE LLC.

(a) The LLC shall have a Management Committee (the "Management Committee") which shall have the power and authority delegated to it under this Section 3.2 and under Sections 3.5(a) and 3.5(b) of this Agreement to conduct the day-to-day operations, business and activities of the LLC. Each Non-Manager Member hereby grants to the Management Committee (acting by a Committee Vote), a revocable proxy to vote the LLC Points held by such Member in connection with any election pursuant to Section 3.2(b)(ii) hereof to fill a vacancy in the Management Committee, and such proxy may only be revoked by written notice from a Member to the Management Committee and the Manager Member, which written notice must expressly reference this Section of this Agreement.

(b) The Management Committee shall be comprised as follows:

(i) The Management Committee shall initially have five (5) members and consist of Foster Friess, William D'Alonzo, Jon Fenn, John Ragard and Christopher Long. The number of members of the Management Committee may be increased or decreased by the Management Committee at any time with the



written consent of the Manager Member granted after the Effective Time, such consent not to be unreasonably withheld (but, subject to clause (ii) below, not decreased to a number less than three (3) members). No person who is not both (A) an active employee of either the LLC or the DE LLC and (B) an Employee Stockholder (an "Eligible Person") may be, become or remain a member of the Management Committee (subject to clause (v) below). The Employee Stockholders and the Non-Manager Members shall ensure that the Management Committee of the LLC shall at all times be comprised of the same persons as the "Management Committee" of the DE LLC (as such term is defined in the DE LLC Agreement).

(ii) Any vacancy in the Management Committee however occurring (including a vacancy resulting from an increase in the size of the Management Committee) may be filled by any Eligible Person reasonably acceptable to the Manager Member and elected by a majority vote of all Members holding LLC Points, with each LLC Point (regardless of whether such LLC Point is a Series A LLC Point or a Series B LLC Point) being counted equally in such vote. In lieu of any such vacancy being filled, the Management Committee may determine to reduce the size of the Management Committee in accordance with clause (i) above (but not, without the prior written consent of the Manager Member granted after the Effective Time, to a number less than three (3) members); provided that if at any time

there are fewer than three (3) members of the Management Committee, such vacancies must be filled and, if they remain unfilled for a period of greater than five days, shall be filled by any Eligible Person reasonably acceptable to the Manager Member and elected by a majority vote of all Members holding LLC Points, with each LLC Point (regardless of whether such LLC Point is a Series A LLC Point or a Series B LLC Point) being counted equally in such vote.

(iii) Members of the Management Committee shall remain members of the Management Committee until their resignation, removal or death. Any member of the Management Committee may resign by delivering his or her written resignation to the CEO (or, in the case of a resignation of the CEO, to the other members of the Management Committee) and the Manager Member. At any time that there are more than three (3) members of the Management Committee, any member of the Management Committee may be removed from such position: (A) With or without cause, by the Management Committee acting by a Committee Vote (with such Committee Vote being calculated for all purposes as if the member of the Management Committee whose removal is being considered were not a member of the Management Committee) with the written consent of the Manager Member granted after the Effective Time, or (B) For Cause by the Manager Member, with prior or concurrent notice to the Management Committee specifying the reasons for the decision. Any Employee Stockholder who is a member of the Management Committee shall be deemed to have resigned from the Management Committee and shall no longer be a member of the Management Committee immediately upon such Employee Stockholder ceasing to be an Eligible Person for any reason.



(iv) At any meeting of the Management Committee, presence in person or by telephone (or other electronic means) of a majority of the members of the Management Committee shall constitute a quorum. At any meeting of the Management Committee at which a quorum is present, a majority of the total members of the Management Committee may take any action on behalf of the Management Committee (any such action taken by such members of the Management Committee is sometimes referred to herein as a "Committee Vote"). Any action to be taken by the Management Committee may be taken without a meeting of the Management Committee only if (A) a written consent thereto is signed by all the members of the Management Committee and (B) the Manager Member has been given a copy of such written consent not less than forty-eight (48) hours prior to such action (or such shorter period as to which the Manager Member shall consent in writing). Notice of the time, date and place of any meeting of the Management Committee shall be given to all members of the Management Committee and the Manager Member at least forty-eight (48) hours in advance of the meeting. A representative of the Manager Member shall be entitled to attend each meeting of the Management Committee. Notice need not be given to any member of the Management Committee or the Manager Member if a waiver of notice is given (orally or in writing) by such member of the Management Committee or the Manager Member (as applicable), before, at or after the meeting. Members of the Management Committee are not "managers" (within the meaning of the Act) of the LLC (except to the extent otherwise expressly provided in Section 11.17 hereof).

(v) The Manager Member hereby grants to the Management Committee (acting by a Committee Vote) a revocable proxy to vote the LLC Points held by the Manager Member in connection with any majority vote pursuant to Section 3.2(b)(ii) hereof to fill a vacancy in the Management Committee. Notwithstanding any other provisions of this Agreement to the contrary, the Manager Member shall have full power and authority at any time in its sole discretion (and without the consent or approval of the Management Committee or the Non-Manager Members) (i) to increase the number of members of the Management Committee and to fill the vacancies created by any such increase with one or more other Employee Stockholders or with any other persons selected by the Manager Member and/or (ii) to revoke the proxy granted by the Manager Member to the Management Committee in the immediately preceding sentence, provided that any such increase and/or proxy revocation may only be effected by written notice from the Manager Member to the Management Committee, which written notice must expressly reference this Section of this Agreement.

SECTION 3.3. OFFICERS OF THE LLC. In each case subject to the immediately following paragraph relating to the CEO, the Management Committee may designate

employees of the LLC as officers of the LLC (the "Officers") as it deems necessary or desirable to carry on the business of the LLC. The Management Committee may delegate any of its power or authority to an Officer or Officers subject to modification and withdrawal of such delegated power and authority by the Management Committee. Any two or more offices may be held by the same



person. New offices may be created and filled by the Management Committee. Each Officer shall hold office until his or her successor is designated by the Management Committee or until his or her earlier death, resignation or removal. Any Officer may resign at any time upon written notice to the CEO (or, in the case of a resignation of the CEO, to the other members of the Management Committee) and the Manager Member. Any Officer designated by the Management Committee may be removed from his or her office (i) with or without cause by the Management Committee (excluding for all purposes the Person being considered), with the prior written consent of the Manager Member granted after the Effective Time in the case of a removal of the CEO from his or her position as CEO, or (ii) For Cause by the Manager Member (with prior or concurrent notice to the Management Committee specifying the reasons for the decision), in each case at any time, subject to any applicable terms of such Officer's Employment Agreement with the LLC, if any. Any removal of an Officer from his or her position as such shall not have any effect on the employment status of such Employee Stockholder with the LLC or any Controlled Affiliate thereof (except as expressly provided in the immediately following paragraph with respect to a removal of the CEO from his or her position as such). A vacancy in any office occurring because of death, resignation, removal or otherwise may be filled by the Management Committee. Any designation of Officers, a description of any duties delegated to such Officers, and any removal of such Officers by the Management Committee, shall be approved by the Management Committee in writing, which approval shall be delivered to the Manager Member. The Officers are not "managers" (within the meaning of the Act) of the LLC (except to the extent otherwise expressly provided in Section 11.17 hereof).

The Management Committee shall (with the prior written consent of the Manager Member granted after the Effective Time, such consent not to be unreasonably withheld) appoint a Chief Executive Officer (the "CEO") of the LLC who shall be an Officer and shall have principal responsibility (delegated from the Management Committee) for the day-to-day management and operations of the LLC, including the hiring and firing of the Officers and employees of the LLC and its Controlled Affiliates (other than with respect to Designated Initial Members and their related Employee Stockholders) and the power and authority to make (or to make recommendations with respect to) transactions in securities and other instruments in Client accounts, in each case subject to the same limitations and other requirements set forth herein that would be applicable to the Management Committee if it were conducting such management and operations of the LLC; PROVIDED, HOWEVER, that Foster Friess shall be the CEO as of the Effective Time and for up to the first six (6) months following the Effective Time (provided that he remains an Eligible Person during such period), subject to his removal from such position in accordance with the provisions below relating to a removal of the CEO, and commencing at the end of such initial period, William D'Alonzo shall become the CEO (provided that he is an Eligible Person at that time), subject to his subsequent removal from such position in accordance with the provisions below relating to a removal of the CEO. Whenever this Agreement provides that the Management Committee has the power and authority or is required to take an action, the CEO shall have the exclusive power and authority (as between the CEO and the Management Committee) to take such action (except as otherwise expressly provided in this paragraph), provided that the Management Committee shall retain the power and authority to take such action (or to delegate to any other Officer the power and authority to take such action) in the event that the CEO is unable or unwilling to act in a manner that, in the reasonable determination of the Management Committee, is timely (and in the event of a dispute with respect to any such



intervention by the Management Committee which has not been resolved within a reasonable period of time by the CEO and the Management Committee, the Manager Member shall be authorized to resolve such dispute in its reasonable discretion); PROVIDED, HOWEVER, that the Management Committee shall have the power and authority (and, for the avoidance of doubt, the CEO shall not individually have such power and authority), in each case subject to the other limitations set forth in this Agreement:

(i) Upon a Committee Vote (and for the avoidance of doubt, the CEO shall be entitled to participate in the vote on the matter of his or her own removal) to remove the CEO from his or her position as CEO with or

without cause (with the prior written consent of the Manager Member granted after the Effective Time in its sole discretion);

(ii) upon a Committee Vote (and for the avoidance of doubt, the CEO shall be entitled to participate in such vote), following consultation with the CEO, to determine (A) the compensation of the CEO by the LLC from time to time and (B) any allocations of Purchase Program Points to the CEO for purchase pursuant to the Equity Purchase Program (provided that such compensation and any such allocations of Purchase Program Points shall be reasonable under the circumstances, including without limitation in light of the operating margins of the LLC at the time such decisions are made and the compensation to be paid, and Purchase Program Points to be allocated, to the other Employee Stockholders, and in the event of a dispute with respect to such matters which has not been resolved within a reasonable period of time by the CEO and the Management Committee, the Manager Member shall be authorized to resolve such dispute in its good faith discretion, and such resolution shall be final and binding upon all parties hereto);

(iii) subject to Section 3.3(vi) hereof, upon a Committee Vote (and for the avoidance of doubt, such Employee Stockholder whose removal (or the removal of whose related Non-Manager Member, as applicable) is being considered shall be entitled to participate in such vote) to make determinations with respect to any Removal For Acting Contrary to the Best Interests of the LLC, Removal Upon the Instruction of the Management Committee, termination of employment For Cause, termination of employment other than For Cause or determination of Unsatisfactory Performance, in each case with respect to the CEO (or his or her related Non-Manager Member, as applicable) or any Designated Initial Member (or its related Employee Stockholder, as applicable), and in each case only with the prior written consent of the Manager Member granted after the Effective Time in its sole discretion;

(iv) upon a Committee Vote (and for the avoidance of doubt, the CEO shall be entitled to participate in such vote) to (A) change the size of the Management Committee and appoint and remove members of the Management Committee (in each case in the manner provided for in Section 3.2(b) hereof) and (B) make those determinations required to be made by the Management Committee with respect to the selection of physicians as contemplated by the definition of Permanent Incapacity hereunder;

(v) upon a Committee Vote, to appoint any successor CEO upon a vacancy occurring in the office of CEO for any reason; and



(vi) upon a Committee Vote (and for the avoidance of doubt, such Employee Stockholder with respect to which such matter is being decided shall be entitled to participate in such vote, and if he is not then a member of the Management Committee, shall nonetheless be permitted to participate as if he were a member of the Management Committee at such time), to determine those additional matters with respect to Designated Initial Members (and their related Employee Stockholders) specified in items 2-4 set forth on SCHEDULE B hereto (including without limitation the scope of the duties of each Designated Initial Member and his reporting obligations, in each case subject to the terms of such Designated Initial Member's Employment Agreement); PROVIDED, HOWEVER, that, to the extent the consent of a Designated Initial Member is required by the provisions set forth on SCHEDULE B hereto for such determination to be effective with respect to such Designated Initial Member, any such determination shall be effective with respect to such Designated Initial Member (or its related Employee Stockholder, as applicable) only if he has affirmatively voted in favor of such determination as part of such Committee Vote.

Following consultation with the Management Committee (and after reflecting the reasonable views of the Management Committee with respect thereto), the CEO shall determine (A) the compensation of the Officers and employees of the LLC and its Controlled Affiliates from time to time and (B) any allocations of Purchase Program Points to the Officers and employees of the LLC and its Controlled Affiliates for purchase pursuant to the Equity Purchase Program; PROVIDED, HOWEVER, that, solely in the case of Designated Initial Members (or their related Employee Stockholders, as applicable), such compensation and any such allocations of Purchase Program Points shall be reasonable under the circumstances, including without limitation in light of the operating margins of the LLC at the time such decisions are made and the compensation to be paid, and Purchase Program Points to be allocated, to the other Employee Stockholders, and in the event of a dispute with respect to such matters which has not been resolved within a reasonable period of time by the CEO and an applicable Designated Initial Member, the Manager Member shall be authorized to resolve

such dispute in its good faith discretion, and such resolution shall be final and binding upon all parties hereto; and PROVIDED, FURTHER, that the reduction of a Designated Initial Member's (or its related Employee Stockholder's, as applicable) compensation in the circumstances specified in item 1 set forth on SCHEDULE B hereto shall only be effective with respect to such Designated Initial Member (or its related Employee Stockholder) if he has consented to such reduction. The CEO also may be removed from his or her position as CEO by the Manager Member at any time For Cause (with prior or concurrent notice to the Management Committee specifying the reasons for the decision). Any removal of the CEO from his or her position as CEO by the Management Committee or the Manager Member (but, for the avoidance of doubt, not by a resignation of the CEO or any other termination of the CEO's status as CEO) shall result in the automatic concurrent termination of the CEO's employment with the LLC, the DE LLC and their respective Controlled Affiliates (except to the extent the CEO, the Manager Member and the Management Committee may otherwise agree in writing in connection with the termination of the CEO's status as CEO, in their respective sole discretions). The Management Committee shall ensure that the CEO of the LLC (if any) shall at all times be the same person as the "CEO" of the DE LLC (as such term is defined in the DE LLC Agreement). The CEO shall at all times be a member of the Management Committee. No person who is not an Eligible Person may be, become or remain the CEO of the LLC (and any person who is CEO shall be deemed to have resigned as CEO



immediately upon such person ceasing to be an Eligible Person). If at any time the person serving as CEO of the LLC ceases to serve as CEO for any reason, the Management Committee shall (with the prior written consent of the Manager Member granted after the Effective Time, such consent not to be unreasonably withheld) promptly appoint a new CEO of the LLC (unless the Manager Member and the Management Committee shall otherwise consent in writing). If at any time there is no CEO of the LLC, the Management Committee shall have the power and authority to take such actions as are specified in this Agreement to be taken by the CEO. The CEO is not a "manager" (within the meaning of the Act) of the LLC (except to the extent otherwise expressly provided in Section 11.17 hereof).

SECTION 3.4. EMPLOYEES OF THE LLC.

(a) The decision to employ and the terms of employment of any employee of the LLC (or any Controlled Affiliates thereof) who is not an Employee Stockholder (including, without limitation, with respect to the hiring, all aspects of compensation, promoting, demoting and terminating of such employees) shall be determined by the CEO, subject, in all cases, to compliance with all applicable laws, rules and regulations and with the provisions of Section 3.5 hereof. Notwithstanding the foregoing, the Manager Member may terminate the employment by the LLC (or any Controlled Affiliate thereof) of any employee who has engaged in any activity included in the definition of "For Cause" with prior or concurrent notice to the Management Committee specifying the reasons for such decision.

(b) The granting or Transferring of LLC Interests in connection with any hiring or promotion of an employee shall be subject to the terms and conditions set forth in Articles V and VI hereof.

(c) Any Person who is an Employee Stockholder and is employed by the LLC may have his or her employment with the LLC terminated by the LLC only: (i) in the case of a termination For Cause, either by the Manager Member (with prior or concurrent notice to the Management Committee specifying the reasons for the decision) or by the Management Committee (excluding for all purposes the Person whose termination is being considered (other than in the case of any Designated Initial Member, who shall be permitted to participate in such determination in accordance with Section 3.3 hereof)) with the prior written consent of the Manager Member granted after the Effective Time, (ii) in the case of any other termination by the LLC, by the Management Committee (excluding for all purposes the Person whose termination is being considered (other than in the case of any Designated Initial Member, who shall be permitted to participate in such determination in accordance with Section 3.3 hereof)) with the prior written consent of the Manager Member granted after the Effective Time, or (iii) solely in the case of the CEO, upon an automatic termination of employment resulting from the removal of the CEO from his or her status as CEO to the extent expressly provided for in the second paragraph of Section 3.3 hereof. With respect to any Employee Stockholder who is employed by the DE LLC, the LLC shall at no time employ such Employee Stockholder without the prior written consent of the Manager Member granted after the Effective Time (such consent not to be unreasonably withheld) (provided that an

Employee Stockholder who is an employee of the DE LLC may act as a member of the Management Committee and/or an Officer of the LLC without being an employee of the LLC).

(d) Upon termination for any reason of the employment with the LLC, the DE LLC and their respective Controlled Affiliates of any Employee Stockholder who serves as a director or trustee of any Client of the LLC, the DE LLC or any of their respective Controlled Affiliates if such Client is a registered investment company or a pooled investment vehicle sponsored by the LLC, the DE LLC or any of their respective Controlled Affiliates (or any predecessor to any such Person, including without limitation FAI and FAID), such Employee Stockholder shall resign from such director or trustee position unless otherwise requested in writing by the Management Committee and the Manager Member to remain in such position (provided that no such Employee Stockholder shall be obligated to remain in any such position following such a written request except in his or her sole discretion).

SECTION 3.5. OPERATION OF THE BUSINESS OF THE LLC.

(a) Subject to the terms hereof, the Management Committee is hereby delegated the exclusive power and authority to make recommendations with respect to transactions in securities and other instruments in accounts of Clients, and to execute (or cause the execution of) transactions in, and to exercise all other rights, powers and privileges with respect to, securities and other instruments in accounts of Clients, which power and authority may be delegated to the Officers of the LLC from time to time in the discretion of the Management Committee.

(b) Subject to the limitations expressly set forth elsewhere in this Agreement (including without limitation in the other provisions of this Section 3.5), and subject to such power and authority as is expressly granted or reserved to the Manager Member by other provisions of this Agreement (e.g., Section 3.5(f)), the Management Committee is hereby irrevocably delegated (to the greatest extent permitted by applicable law) the exclusive power and authority from the Manager Member to manage the day-to-day operations, business and activities of the LLC (without the vote or consent of any Member in its capacity as such), including, without limitation, the power and authority, in the name of and on behalf of the LLC, to:

(i) determine the use of the Operating Allocation as set forth in Section 3.5(c) below;

(ii) execute such documents and do such acts as are necessary to register (or provide or qualify for exemptions from any such registrations) or qualify the LLC (or any Controlled Affiliates thereof) under applicable federal and state securities laws;

(iii) enter into contracts and other agreements with respect to the provision of Investment Management Services and execute other instruments,



documents or reports on behalf of the LLC (and any Controlled Affiliates thereof) in connection therewith;

(iv) enter into contracts, agreements and commitments with respect to the operation of the business of the LLC (and any Controlled Affiliates thereof) as are consistent with the other provisions of this Agreement and the Act; and

(v) act for and on behalf of the LLC (and any Controlled Affiliates thereof) in all matters incidental to the foregoing and other day-to-day matters.

(c) The Operating Allocation for any period (plus any unused amounts previously reserved from prior period Operating Allocations) shall be used to provide for and pay the LLC's (and any Controlled Affiliates' thereof) and the DE LLC's (and any Controlled Affiliates' thereof) expenses, obligations and other costs (including without limitation (i) the payment of premiums during such period with respect to any insurance coverages maintained (other than key-man life or disability insurance purchased by the LLC in accordance with Section 3.5(e) hereof, the premiums for which shall be paid out of the Owners' Allocation), (ii) all

capital expenditures and capital contributions made by the LLC (or any Controlled Affiliate thereof) or the DE LLC (or any Controlled Affiliate thereof) during such period, except to the extent that Owners' Allocation has been retained therefor as an Owners' Allocation Expenditure, (iii) the satisfaction of any net worth, working capital or similar requirements imposed by applicable laws and regulations in connection with the businesses conducted and registrations held by the LLC (or any Controlled Affiliate thereof) or the DE LLC (or any Controlled Affiliate thereof) or otherwise reasonably necessary in connection with the conduct of the businesses of the LLC, the DE LLC and any respective Controlled Affiliates thereof, (iv) the payment of the ten percent (10%) profit margin to the DE LLC provided for in the Services Agreement, and payments of interest and repayments of principal to the DE LLC in respect of any loans made by the DE LLC to the LLC (to the extent then due under the terms of such loans), (v) compensation and benefits payable to employees (including the Officers and the Employee Stockholders, and the "Officers" and the "Employee Stockholders" of the DE LLC (as such terms are defined in the DE LLC Agreement)) and (vi) at the discretion of the Management Committee, establishing reserves for future such payments (as determined by the Management Committee)), and all such expenses, obligations and other costs of the LLC (and any Controlled Affiliates thereof) shall be paid out of the Operating Allocation (except to the extent that any such expenses, obligations or other costs are to be paid for using Owners' Allocation Expenditures, with the written consent of the Manager Member and the Management Committee granted after the Effective Time). Without the prior written consent of the Manager Member granted after the Effective Time (which written consent makes specific reference to this Section 3.5(c)), neither the LLC, the DE LLC nor any of their respective Controlled Affiliates shall incur (and the Employee Stockholders shall (including without limitation in their capacity as members of the DE LLC) use their reasonable best efforts to prevent them from incurring) any expenses, obligations or other costs, or take any action to incur any expenses, obligations or other costs, which expenses, obligations and other costs in the aggregate exceed the ability of the LLC to pay or provide for them out of the Operating Allocation on a current or previously reserved basis. Except to the



extent otherwise required by applicable law, the LLC, the DE LLC and their respective Controlled Affiliates shall only make payments of compensation (including bonuses) to employees (including the Officers and the Employee Stockholders and the "Officers" and the "Employee Stockholders" of the DE LLC) out of the balance of the Operating Allocation remaining after the payment (or reservation for payment) of all the other expenses, obligations and other costs for the applicable period (including without limitation the prior payment of all Services Payments required to be made under the terms of the Services Agreement). Any excess Operating Allocation remaining for any fiscal year following the payment (or reservation for payment) of all expenses, obligations and other costs (including any such amount established as a reserve in a prior period that is reasonably determined by the Management Committee to have been in excess of what was necessary for such reserve) may be used by the LLC in such fiscal year or, if not so used, shall be automatically reserved (without any action being required by any Person) for use in future fiscal years in accordance with this Section 3.5(c). The Owners' Allocation shall in no event be used to provide for or pay the expenses, obligations or other costs of the LLC (or any Controlled Affiliate thereof), except to the extent expressly permitted by Section 3.5(e), the penultimate sentence of Section 4.3(a) or as otherwise agreed to in writing by the Manager Member and the Management Committee following the Effective Time (including without limitation in connection with the making of a Working Capital Loan out of the Owners' Allocation) (any such permitted use of the Owners' Allocation being referred to herein as an "Owners' Allocation Expenditure"). To the extent cash is available therefor at the DE LLC or any of its Controlled Affiliates and is necessary for the operation of the business of the LLC and its Controlled Affiliates or to fund distributions required to be made to the Members by the provisions of Section 4.3(a) hereof, the Non-Manager Members shall (in their capacity as members of the DE LLC) cause the DE LLC and its Controlled Affiliates to lend such cash to the LLC (and the LLC to borrow such cash) on arms' length terms, provided that the documentation relating to such loan shall be written and shall be in form and substance reasonably satisfactory to the Manager Member and approved by the Manager Member in writing after the Effective Time.

For purposes of this Agreement (and notwithstanding any contrary treatment required by the LLC or AMG for financial reporting purposes), (i) any business expenses or other costs of the LLC (or any Controlled Affiliate thereof) to the

extent paid utilizing funds provided to the LLC by FAI, FAID, either of the Charities or any of the Management Owners by reason of indemnification obligations under the Purchase Agreement or the Management Owner Purchase Agreement (as applicable) (including without limitation pursuant to one of the offset mechanisms specified in Section 13 of the Purchase Agreement or Section 10 of the Management Owner Purchase Agreement resulting in such funds being retained by the LLC) shall be deemed not to be paid for from the Operating Allocation (and if previously so paid or reserved for, such calculation and treatment shall be reversed) and shall be deemed not to be business expenses or other costs of the LLC (or any Controlled Affiliate thereof) for purposes of the required uses of the Operating Allocation pursuant to the provisions of this Agreement, and (ii) such funds provided to the LLC by any of the foregoing Persons shall be deemed an adjustment to the "Purchase Price" under the Purchase Agreement or the "Minority Purchase Price" under the Management Owner Purchase Agreement (as applicable) and a corresponding



Capital Contribution to the LLC by the Manager Member, and shall not be deemed Revenues From Operations hereunder or constitute income or gain of the LLC.

(d) The LLC shall not (nor shall any Controlled Affiliate of the LLC) do or commit to do, and the Employee Stockholders and Non-Manager Members shall use their reasonable best efforts to prevent the LLC (or any Controlled Affiliate thereof) from doing or committing to do (including without limitation by not taking any such action in their capacity as Officers of the LLC), any of the following without the prior written consent of the Manager Member granted after the Effective Time (which written consent makes specific reference to this Section 3.5(d)):

(i) enter into, amend, modify or terminate any contract, agreement or understanding (written or oral) if such action or the resulting contract, agreement or understanding could reasonably be expected to conflict with the provisions of this Section 3.5;

(ii) enter into, amend, modify or terminate any contract, agreement or understanding (written or oral) if such action or the resulting contract, agreement or understanding (individually or in the aggregate) would reasonably be expected to have a material adverse impact on the availability of the Operating Allocation in future periods (including, without limitation, long-term leases or employment contracts);

(iii) enter into, amend, modify or terminate any contract, agreement or understanding (written or oral) if such action or the resulting contract, agreement or understanding has the effect of creating a Lien upon any of the assets of the LLC (other than Liens securing indebtedness of the LLC incurred to finance the acquisition of fixed or capital assets (whether pursuant to a deferred purchase agreement with a vendor, a loan, a financing lease or otherwise), provided that (A) such Liens shall be created substantially simultaneously with the acquisition of such fixed or capital assets, (B) such Liens do not at any time encumber any property other than property financed by such indebtedness, (C) the amount of indebtedness secured thereby is not thereafter increased and (D) the principal amount of indebtedness secured by such Lien shall at no time exceed the purchase price of such property) or upon any portion of the Owners' Allocation;

(iv) take any action (or omit to take any action) if such action (or omission) would reasonably be expected to result in the termination of the employment by the LLC of any Employee Stockholder as a result of a material reduction in his or her compensation, responsibilities or other material aspects of his or her employment conditions (other than any termination For Cause or Unsatisfactory Performance), provided that the foregoing shall not impose any limitation on the ability of an Employee Stockholder to terminate his or her employment with the LLC in accordance with the provisions hereof and any applicable Employment Agreement and shall not require the LLC to pay increased compensation to retain the services of any Employee Stockholder;



(v) create, incur, assume, or suffer to exist any Indebtedness, other than (A) Indebtedness (I) incurred to finance the acquisition of fixed or capital assets (whether pursuant to a

deferred purchase arrangement with a vendor, a loan, a financing lease or otherwise) at any time not to exceed $350,000 in the aggregate outstanding (including any then-outstanding Indebtedness of the DE LLC and its Controlled Affiliates) and (II) that consists of obligations to be repaid solely out of Operating Allocation and (B) Working Capital Loans otherwise permitted or required by the terms of this Agreement;

(vi) establish or modify any material compensation arrangement (other than salary and cash bonuses in the ordinary course) or program (whether cash or non-cash benefits) applicable to any employee, in any such case which is subject to ERISA, which requires qualification under the Code, or which otherwise (A) requires the Manager Member (other than in its capacity as Manager Member) or any of its Affiliates to take any action which it would not take but for the establishment or modification of such compensation arrangement or program or (B) prevents the Manager Member or any of its Affiliates from taking any action which it would otherwise have been able to take but for the establishment or modification of such compensation arrangement or program (and the Management Committee shall give the Manager Member not less than thirty (30) days prior written notice before the LLC (or any Controlled Affiliate thereof) establishes or modifies any material compensation arrangement (other than salary and cash bonuses in the ordinary course) or program);

(vii) enter into, amend, modify or terminate any contract, agreement or understanding (written or oral) (A) containing severance or termination payment arrangements, other than severance or termination payment arrangements with bona fide employees of the LLC or its Controlled Affiliates (other than any Employee Stockholder or Non-Manager Member or an Immediate Family member thereof) which do not exceed $250,000 individually to any one such employee or represent potential liabilities at any one time outstanding (taking into account such contract, agreement or understanding and all other such contracts, agreements and understandings of the LLC, the DE LLC and their respective Controlled Affiliates then in effect) in excess of $1,000,000 in the aggregate, (B) which could reasonably be expected to cause the Manager Member or any of its Affiliates to be liable for termination or severance payments or other contractual payments upon a termination of any employee's employment with the LLC (or any Controlled Affiliate thereof) or (C) which is with an Employee Stockholder, a Non-Manager Member, an Affiliate of an Employee Stockholder or a Non-Manager Member, or a partner, shareholder, director, officer, employee or Immediate Family Member of any of the foregoing;

(viii) (A) enter into any line of business other than the provision of Investment Management Services, (B) acquire, form or otherwise establish any subsidiary or Controlled Affiliate of the LLC or otherwise make any investment (other than cash management activities in the ordinary course of business) in, or otherwise conduct business through, any other Person, (C) acquire any material



assets or other properties, other than capital expenditures made out of Operating Allocation in the ordinary course of business consistent with past practice and not involving the acquisition of any Person as a going concern, (D) sell, transfer or otherwise dispose of any material assets or other properties, other than sales of worn-out or obsolete equipment made in the ordinary course of business consistent with past practice, or (E) permit any of the Employee Stockholders, Non-Manager Members or Immediate Family members of any of the foregoing (or any Affiliate of any such Person) to have a direct or indirect economic interest in any collective investment vehicle or other product sponsored or otherwise managed by the LLC or any of its Controlled Affiliates (other than as a result of the economic interests of the LLC and its Controlled Affiliates in such collective investment vehicle or other product, and other than bona fide investments made by any such Person in any such collective investment vehicle or other product);

(ix) (A) make any change in the Certificate (or the constituent documents of any Controlled Affiliate of the LLC), modify, amend or terminate, or otherwise waive or fail to diligently enforce any rights under, the Services Agreement, or fail to make any payment of Services Payments when due under the terms of the Services Agreement, (B) authorize or issue any membership or other

equity or ownership interests or other securities of any type of the LLC (or any Controlled Affiliate thereof), (C) repurchase, redeem or otherwise acquire any outstanding membership or other equity or ownership interests or other securities of the LLC (or any Controlled Affiliate thereof), (D) make any dividend or other distribution in respect of its membership or other equity or ownership interests (other than as expressly required by other provisions of this Agreement), (E) settle or compromise any material litigation, arbitration, investigation, audit or other proceeding, (F) terminate its existence or voluntarily file for or otherwise commence proceedings with respect to bankruptcy, reorganization, receivership or similar status, (G) except to the extent any of the following actions described in this clause (G) (I) relate solely to a tax period ending on or prior to the Effective Time and (II) would not have an adverse effect (economic or otherwise) on any Person who became a Member at the Effective Time or at any time thereafter or otherwise affect tax periods commencing on or after the Effective Time, make or change any tax election, waive or extend the statute of limitations in respect of taxes, amend any tax return, enter into any closing agreement with respect to taxes, settle any tax claim or assessment or surrender any right to a claim for a tax refund, (H) change any method or principle of accounting in a manner inconsistent with past practice or change regular independent accountants, (I) cause or permit the DE LLC or any Controlled Affiliate thereof at any time to have any source of gross revenues other than Services Payments and income received in respect of balances maintained by the DE LLC or any Controlled Affiliate thereof in short-term, high quality investment accounts or bank accounts, (J) materially change or otherwise modify the scope of the business functions and other activities conducted by the LLC and its Controlled Affiliates in the State of Wyoming from those conducted by the LLC and its Controlled Affiliates in the State of Wyoming as of immediately following the Effective Time, cease to do business in the State of Wyoming or transfer any Employee Stockholder who is a



party to an Employment Agreement out of the State of Wyoming, or (K) make any loan or advance to any Person, other than advances of business expenses and Working Capital Loans in the ordinary course of business consistent with past practice;

(x) voluntarily terminate any investment advisory agreement with (or otherwise relating to) a Client that is a registered investment company (or series thereof) (unless, in the joint written determination of the Management Committee and the Manager Member following the Effective Time, such termination is in the best interests of the LLC); or

(xi) (A) take any action which pursuant to any provision of this Agreement (other than Section 3.1) may be taken only by the Manager Member with or without the consent of the Non-Manager Members or the Employee Stockholders, or (B) take any action which requires the approval or consent of the Manager Member pursuant to any provision of this Agreement.

(e) The LLC (and each Controlled Affiliate thereof) shall maintain (and the Employee Stockholders and Non-Manager Members shall use their reasonable best efforts to cause the LLC (and each Controlled Affiliate thereof) to maintain), in full force and effect, such insurance as is customarily maintained by companies of similar size in the same or similar businesses (including, without limitation, errors and omissions liability insurance), the premiums on which will be paid out of the Operating Allocation (and the beneficiary of which shall be the LLC and/or its applicable Controlled Affiliates, as applicable); PROVIDED, HOWEVER, that this sentence shall not require the LLC or any Controlled Affiliate thereof to maintain key-man life or disability insurance policies. With the prior written consent of the Manager Member and the Management Committee granted after the Effective Time, the LLC also may elect to maintain key-man life and/or disability insurance policies with respect to any Employee Stockholder, in which event the premiums on such policies will be paid out of the Owners' Allocation (and the beneficiary of any such policy shall be the LLC). In the event that the Manager Member or any of its Affiliates shall determine (at its own expense) to maintain separate key-man life and/or disability insurance policies with respect to any Employee Stockholder (of which the Manager Member or any of its Affiliates may be the beneficiary), and in connection with any such policies maintained by the LLC for its own benefit, such Employee Stockholder shall cooperate with the Manager Member, its Affiliates and

the LLC (as applicable) in connection with obtaining and maintaining such insurance policies (including without limitation by submitting to any customary examinations and truthfully answering any questions asked by the insurer in connection with obtaining such policies).

(f) In addition to, and not in limitation of, the Manager Member's powers and authority under this Agreement (including, without limitation, pursuant to Section 3.1(a) hereof), the Manager Member shall also have the power (after consultation with the Management Committee, to the extent practicable), whether or not they involve day-to-day operations, business and activities of the LLC (or any Controlled Affiliate thereof), to take any or all of the following actions:



(i) such actions as it deems necessary or appropriate to cause the LLC or, insofar as it is within the power and authority of the LLC, any Controlled Affiliate of the LLC, or any officer, employee, member, partner, or agent thereof, to comply with all laws, rules and regulations applicable to such Person in connection with the businesses and other activities of the LLC, the DE LLC and their respective Affiliates;

(ii) such actions as it deems necessary or appropriate to cause the LLC to fulfill its obligations and exercise its rights under the Purchase Agreement and this Agreement; and

(iii) any other action necessary or appropriate to prevent actions that require the Manager Member's consent pursuant to the terms of this Agreement if such consent has not then been given.

(g) Notwithstanding any of the provisions of this Agreement to the contrary, all accounting, financial reporting and bookkeeping procedures of the LLC (and any Controlled Affiliates thereof) shall be established in conjunction with policies and procedures determined under the supervision of the Manager Member and in a manner consistent with the corresponding policies and procedures of the DE LLC. The Management Committee shall have a continuing obligation to keep AMG's chief financial officer informed of material financial developments with respect to the LLC (and any Controlled Affiliates thereof). Notwithstanding any other provisions of this Agreement to the contrary, all legal, compliance and regulatory matters of the LLC (and any Controlled Affiliates thereof) shall be coordinated with the Manager Member and AMG, and the LLC's (and any of its Controlled Affiliates') legal compliance activities shall be conducted and established in conjunction with policies and procedures determined under the supervision of the Manager Member to the extent such policies and procedures are consistent with "best practices" in the investment management industry (and in a manner consistent with the corresponding activities of the DE LLC).

(h) Each Employee Stockholder and Non-Manager Member covenants and agrees that such Employee Stockholder or Non-Manager Member, as the case may be, will at all times conduct its activities in connection with the LLC and the DE LLC (and any Controlled Affiliates thereof), and any services provided to the LLC or the DE LLC (or to any Controlled Affiliates thereof), in accordance with all applicable laws, rules and regulations, and that it will use its reasonable best efforts (i) to ensure that the business and activities of the LLC and the DE LLC (and any Controlled Affiliates thereof) are conducted in compliance with all applicable laws, rules and regulations in all material respects and (ii) to preserve the goodwill and franchise value of the LLC and the DE LLC (and any Controlled Affiliates thereof).

(i) Notwithstanding any of the provisions of this Agreement to the contrary, the Manager Member shall have the power to establish and mandate that the LLC (and any of its Controlled Affiliates) participate in employee benefit plans which are subject to ERISA or require qualification under Section 401 of the Internal Revenue Code to the extent necessary in order to make the expenses of any such plan(s) deductible



or otherwise to comply with ERISA or the Code, and may establish or modify the terms of any such plan to the extent necessary in connection therewith (to the extent that such terms are required by law or necessary to make such expenses deductible or to comply with ERISA or the Code), provided that any such action taken by the Manager Member shall treat the

Affiliates of the Manager Member subject to such action in an equitable manner (i.e., a manner not materially more disadvantageous to one Affiliate than to other Affiliates of the Manager Member) to the extent permissible under ERISA and the Code and consistent with achieving tax deductibility.

(j) Notwithstanding any other provisions of this Agreement to the contrary, the Management Committee, each Employee Stockholder and each Non-Manager Member shall cooperate with the Manager Member and its Affiliates in implementing any initiative generally involving the LLC (and/or any Controlled Affiliates thereof) and a number of such Affiliates, but only on such terms and conditions as the participation of the LLC (and any Controlled Affiliates thereof) in such initiative has been approved by the Management Committee.

(k) Notwithstanding any other provisions of this Agreement to the contrary (and in addition to the separate approval of the Management Committee with respect thereto, to the extent such Management Committee approval is required by other provisions of this Agreement), any (i) voluntary liquidation of the LLC, (ii) sale, exchange or other disposition of all, or a substantial portion of, the assets of the LLC and its Controlled Affiliates, or (iii) Transfer by the Manager Member of all its interests in the LLC in a single transaction or series of related transactions (subject to the same exceptions set forth in the proviso to the first paragraph of Section 6.1 hereof), shall require a majority vote of all Members holding LLC Points, with each LLC Point (regardless of whether such LLC Point is a Series A LLC Point or a Series B LLC Point) being counted equally in such vote.

(l) Each Employee Stockholder that serves as a member of the Management Committee (for so long as such Employee Stockholder serves as a member of the Management Committee) agrees to use its reasonable best efforts (to the extent within his or her power to do so) to cause the following to be true regarding each Mutual Fund (other than a Subadvised Fund) (each as defined in the Purchase Agreement): (i) For a period of not less than three years following the Effective Time, no more than twenty-five percent (25%) of the members of the board of directors of such Mutual Fund shall be "interested persons" (as defined in the Investment Company Act of 1940) of AMG, FAI, FAID, the LLC or the DE LLC; and (ii) for a period of not less than two years following the Effective Time, the LLC shall not have any express or implied understanding, arrangement or intention to impose an "unfair burden" (as defined in the Investment Company Act of 1940) on such Mutual Fund as a result of the transactions contemplated by the Purchase Agreements.

SECTION 3.6. COMPENSATION AND EXPENSES OF THE MEMBERS. The Manager Member may receive compensation for services provided to the LLC (or any Controlled Affiliate thereof) only to the extent approved by the Management Committee. The LLC shall, however, pay and/or reimburse the Manager Member for extraordinary expenses reasonably incurred by the



Manager Member or AMG directly in connection with the operation of the LLC (and any Controlled Affiliates thereof). It is expressly understood by the parties hereto that the Manager Member's general overhead items and expenses (including, without limitation, salaries, rent and travel expenses) shall not be reimbursed by the LLC. Stockholders, officers, directors, Members and agents of Members may serve as employees of the LLC (or any Controlled Affiliate thereof) and be compensated therefor out of the Operating Allocation as determined by the Management Committee (or its delegate(s)) pursuant to Section 3.5(c). Except in respect of their provision of services as employees of the LLC (or any Controlled Affiliate thereof) for which they may be compensated out of the Operating Allocation as contemplated by the preceding sentence, Employee Stockholders, Non-Manager Members and members of their Immediate Family may not receive compensation on account of the provision of services to the LLC (or any Controlled Affiliate thereof).

SECTION 3.7. OTHER BUSINESS OF THE MANAGER MEMBER AND ITS AFFILIATES. The Manager Member, AMG and their respective Affiliates may engage, independently or with others, in other business ventures of every nature and description, including the acquisition, creation, financing, trading in, and operation and disposition of interests in, investment managers and other businesses that may be competitive with the LLC's (or any of its Controlled Affiliates') business. Neither the LLC (or any Controlled Affiliate thereof) nor any of the Employee Stockholders or Non-Manager Members shall have any right in or to any other such ventures by virtue of this Agreement or the limited liability company created or continued hereby, nor shall any such activity by the Manager Member, AMG or such Affiliates in and of itself be deemed wrongful or improper or result in any

liability of the Manager Member, AMG or such Affiliates. None of the Manager Member, AMG or any of their Affiliates shall be obligated to present any opportunity to the LLC (or any Controlled Affiliate thereof) even if such opportunity is of such a character which, if presented to the LLC (or a Controlled Affiliate thereof), would be suitable for the LLC (or such a Controlled Affiliate thereof). Neither the Manager Member nor AMG shall disclose any Intellectual Property owned or used in the course of business by the LLC (or any Controlled Affiliate thereof) to any Person, including, without limitation, any other of their Affiliates, and each of the Manager Member and AMG agrees always to keep secret and not ever to publish, divulge, furnish, use or make accessible to anyone any Intellectual Property that is not otherwise publicly available (other than as a result of a breach of the provisions of this Section 3.7), in each case other than in connection with the conduct of the business of the LLC and its Controlled Affiliates, as required by court order or by law or in connection with the enforcement of this Agreement or the Purchase Agreement.

SECTION 3.8. NON-MANAGER MEMBERS AND NON-SOLICITATION AGREEMENTS. Each Employee Stockholder as of the Effective Time and, if there is one, the Non-Manager Member of which it is a stockholder (its Non-Manager Member), has provided the LLC with either (a) an Employment Agreement or (b) a Non-Solicitation Agreement that is in full force and effect as of the Effective Time. Any substitute Non-Manager Member (pursuant to Section 5.2 hereof) or Additional Non-Manager Member (as defined in Section 5.5 hereof), as well as any Employee Stockholder related thereto, which is not already bound by an Employment Agreement or a Non-Solicitation Agreement at the time it becomes a substitute Non-Manager Member, Additional Non-Manager Member or Employee Stockholder, as applicable, shall, prior to and as a condition precedent to becoming a Non-Manager Member or Employee Stockholder (as applicable), provide the LLC with an agreement that is substantially identical to the form of Non-Solicitation



Agreement attached hereto as EXHIBIT B (together with any changes or modifications thereto as the Manager Member may deem necessary or desirable at such time) (which shall thereafter be deemed a "Non-Solicitation Agreement" hereunder), and such agreements shall, at all times, provide that each of the LLC and the Manager Member shall be entitled to enforce the provisions of such agreements on its own behalf and that the Management Committee or the Manager Member shall be entitled to enforce the provisions of such agreements on behalf of the LLC. At the time any purchaser of Purchase Program Points pursuant to the Equity Purchase Program becomes a Member of the LLC, the Manager Member and AMG shall enter into with such purchaser (if such purchaser is not already a party to such an agreement with the Manager Member) an agreement that is substantially identical to a Make-Whole Bonus Agreement in the form attached hereto as EXHIBIT D, unless the Manager Member and the Management Committee shall otherwise agree in writing.

SECTION 3.9. NON-SOLICITATION AND NON-DISCLOSURE BY NON-MANAGER MEMBERS AND EMPLOYEE STOCKHOLDERS.

(a) Each Non-Manager Member and each Employee Stockholder agrees, for the benefit of the LLC, the other Members and their respective Affiliates, that such Non-Manager Member or Employee Stockholder (as the case may be) shall not, while employed by the LLC or any of its Affiliates, engage in any Prohibited Competition Activity.

(b) In addition to, and not in limitation of, the provisions of Section 3.9(a) hereto, each Non-Manager Member and each Employee Stockholder agrees, for the benefit of the LLC, the other Members and their respective Affiliates, that such Non-Manager Member or Employee Stockholder (as the case may be) shall not, during the period beginning on the date such Non-Manager Member becomes a Non-Manager Member or Employee Stockholder becomes an Employee Stockholder (as applicable), and until the date which is two (2) years after the termination of such Non-Manager Member's status as a Non-Manager Member or Employee Stockholder's employment with the LLC and all of its Affiliates (as applicable) (unless a shorter period is agreed to by the Manager Member, the Management Committee and the Employee Stockholder or Non-Manager Member (as applicable) in writing following the Effective Time), without the express written consent of the Manager Member and the Management Committee granted after the Effective Time, directly or indirectly, whether as owner, part-owner, shareholder, partner, member, director, officer, trustee, employee, agent or consultant, or in any other capacity, on behalf of itself or any firm, corporation or other business organization other than the LLC, the DE LLC and their Controlled Affiliates:

(i) provide Investment Management Services to any Person that is a Past, Present or Potential Client; PROVIDED, HOWEVER, that this

clause (i) shall not be applicable to Clients (including Potential Clients) who are also members of the Immediate Family of the Employee Stockholder or Non-Manager Member (as the case may be);

(ii) solicit or induce, whether directly or indirectly, any Person for the purpose (which need not be the sole or primary purpose) of (A) causing any funds



(other than funds of which such Employee Stockholder or Non-Manager Member and/or members of its Immediate Family are the sole beneficial owners, subject to any applicable restrictions relating thereto set forth in the Purchase Agreement) with respect to which the LLC, the DE LLC or any of their respective Controlled Affiliates provides Investment Management Services to be withdrawn from such management, or (B) causing any Client (including any Potential Client) not to engage the LLC, the DE LLC or any of their respective Controlled Affiliates to provide Investment Management Services for any additional funds, PROVIDED, HOWEVER, that this clause (ii)(B) shall not be applicable to Clients (including (Potential Clients) who are also members of the Immediate Family of the Employee Stockholder or Non-Manager Member.

(iii) contact or communicate with, whether directly or indirectly, any Past, Present or Potential Clients in connection with Investment Management Services; provided, HOWEVER, that this clause (iii) shall not be applicable to Clients (including Potential Clients) who are also members of the Immediate Family of the Employee Stockholder or Non-Manager Member; or

(iv) (A) solicit or induce, or attempt to solicit or induce, directly or indirectly, any employee or agent of, or consultant to, the LLC, the DE LLC or any of their respective Controlled Affiliates to terminate its, his or her relationship therewith, (B) hire any employee, external researcher or similar agent or consultant, or former employee, external researcher or similar agent or consultant, of the LLC, the DE LLC or any of their respective Controlled Affiliates who was employed by or acted as an external researcher or similar agent or consultant of the LLC or the DE LLC (or either of their predecessors, FAI and FAID or any predecessor thereto) or their respective Controlled Affiliates at any time during the two (2) year period preceding such hiring of such Person, or (C) work in any enterprise involving Investment Management Services with any employee, external researcher or similar agent or consultant, or former employee, external researcher or similar agent or consultant, of the LLC, the DE LLC or any of their respective Controlled Affiliates who was employed by or acted as such an agent or consultant to the LLC or the DE LLC (or either of their predecessors, FAI and FAID or any predecessor thereto) or their respective Controlled Affiliates at any time during the two (2) year period preceding the termination of the Employee Stockholder's employment or Non-Manager Member's status as a member of the LLC, as applicable (excluding for all purposes of this sentence, secretaries and persons holding other similar positions);

PROVIDED, HOWEVER, that this Section 3.9(b) shall not prohibit any firm, corporation or other business organization of which such Non-Manager Member or Employee Stockholder (as applicable) is an employee (but of which he or she is not a holder of any equity or other ownership interests therein, other than holdings of publicly traded stock which (in the aggregate with the holdings of his or her Affiliates and Immediate Family members) constitute less than five percent (5%) of the outstanding stock of such entity) from engaging in such activities so long as such Non-Manager Member or Employee Stockholder can affirmatively demonstrate that he or she did not cause or induce such activities, has no participation or other involvement in



such activities whatsoever and does not assist or facilitate in such activities in any manner (whether through the provision of information or otherwise); and PROVIDED, FURTHER, that Section 3.9(b)(iv)(C) shall not prohibit a Non-Manager Member or Employee Stockholder (as applicable) from working at any firm, corporation or other business organization of which such Non-Manager Member or Employee Stockholder (as applicable) is an employee (but of which he or she is not a holder of any equity or other ownership interests therein, other than holdings of publicly traded stock which (in the aggregate with the holdings of

his or her Affiliates and Immediate Family members) constitute less than five percent (5%) of the outstanding stock of such entity) provided that (I) such firm, corporation or other business organization has at least one hundred (100) employees as of the date such Non-Manager Member or Employee Stockholder (as applicable) becomes an employee thereof and (II) such Non-Manager Member or Employee Stockholder can affirmatively demonstrate that he or she does not personally work (directly or indirectly) with any employee, external researcher or similar agent or consultant (or former employee, external researcher or similar agent or consultant) described in Section 3.9(b)(iv)(C).

For purposes of this Section 3.9(b), (x) the term "Past Client" shall be limited to those Past Clients who were recipients of Investment Management Services from the LLC or the DE LLC (including either of their predecessors, FAI and FAID or any predecessor thereto) and/or their respective Controlled Affiliates at the date of termination of the Employee Stockholder's employment or Non-Manager Member's status as a member of the LLC (as applicable) or at any time during the two (2) years immediately preceding the date of such termination and (y) the term "Potential Client" shall be limited to those Persons to whom an offer (as described in the definition of "Potential Client") to provide Investment Management Services was made within two (2) years prior to the date of termination of the Employee Stockholder's employment or Non-Manager Member's status as a member of the LLC (as applicable).

Notwithstanding the provisions of Sections 3.9(a) and 3.9(b), any Employee Stockholder may make passive personal investments in any enterprise (including, without limitation, any enterprise which is competitive with AMG, the LLC or the DE LLC) the shares or other equity interests of which are publicly traded, provided his holding therein together with any holdings of his Affiliates and members of his Immediate Family, are less than five percent (5%) of the outstanding shares or comparable interests in such entity.

(c) Each Member and each Employee Stockholder agrees that any and all presently existing investment advisory businesses of the LLC, the DE LLC and their respective Controlled Affiliates (including business of either of their predecessors, FAI and FAID, or any predecessor thereto), and all businesses developed by the LLC, the DE LLC, any of their respective Controlled Affiliates or any predecessor thereto, including by such Employee Stockholder or any other employee of the LLC, the DE LLC or any of their respective Controlled Affiliates or any predecessor thereto, including without limitation, all investment methodologies, all investment advisory contracts, fees and fee schedules, commissions, records, data, client lists, agreements, trade secrets, and any other incident of any business developed by the LLC, the DE LLC, their respective Controlled Affiliates or any predecessor thereto, or earned or carried on by the Employee Stockholder for the LLC, the DE LLC, any of their respective Controlled Affiliates or any predecessor thereto, and all trade names, service marks and logos under which the



LLC, the DE LLC or their respective Controlled Affiliates (or any predecessor thereto) do or have done business, and any combinations or variations thereof and all related logos, are and shall be the exclusive property of the LLC , the DE LLC or such Controlled Affiliate, as applicable, for its or their sole use, and (where applicable) shall be payable directly to the LLC, the DE LLC or such Controlled Affiliate (as applicable). In addition, each Member and each Employee Stockholder acknowledges and agrees that the investment performance of the accounts managed by the LLC, the DE LLC or any Controlled Affiliate of either of them (or any predecessor thereto, including without limitation FAI or FAID, and any predecessors thereto) was attributable to the efforts of the team of professionals of the LLC, the DE LLC, such Controlled Affiliate or such predecessor thereto, and not to the efforts of any single individual or subset of such team of professionals, and that therefore, the performance records of the accounts managed by the LLC, the DE LLC or any of their respective Controlled Affiliates (or any predecessor to any of them) are and shall be the exclusive property of the LLC, the DE LLC or such Controlled Affiliate, as applicable (and not of any other Person or Persons).

(d) Each Non-Manager Member and each Employee Stockholder acknowledges that, in the course of performing services hereunder and otherwise (including, without limitation, for the LLC's and the DE LLC predecessors, FAI and FAID or any predecessor thereto), such Member or Employee Stockholder (as applicable) has had, and will from time to time have, access to information of a confidential or proprietary nature, including without limitation, all confidential or proprietary investment methodologies, trade secrets, proprietary or confidential plans, client identities and information, client lists, service providers, business

operations or techniques, records and data ("Intellectual Property") owned or used in the course of business by the LLC, the DE LLC or their respective Controlled Affiliates. Each Non-Manager Member and each Employee Stockholder agrees always to keep secret and not ever publish, divulge, furnish, use or make accessible to anyone (otherwise than in the regular business of the LLC, the DE LLC and their respective Controlled Affiliates or as required by court order or by law (after consultation with outside counsel)) any Intellectual Property of the LLC, the DE LLC or any Controlled Affiliate of either of them unless such information can be shown to be publicly available other than by reason of a breach of this Section 3.9 by such Non-Manager Member or Employee Stockholder (as applicable). At the termination of the Employee Stockholder's services to the LLC, the DE LLC and their respective Controlled Affiliates or the Non-Manager Member's status as a member of the LLC and the DE LLC (as applicable), all data, memoranda, client lists, notes, programs and other papers, items and tangible media, and reproductions thereof relating to the foregoing matters in the Non-Manager Member's or Employee Stockholder's possession or control, shall be returned to the LLC or the DE LLC and remain in its possession. The Management Committee shall ensure that any Person who becomes a Non-Manager Member of the LLC, the DE LLC, or who acquires a beneficial interest in an entity which is a Non-Manager Member of the LLC or the DE LLC, and has not entered into a Non-Solicitation Agreement, shall not be provided access to any confidential or proprietary information of the LLC, the DE LLC or any of their respective Controlled Affiliates (except to the extent as may be otherwise required by applicable law).



(e) Each Non-Manager Member and each Employee Stockholder acknowledges that, in the course of entering into this Agreement, the Non-Manager Member or Employee Stockholder (as applicable) has had and, in the course of the operation of the LLC, the DE LLC and any Controlled Affiliates thereof, the Non-Manager Member or Employee Stockholder will from time to time have, access to Intellectual Property owned by or used in the course of business by AMG. Each Non-Manager Member and each Employee Stockholder agrees, for the benefit of the LLC, the DE LLC and their Members, and for the benefit of the Manager Member and AMG, always to keep secret and not ever publish, divulge, furnish, use or make accessible to anyone (otherwise than at the Manager Member's request or as required by court order or by law (after consultation with outside counsel)) any knowledge or information regarding Intellectual Property (including, by way of example and not of limitation, the transaction structures utilized by AMG) of AMG unless such information can be shown to be publicly available other than by reason of a breach of this Section 3.9 by such Non-Manager Member or Employee Stockholder (as applicable). At the termination of the Employee Stockholder's service to the LLC, the DE LLC and their respective Controlled Affiliates or the Non-Manager Member's status as a member of the LLC and the DE LLC (as applicable), all data, memoranda, documents, notes and other papers, items and tangible media, and reproductions thereof relating to the foregoing matters in the Non-Manager Member's or Employee Stockholder's possession or control shall be returned to AMG and remain in its possession.

(f) The provisions of this Section 3.9 shall not be deemed to limit any of the rights of the LLC, the DE LLC or the Members under any of the Employment Agreements or Non-Solicitation Agreements or under applicable law, but shall be in addition to the rights set forth in each of the Employment Agreements and Non-Solicitation Agreements, and those which arise under applicable law.

(g) Notwithstanding the foregoing provisions of this Section 3.9, the application of this Section 3.9 to any Non-Manager Member or Employee Stockholder may be modified or waived by a writing executed by the Manager Member and such Non-Manager Member or Employee Stockholder (as applicable) following consultation with the Management Committee.

SECTION 3.10. REMEDIES UPON BREACH.

(a) In the event that a Non-Manager Member or its related Employee Stockholder (i) breaches any of the provisions of Section 3.9 hereof (or otherwise violates any of the stated terms of any such provisions), (ii) breaches any of the provisions of Section 3.9 of the DE LLC Agreement (or otherwise violates any of the stated terms of any such provisions), or (iii) breaches any of the non-competition or non-solicitation provisions of the Employment Agreement or Non-Solicitation Agreement to which it or he is a party (or otherwise violates any of the stated terms of any such provisions) (in each such case, including without limitation following the termination of his or her

employment with the LLC and its Affiliates), and in any such case such breach or violation has resulted or is reasonably likely to result in harm that is not immaterial or insignificant to (x) AMG or any of its Controlled Affiliates (other than the LLC, the DE



LLC and their respective Controlled Affiliates), or (y) the LLC, the DE LLC and their respective Controlled Affiliates (taken as a whole), then in any such case (A) such Non-Manager Member shall forfeit its right to receive any payment for its LLC Interests under Section 3.11 or Section 7.1 hereof, although it shall cease to be a Non-Manager Member in accordance with the provisions of Section 3.11 (PROVIDED that this clause (A) shall not apply, at any time or under any circumstances, to Subsequent Purchase LLC Points), (B) AMG (and any of its assignees thereunder) shall have no further obligations under any promissory note theretofore issued to such Non-Manager Member pursuant to Section 3.11, (C) the Manager Member (and any of its assignees thereunder) shall have no further obligations under any Contingent Consideration theretofore issued to such Non-Manager Member pursuant to Section 3.11 or 7.1, and (D) the LLC shall be entitled to withhold any other payments to which such Non-Manager Member or its related Employee Stockholder otherwise would be entitled to offset damages resulting from such breach; PROVIDED, HOWEVER, that the LLC shall not be permitted to withhold any compensation, distribution or other payments that such Non-Manager Member or its related Employee Stockholder is otherwise entitled to receive out of the Operating Allocation or the Owners' Allocation absent either an admission of such breach by such Non-Manager Member or Employee Stockholder or the rendering of a settlement, judgment or arbitral decision establishing such breach.

(b) Each Non-Manager Member and each Employee Stockholder agrees that any breach of the provisions of Section 3.9 of this Agreement or of the provisions of the Employment Agreement or Non-Solicitation Agreement to which it is a party by such Non-Manager Member or Employee Stockholder (as applicable) could cause irreparable damage to the LLC and the other Members, and that the LLC (by action of the Management Committee) and the Manager Member shall have the right to an injunction or other equitable relief (in addition to other legal remedies) to prevent any violation of a Member's or Employee Stockholder's obligations hereunder or thereunder.

SECTION 3.11. PURCHASE PROVISIONS.

The Members of the LLC having agreed that it is in the best interests of the LLC not to have ex-employees who were (or were related persons of, as applicable) Non-Manager Members remain as Non-Manager Members (or have their related Non-Manager Members remain as Non-Manager Members, as applicable) following the termination of such employment, therefore the Members agree among themselves as follows:

(a) In the event that an Employee Stockholder's employment (i) by the LLC, if the LLC employs such Employee Stockholder, or (ii) by the DE LLC, if the DE LLC employs such Employee Stockholder, in either case terminates for any reason, then the Manager Member shall purchase, and such Employee Stockholder (or the Non-Manager Member of which such Employee Stockholder is an owner, if such Employee Stockholder is not itself the Non-Manager Member) and each of its Permitted Transferees (such selling Persons, collectively, a "Selling Member") shall sell to the Manager Member (such purchases, collectively, a "Purchase", and the LLC Interests purchased pursuant thereto, collectively, the "Purchased Interest"), all of the LLC



Interests held by the Selling Member for the Purchase Price (as defined in Section 3.11(c) hereof) and otherwise pursuant to the terms of this Section 3.11;

PROVIDED, HOWEVER, that, notwithstanding the fact that Foster Friess' employment by the LLC or the DE LLC (as applicable) has terminated for any reason prior to the consummation of the Subsequent Purchase, the Subsequent Purchase LLC Points shall not be purchased by the Manager Member from FAI pursuant to this Section 3.11 (but, for the avoidance of doubt, all of FAI's other LLC Interests shall be purchased in accordance with the provisions of this Section 3.11, subject to the immediately following proviso) until such time as it has become objectively determinable that AMG will not be required to consummate the Subsequent

Purchase pursuant to Section 12 of the Purchase Agreement, at which time the Subsequent Purchase LLC Points shall be purchased by the Manager Member from FAI pursuant to this Section 3.11 (i) as if Foster Friess' employment by the LLC or the DE LLC (as applicable) had terminated on the date it became objectively determinable that AMG would not be required to consummate the Subsequent Purchase pursuant to Section 12 of the Purchase Agreement and (ii) with the Purchase Price and manner of payment for the purchase of the Subsequent Purchase LLC Points pursuant to this Section 3.11 to be determined based upon the manner in which Foster Friess' employment with the LLC or the DE LLC (as applicable) actually terminated;

and PROVIDED, FURTHER, that, notwithstanding the fact that Foster Friess' employment by the LLC or the DE LLC (as applicable) has terminated for any reason prior to three (3) months after the tenth (10th) anniversary of the Effective Time, any Series A LLC Points in the Purchase Reserve that continue at that time to be held by FAI shall not be purchased by the Manager Member from FAI pursuant to this Section 3.11 (but, for the avoidance of doubt, all of FAI's other LLC Interests shall be purchased in accordance with the provisions of this Section 3.11 (including without limitation any Series B-1 LLC Points then held by FAI, whether or not in the Purchase Reserve), subject to the immediately preceding proviso) until three months after the tenth (10th) anniversary of the Effective Time, at which time any remaining LLC Points in the Purchase Reserve that continue at that time to be held by FAI shall be purchased by the Manager Member from FAI pursuant to this Section 3.11(i) as if Foster Friess' employment by the LLC or the DE LLC (as applicable) had terminated three (3) months after the tenth (10th) anniversary and (ii) with the Purchase Price and manner of payment for the purchase of such LLC Points pursuant to this Section 3.11 to be determined based upon the manner in which Foster Friess' employment with the LLC or the DE LLC (as applicable) actually terminated;

and PROVIDED, FURTHER, that, solely in the event that John Ragard's or William D'Alonzo's employment by the LLC or the DE LLC (as applicable) has terminated as a result of such Employee Stockholder's Retirement on the eleventh (11th) anniversary of the Effective Time, two-thirds of the aggregate number of LLC Points held by such applicable Designated Initial Member and its Permitted Transferees shall not be purchased by the Manager Member from such Designated Initial Member and its Permitted Transferees pursuant to this Section 3.11 in connection with such Retirement (but, for the avoidance of doubt, all of such Designated Initial Member's and its Permitted Transferees' other



LLC Interests shall be purchased in accordance with the provisions of this Section 3.11 in connection with such Retirement) until the thirteenth (13th) anniversary of the Effective Time, at which time all remaining LLC Interests of such Designated Initial Member and its Permitted Transferees shall be purchased by the Manager Member from such Designated Initial Member and its Permitted Transferees pursuant to this Section 3.11 (to the extent such LLC Interests have not previously been Put pursuant to Section 7.1 hereof) as if such applicable Employee Stockholder's employment by the LLC or the DE LLC (as applicable) had terminated by reason of his Retirement on the thirteenth (13th) anniversary of the Effective Time;

and PROVIDED, FURTHER, that, solely in the event that John Ragard's or William D'Alonzo's employment by the LLC or the DE LLC (as applicable) has terminated as a result of such Employee Stockholder's Retirement on the twelfth (12th) anniversary of the Effective Time, one-half of the aggregate number of LLC Points held by such applicable Designated Initial Member and its Permitted Transferees shall not be purchased by the Manager Member from such Designated Initial Member and its Permitted Transferees pursuant to this Section 3.11 in connection with such Retirement (but, for the avoidance of doubt, all of such Designated Initial Member's and its Permitted Transferees' other LLC Interests shall be purchased in accordance with the provisions of this Section 3.11 in connection with such Retirement) until the thirteenth (13th) anniversary of the Effective Time, at which time all remaining LLC Interests of such Designated Initial Member and its Permitted Transferees shall be purchased by the Manager Member from such Designated Initial Member and its Permitted Transferees pursuant to this Section 3.11 as if such applicable Employee Stockholder's employment by the LLC or the DE LLC (as applicable) had terminated by reason of his Retirement on the thirteenth (13th) anniversary of the Effective Time;

and PROVIDED, FURTHER, that, solely in the event that Carl Gates' employment by the LLC or the DE LLC (as applicable) has terminated as a result of such Employee Stockholder's Retirement prior to the fifth (5th)

anniversary of the Effective Time, the LLC Interests held by such Employee Stockholder and his Permitted Transferees shall not be purchased by the Manager Member pursuant to this Section 3.11 in connection with such Retirement until the fifth (5th) anniversary of the Effective Time, at which time all LLC Interests of such Employee Stockholder and his Permitted Transferees shall be purchased by the Manager Member pursuant to this Section 3.11 as if such applicable Employee Stockholder's employment by the LLC or the DE LLC (as applicable) had terminated by reason of his Retirement on the fifth (5th) anniversary of the Effective Time, PROVIDED that, in the event that following the actual Retirement of such Employee Stockholder from employment with the LLC such Employee Stockholder (i) dies or (ii) experiences Permanent Incapacity, all remaining LLC Interests of such Employee Stockholder and its Permitted Transferees shall be purchased pursuant to this Section 3.11 promptly following the discovery by the Manager Member of such occurrence, with the Purchase Price and manner of payment for the purchase of such LLC Interests to be determined as if such Employee Stockholder's employment with the LLC or the DE LLC (as applicable) had terminated as a result of death or Permanent Incapacity, respectively.



(b) The closing of the Purchase will take place on a date set by the Manager Member (the "Purchase Closing Date") which shall be after the last day of the calendar quarter in which the applicable Employee Stockholder's employment with the LLC or the DE LLC (as applicable) terminated (or, if later, after the last day of the sixth (6th) full calendar month following the Effective Time), but which is not more than one hundred twenty (120) days after the date such termination of employment occurred (or, if later, not more than one hundred twenty (120) days after the last day of the sixth (6th) full calendar month following the Effective Time); PROVIDED, HOWEVER, that the Manager Member shall select the same date for the Purchase Closing Date hereunder as has been selected by the DE LLC Manager Member for the "Purchase Closing Date" under the DE LLC Agreement (as such term is defined in the DE LLC Agreement) for purposes of its repurchase of the Selling Member's (and/or its Affiliates', as applicable) DE LLC Interests; and PROVIDED, FURTHER, that the Manager Member shall be permitted in its sole discretion (but shall not be required) to delay the consummation of the Purchase hereunder (thereby delaying the Purchase Closing Date) until such time as the Selling Member (and/or its Affiliates, as applicable) simultaneously sells its DE LLC Interests to the Manager Member (or the DE LLC Manager Member) pursuant to the provisions of Section 3.11 of the DE LLC Agreement.

(c) The aggregate purchase price payable by the Manager Member (or its assignee) for a Purchase (the "Purchase Price") shall be determined as follows:

(i) Series A LLC Points shall be valued at the fair value thereof, which shall be conclusively determined as follows:

(A) seven (7.0), multiplied by

(B) the "Applicable Cash Flow", which shall be defined as the positive difference (if any) of (x) the sum of (I) fifty percent (50%) of the Base Owners' Allocation for the twenty four (24) months ending on the last day of the calendar quarter in which the termination of such Employee Stockholder's employment occurs (or, if later, the last day of the sixth (6th) full calendar month following the Effective Time), plus (II) thirty three and one-third percent (33-1/3%) of the Earned Performance Owners' Allocation for the thirty six (36) months ending on the last day of the calendar quarter in which the termination of such Employee Stockholder's employment occurs (or, if later, the last day of the sixth (6th) full calendar month following the Effective Time), minus (y) the amount by which the combined actual expenses of the LLC, the DE LLC and any Controlled Affiliates of the LLC or the DE LLC (determined on a basis consistent with the determination of the permitted uses of the Operating Allocation under this Agreement and the DE LLC Agreement) (other than any premiums on key-man life and/or disability insurance paid out of the Owners' Allocation, and other than expenses of the LLC consisting of payments made by the LLC to the DE LLC under the Services Agreement, PROVIDED that the ten percent margin payable by the LLC to the DE LLC under the Services Agreement shall be included in such determination as

an expense of the LLC) exceeded the Operating Allocation (including any previously reserved Operating Allocation) during the twelve (12) months ending the last day of the calendar quarter in which the termination of such Employee Stockholder's employment occurs (or, if later, the last day of the sixth (6th) full calendar month following the Effective Time), multiplied by

(C) a fraction, the numerator of which is the number of Vested Series A LLC Points being purchased in the Purchase, and the denominator of which is the number of LLC Points outstanding on the date of the closing of the Purchase (before giving effect to any issuances or redemptions of LLC Points on such date)

; PROVIDED, HOWEVER, that the Purchase Price determined pursuant to this clause (i) shall be reduced by the amount of the "Purchase Price" determined under clause (i) of Section 3.11(c) of the DE LLC Agreement in connection with the corresponding purchase of DE LLC Points priced pursuant to such provision of the DE LLC Agreement;

(ii) Series B-1 LLC Points shall be valued at the fair value thereof, which shall be conclusively determined as follows:

(A) seven (7.0), multiplied by

(B) the "Applicable Cash Flow", multiplied by

(C) a fraction, the numerator of which is the number of Vested Series B-1 LLC Points being purchased in the Purchase and the denominator of which is the number of LLC Points outstanding on the date of the closing of the Purchase (before giving effect to any issuances or redemptions of LLC Points on such date)

; PROVIDED, HOWEVER, that the Purchase Price determined pursuant to this clause (ii) shall be reduced by the amount of the "Purchase Price" determined under clause (ii) of Section 3.11(c) of the DE LLC Agreement in connection with the corresponding purchase of DE LLC Points priced pursuant to such provision of the DE LLC Agreement;

(iii) Series B-2 LLC Points shall be valued at the fair value thereof, which shall be conclusively determined as follows:

(A) the positive difference, if any, between (x) seven (7.0) multiplied by the "Applicable Cash Flow", and (y) the Liquidation Preference, multiplied by

(B) a fraction, the numerator of which is the number of Vested Series B-2 LLC Points being purchased in the Purchase and the denominator of which is the number of LLC Points outstanding on the



date of the closing of the Purchase (before giving effect to any issuances or redemptions of LLC Points on such date)

; PROVIDED, HOWEVER, that the Purchase Price determined pursuant to this clause (iii) shall be reduced by the amount of the "Purchase Price" determined under clause (iii) of Section 3.11(c) of the DE LLC Agreement in connection with the corresponding purchase of DE LLC Points priced pursuant to such provision of the DE LLC Agreement; and

(iv) Notwithstanding any other provision hereof to the contrary, Purchase Program Points (whether Series A LLC Points, Series B-1 LLC Points or Series B-2 LLC Points) shall be valued at the Fair Market Value of such LLC Points (the "Purchase Program Points FMV")

; PROVIDED, HOWEVER, that the Purchase Program Points FMV determined pursuant to this clause (iv) shall be reduced by the amount of the "Purchase Program Points FMV" determined under clause (iv) of

Section 3.11(c) of the DE LLC Agreement in connection with the corresponding purchase of DE LLC Points priced pursuant to such provision of the DE LLC Agreement.

Sample calculations under Sections 3.11(c)(i), 3.11(c)(ii), 3.11(c)(iii) and 3.11(c)(iv) are attached as SCHEDULE C hereto.

If a Purchase Price must be determined prior to (i) twenty four (24) months after the Effective Time, then the amount of the Base Owners' Allocation for the portion of the relevant twenty-four (24) month period before the Effective Time shall be calculated on a pro-forma basis such that the Base Owners' Allocation for the relevant period prior to the Effective Time shall be deemed to be equal to the product of (A) the Owners' Allocation Percentage, multiplied by (B) the combined Revenues From Operations of the LLC's predecessors, FAI and FAID, for such period, multiplied by (C) the lesser of (x) one (1) or (y) the Consenting Percentage, and (ii) thirty six (36) months after the Effective Time, then the amount of the Earned Performance Owners' Allocation for the portion of the relevant thirty-six (36) month period before the Effective Time shall be zero.

(d) The rights of the Manager Member and its assignees hereunder are in addition to and shall not affect any other rights which AMG, the Manager Member, the LLC or their assigns may otherwise have to purchase LLC Interests (including without limitation pursuant to any agreement entered into by a Non-Manager Member or an Additional Non-Manager Member which provides for the vesting of LLC Points).

(e) On the Purchase Closing Date, the Manager Member (or its assignee, as applicable) shall pay to the Selling Member the Purchase Price for the LLC Interests purchased in the manner set forth in this Section 3.11, and upon such payment the Selling Member shall cease to hold any LLC Interests, and such Selling Member automatically shall be deemed to have withdrawn from the LLC and shall cease to be a Member of the LLC and shall no longer have any rights hereunder; PROVIDED, HOWEVER, that the provisions of this Article III shall continue to be binding upon such Selling



Member and any related Employee Stockholder as provided in Section 3.14 hereof; and PROVIDED, FURTHER, that, in the event that any Designated Initial Member or other Employee Stockholder (or its related Non-Manager Member, in the case of an Employee Stockholder that is not a natural person) continues to hold LLC Points pursuant to the provisos to Section 3.11(a) hereof following such time as its Purchased Interest has otherwise been purchased pursuant to this Section 3.11, such Designated Initial Member or Employee Stockholder (as applicable) shall continue to be a Member of the LLC until such time as it no longer holds such LLC Points (as a result of the purchase of such LLC Points in the Subsequent Purchase pursuant to the Purchase Agreement (in the case of Subsequent Purchase LLC Points), the purchase of such LLC Points subsequently pursuant to this Section 3.11 or pursuant to a Put under Section 7.1, or otherwise), and at that time such Designated Initial Member or Employee Stockholder (as applicable) automatically shall be deemed to have withdrawn from the LLC and shall cease to be a Member of the LLC and shall no longer have any rights hereunder (except as provided in the immediately preceding proviso). On the Purchase Closing Date, the Selling Member and the Manager Member (or its assignee) shall, if the Manager Member so requests, execute an agreement reasonably acceptable to the Manager Member (i) in which the Selling Member (including each Person included therein) represents and warrants to the Manager Member (or its assignee), that it has sole record and beneficial title to the Purchased Interest, free and clear of any Liens other than those imposed by this Agreement, and (ii) addressing such other customary matters as to authority, enforceability and similar subjects as the Manager Member reasonably requests.

(f) Payment of the Purchase Price with respect to any Purchased Interest shall be made as follows:

(i) In the case of a Purchase of Series A LLC Points which are not Purchase Program Points,

(A) in the case of such a Purchase following a termination of the employment of the applicable Employee Stockholder with the LLC (if the LLC employed such Employee Stockholder) or the DE LLC (if the DE LLC employed such Employee Stockholder) in conjunction with a Removal Upon Instruction of the Management Committee, on the Purchase Closing Date by wire-transfer of immediately available funds

to an account designated to the Manager Member by the Selling Member at least three (3) business days prior to the Purchase Closing Date;

(B) in the case of such a Purchase following a termination of the employment of the applicable Employee Stockholder resulting from the death of such Employee Stockholder, on the Purchase Closing Date either (in the sole discretion of the Manager Member) (I) by wire-transfer of immediately available funds in an amount equal to one hundred percent (100%) of the Purchase Price to an account designated to the Manager Member by the Selling Member at least three (3) business days prior to the Purchase Closing Date or (II) by (x) wire-transfer of immediately available funds in an amount equal to fifty percent (50%) of the Purchase



Price to an account designated to the Manager Member by the Selling Member at least three (3) business days prior to the Purchase Closing Date and (y) delivery of AMG Shares having a value equal to fifty percent (50%) of the Purchase Price as determined under the procedures set forth in Section 7.1(i) hereof;

(C) in the case of such a Purchase following a termination of the employment of the applicable Employee Stockholder resulting from the Retirement or Permanent Incapacity of such Employee Stockholder, on the later to occur of (I) the Purchase Closing Date or (II) the date which is the first business day after the third anniversary of the Effective Time, in either such case either (in the sole discretion of the Manager Member) (x) by wire-transfer of immediately available funds in an amount equal to one hundred percent (100%) of the Purchase Price to an account designated to the Manager Member by the Selling Member at least three (3) business days prior to the date such payment is due, (y) by (1) wire-transfer of immediately available funds in an amount equal to fifty percent (50%) of the Purchase Price to an account designated to the Manager Member by the Selling Member at least three (3) business days prior to the Purchase Closing Date and (2) delivery of AMG Shares having a value equal to fifty percent (50%) of the Purchase Price as determined under the procedures set forth in Section 7.1(i) hereof, or (z) in the case of a Purchase of Series A LLC Points which are not Initial LLC Points, by delivery of a promissory note of AMG, in the form attached hereto as EXHIBIT C, having an initial principal amount equal to the Purchase Price, the principal amount of which promissory note is payable in four (4) equal annual installments (subject to the terms and conditions of this Agreement and such promissory note), with the first installment payable on the date such promissory note is delivered pursuant hereto; or

(D) in the case of any other such Purchase (including without limitation a termination of the employment of the applicable Employee Stockholder in conjunction with a Removal For Acting Contrary to the Best Interests of the LLC), on the later to occur of (I) the Purchase Closing Date or (II) the date which is the first business day after the second anniversary of the Effective Time, in either such case (x) 53.571% in Contingent Consideration and (y) 46.429% (in the sole discretion of the Manager Member) either (1) by wire-transfer of immediately available funds to an account designated to the Manager Member by the Selling Member at least three (3) business days prior to the date such payment is due, (2) by (R) wire-transfer of immediately available funds in an amount equal to 23.215% of the Purchase Price to an account designated to the Manager Member by the Selling Member at least three (3) business days prior to the Purchase Closing Date and (S) delivery of AMG Shares having a value equal to 23.214% of the Purchase Price as determined under the procedures set forth in Section 7.1(i) hereof, or (3) in the case of a Purchase of Series A LLC Points which are not Initial LLC Points, by

delivery of a promissory note of AMG, in the form attached hereto as EXHIBIT C, having an initial principal amount equal to 46.429% of the Purchase Price, the principal amount of which promissory note is payable in four (4) equal annual installments (subject to the terms and conditions of this Agreement and such promissory note), with the first installment payable on the date such promissory note is delivered pursuant hereto;

(ii) In the case of a Purchase of Series B-1 LLC Points which are not Purchase Program Points or Series B-2 LLC Points which are not Purchase Program Points, on the later to occur of (A) the Purchase Closing Date or (B) the date which is the first business day after the third anniversary of the Effective Time, in either such case one hundred percent (100%) in Contingent Consideration;

(iii) In the case of a Purchase of Series A LLC Points or Series B LLC Points which are Purchase Program Points,

(A) in the case of any such Purchase where the Purchase Program Points FMV determined pursuant to Section 3.11(c)(iv) is less than or equal to the amount that would have been calculated under Section 3.11(c)(i) (in the case of Purchase Program Points which are Series A LLC Points), Section 3.11(c)(ii) (in the case of Purchase Program Points which are Series B-1 LLC Points) or Section 3.11(c)(iii) (in the case of Purchase Program Points which are Series B-2 LLC Points) if such LLC Points had not been Purchase Program Points, then in the manner set forth in Section 3.11(f)(i) (in the case of Purchase Program Points which are Series A LLC Points) or Section 3.11(f)(ii) (in the case of Purchase Program Points which are Series B LLC Points); or

(B) in the case of any such Purchase where the Purchase Program Points FMV determined pursuant to Section 3.11(c)(iv) is greater than the amount that would have been calculated under Section 3.11(c)(i) (in the case of Purchase Program Points which are Series A LLC Points), Section 3.11(c)(ii) (in the case of Purchase Program Points which are Series B-1 LLC Points) or Section 3.11(c)(iii) (in the case of Purchase Program Points which are Series B-2 LLC Points) if such LLC Points had not been Purchase Program Points, then (I) that portion of the Purchase Program Points FMV equal to such calculation under Section 3.11(c)(i), Section 3.11(c)(ii) or Section 3.11(c)(iii) (as applicable) shall be paid in the manner set forth under Section 3.11(f)(i) (in the case of Purchase Program Points which are Series A LLC Points) or Section 3.11(f)(ii) (in the case of Purchase Points which are Series B LLC Points), and (II) the excess shall be paid one hundred percent (100%) in Contingent Consideration at the same time payment is made pursuant to clause (I) of this Section 3.11(f)(iii)(B).



(g) The Manager Member may (i) assign any or all of its rights and obligations under this Section 3.11, in one or more instances, to any other direct or indirect wholly-owned subsidiary of AMG or (ii) with the written consent of the Management Committee (excluding any member thereof whose interest is being repurchased), assign any or all of its rights and obligations under this Section 3.11, in one or more instances, to the LLC; PROVIDED, HOWEVER, that no such assignment shall relieve the Manager Member of its obligation to make payment of a Purchase Price (to the extent not paid by any such assignee); and PROVIDED, FURTHER, that, in the event such assignee is a wholly-owned subsidiary of AMG and thereafter ceases to be so owned, such assignee shall reassign to the Manager Member (or another direct or indirect wholly-owned subsidiary of AMG) all LLC Interests so acquired.

(h) In the event that a Non-Manager Member, its related Employee Stockholder or any Permitted Transferee thereof holding LLC Interests or DE LLC Interests (or any other holder of LLC Interests or DE LLC Interests, other than the Manager Member or any Affiliate thereof) (i) has filed a voluntary petition under the bankruptcy laws or a petition for the appointment of a receiver or makes any assignment for the benefit of creditors, (ii) is subject involuntarily to such a petition or assignment or to an attachment or other legal or equitable interest with respect to any of its LLC Interests or DE LLC Interests or, in the case of an

Employee Stockholder which is not a Non-Manager Member, its interests in the Non-Manager Member which it owns, and such involuntary petition or assignment or attachment is not discharged within sixty (60) days after its effective date, or (iii) otherwise is subject to a Transfer of any of its LLC Interests or DE LLC Interests or, in the case of an Employee Stockholder which is not a Non-Manager Member, its interests in the Non-Manager Member which it owns, by court order or decree or by operation of law, then the Manager Member shall in its sole discretion be entitled to purchase (or permit its assignee to purchase) all of the LLC Interests and DE LLC Interests held by such Non-Manager Member (or other holder of LLC Interests or DE LLC Interests, other than the Manager Member or any Affiliate thereof) pursuant to the terms of this Section 3.11 (with respect to LLC Interests) and pursuant to the terms of Section 3.11 of the DE LLC Agreement (with respect to DE LLC Interests) as if such Non-Manager Member (or other holder of LLC Interests or DE LLC Interests) was a Selling Member (with respect to LLC Interests purchased hereunder) or a "Selling Member" under the terms of the DE LLC Agreement (with respect to DE LLC Interests purchased thereunder), with the purchase price for such purchase to be determined pursuant to Section 3.11(c)(ii) (in the case of purchased LLC Interests) and paid in accordance with Sections 3.11(f)(i)(D) or 3.11(f)(iii) (as applicable), and pursuant to the terms of Section 3.11(c)(ii) of the DE LLC Agreement (in the case of purchased DE LLC Interests) and paid in accordance with Sections 3.11(f)(i)(D) or 3.11(f)(iii) of the DE LLC Agreement, and the date of the closing to be determined by the Manager Member in its discretion. In order to give effect to clause (iii) of the prior sentence, if any of the interests of a Non-Manager Member in the LLC, or of an Employee Stockholder in a Non-Manager Member, become subject to Transfer (or purport to be or have been Transferred) by a court order or decree or by operation of law, the Non-Manager Member (or other holder of LLC Interests, other than the Manager Member or any Affiliate thereof) whose interests in the LLC, or the interests in which (as applicable), are subject to such Transfer shall cease to be a Member of the LLC, and the



transferee by court order or decree or by operation of law shall not become a Member, and the Manager Member (or its assignee) shall have the right in its sole discretion to purchase from the Non-Manager Member which has ceased to be a Non-Manager Member (or other holder of LLC Interests) all of his, her or its interests in the LLC in the manner set forth in the preceding sentence (and the corresponding provisions of the DE LLC Agreement shall apply with respect to DE LLC Interests in such circumstances). In the event that the Manager Member in its sole discretion determines not to purchase (or permit another assignee of the Manager Member to purchase) the LLC Interests held by a Non-Manager Member (or other holder of LLC Interests, other than the Manager Member or any Affiliate thereof) pursuant to the foregoing provisions of this Section 3.11(i), the Manager Member shall assign its right to make such purchase to any one or more other Non-Manager Members who desire to make such purchase for their own accounts (and who the Management Committee shall have authorized in writing to make such purchase, with the Management Committee determining the respective percentages such other Non-Manager Members shall be permitted to purchase), and such other Non-Manager Member(s) shall be entitled to purchase such LLC Interests on the same terms that would have been applicable to the Manager Member had it elected to make such purchase pursuant to the foregoing provisions of this Section 3.11(i) (and the corresponding provisions of the DE LLC Agreement shall apply with respect to DE LLC Interests in such circumstances, provided that the same Person or Persons purchasing such LLC Interests shall also purchase the corresponding DE LLC Interests pursuant to the provisions of the DE LLC Agreement).

(i) In the event that a Non-Manager Member (or other holder of LLC Interests, other than the Manager Member or any Affiliate thereof) is required to sell its LLC Interests pursuant to the provisions of this Section 3.11 and for any reason fails to execute and deliver the agreements required by this Section 3.11 and otherwise to consummate such sale in accordance with the provisions of this Section 3.11 (including without limitation as a result of being unable for any reason to comply with the requirements hereof), the Manager Member (or its assignee, as applicable) may deposit the Purchase Price therefor (including cash and/or promissory notes) with any bank doing business within fifty (50) miles of the LLC's principal place of business, or with the LLC's accounting firm, as agent for such Non-Manager Member (or such other holder of LLC Interests), to be held by such bank or accounting firm for the benefit of and for delivery to such Non-Manager Member (and the corresponding provisions of the DE LLC Agreement shall apply with respect to the sale of DE LLC Interests under Section 3.11 of the DE LLC Agreement). Upon such

deposit by the Manager Member (or its assignee, as applicable) and upon notice thereof given to such Non-Manager Member (or such other holder of LLC Interests), such Non-Manager Member's (or such other holder's) LLC Interests automatically shall be deemed to have been sold, transferred, conveyed and assigned to the Manager Member (or its assignee, as applicable), such Non-Manager Member (or such other holder) shall cease to hold any LLC Interests, shall cease to be a Member of the LLC (if previously a Member) and shall have no further rights with respect thereto (other than the right to withdraw the payment therefor, if any, held by the agent described in the preceding sentence), and the Manager Member shall record such transfer on SCHEDULE A hereto.



SECTION 3.12. NO EMPLOYMENT OBLIGATION. Each Non-Manager Member and each Employee Stockholder acknowledges that neither this Agreement nor the provisions of any Non-Solicitation Agreement to which it is a party creates an obligation on the part of the LLC (if the LLC employs such Employee Stockholder) or the DE LLC (if the DE LLC employs such Employee Stockholder) to continue the employment of an Employee Stockholder or any other Person with the LLC or the DE LLC, and that such Employee Stockholder is an employee at will of the LLC or the DE LLC (as applicable) (except to the extent otherwise provided in any Employment Agreement to which such Employee Stockholder is a party).

SECTION 3.13. CAPITALIZATION OF EXCESS OPERATING CASH FLOW. If the Management Committee advises the Manager Member that, in its reasonable judgment (taking into account the anticipated revenue and expenses bases of the LLC, the DE LLC and their respective Controlled Affiliates), the Operating Allocation will exceed the foreseeable expenses of the LLC, the DE LLC and their respective Controlled Affiliates on a sustained basis (taking into account business conditions at the time and including both a reasonable allowance for either loss of business or a change in margins in the business), the Manager Member shall discuss in good faith with the Management Committee whether the Manager Member concurs in that view, and if the Manager Member after such discussion concurs in that view in its sole discretion, the Manager Member will further discuss (and may, in its sole discretion, agree) with the Management Committee whether to capitalize a portion of such excess cash flow, the amount of any such excess that it is potentially appropriate to capitalize, and who the recipients of such capitalized excess cash flow should be from the management group.

SECTION 3.14. MISCELLANEOUS. Each Member and each Employee Stockholder agrees that the enforcement of the provisions of Sections 3.8, 3.9, 3.10 and 3.11 hereof, and the enforcement of the provisions of the Employment Agreements and Non-Solicitation Agreements, are necessary to ensure the protection and continuity of the business, goodwill and confidential business information of the LLC (and any Controlled Affiliates thereof) for the benefit of each of the Members. Each Member and each Employee Stockholder agrees that, due to the proprietary nature of the LLC's (and any of its Controlled Affiliates') business, the restrictions set forth in Section 3.9 hereof and in the Employment Agreements and the Non-Solicitation Agreements are reasonable as to duration and scope. If any provision contained in this Article III shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Article III. It is the intention of the parties hereto that if any of the restrictions or covenants contained herein is held to cover a geographic area or to be for a length of time that is not permitted by applicable law, or is in any way construed to be too broad or to any extent invalid, such provision shall not be construed to be null, void and of no effect, but to the extent such provision would then be valid or enforceable under applicable law, such provision shall be construed and interpreted or reformed to provide for a restriction or covenant having the maximum enforceable geographic area, time period and other provisions as shall be valid and enforceable under applicable law. Each Member and Employee Stockholder acknowledges that the obligations and rights under Sections 3.8, 3.9, 3.10 and 3.11 and this Section 3.14 shall survive the termination of the employment of an Employee Stockholder with the LLC (and with the DE LLC and any applicable Controlled Affiliates thereof, to the extent any such Person employs such Employee Stockholder) and/or the withdrawal or removal of a Member from the LLC (and as a member of the DE LLC), regardless of the manner of such termination, withdrawal or removal, in accordance with the provisions



hereof and of the relevant Employment or Non-Solicitation Agreement. Moreover, each Member agrees that the remedies provided herein are reasonably related to the anticipated loss that the LLC (and any Controlled Affiliates thereof) and the Members (including, without limitation, the Manager Member, which would be purchasing LLC Interests from a Non-Manager Member) would suffer upon a breach

of such provisions. Except as agreed to following the Effective Time by the Manager Member in advance in a writing making specific reference to this Article III, no Employee Stockholder or Non-Manager Member shall enter into any agreement or arrangement which is inconsistent with the terms and provisions hereof.

## ARTICLE IV - CAPITAL CONTRIBUTIONS; CAPITAL ACCOUNTS AND ALLOCATIONS; DISTRIBUTIONS.

SECTION 4.1. CAPITAL CONTRIBUTIONS.

(a) As of June 1, 2001, (i) FAI contributed to the LLC substantially all of its assets, properties, rights, powers, privileges and business (and the goodwill associated therewith) (and the LLC assumed certain of the liabilities of FAI) and (ii) FAID contributed to the LLC certain of its assets, properties, rights, powers, privileges and business (and the goodwill associated therewith) (and the LLC assumed certain of the liabilities of FAID), and the Members agree that such Capital Contributions had an aggregate value equal to the aggregate Preferred Capital Account Balances of the Manager Member and FAI (as a Non-Manager Member) set forth on SCHEDULE A hereto as of immediately following the Effective Time. Except as may be agreed to following the Effective Time in connection with the issuance of additional LLC Interests, as specifically set forth herein, or as may be required under applicable law, the Members shall not be required to make any further capital contributions to the LLC. No Member shall make any capital contribution to the LLC without the prior consent of the Manager Member.

(b) No Member shall have the right to withdraw any part of his, her or its (or his, her or its predecessors in interest) Capital Contribution until the dissolution and winding up of the LLC (except as distributions otherwise expressly provided for in this Article IV may represent returns of capital, in whole or in part). No Member shall be entitled to receive any interest on any Capital Contribution made by it (or its predecessors in interest) to the LLC. No Member shall have any personal liability for the repayment of any Capital Contribution of any other Member.

SECTION 4.2. CAPITAL ACCOUNTS; ALLOCATIONS.

(a) There shall be established for each Member a Capital Account (a "Capital Account") which, in the case of each Member, shall initially be equal to the Capital Contribution of such Member as of immediately following the Effective Time as set forth on SCHEDULE A hereto.

(b) The Capital Account of each Member shall be adjusted in the following manner. Each Capital Account shall be increased by such Member's allocable



share of income and gain, if any, of the LLC (as well as the Capital Contributions made by a Member after the Effective Time (including without limitation any Capital Contributions deemed to have been made to the LLC by the Manager Member pursuant to the operation of the last paragraph of Section 3.5(c) hereof)) and shall be decreased by such Member's allocable share of deductions and losses, if any, of the LLC and by the amount of all distributions made to such Member. The amount of any distribution of assets other than cash shall be deemed to be the Fair Market Value of such assets (net of any liabilities encumbering such property that the distributee Member is considered to assume or take subject to). Capital Accounts shall also be adjusted upon the issuance of additional LLC Interests as set forth in Section 5.5(c) and upon the transfer of LLC Interests as set forth in Section 5.1. To the extent not otherwise provided for in this Agreement, the Capital Accounts of the Members shall be adjusted and maintained in accordance with the rules of Treasury Regulations Section 1.704-1(b)(2)(iv), as the same may be amended or revised. Any references in any section of this Agreement to the Capital Account of a Member shall be deemed to refer to such Capital Account as the same may be credited or debited from time to time as set forth above.

(c) Subject to Sections 4.2(e), 4.2(g) and 4.5 hereof, all items of LLC income and gain shall be allocated among the Members' Capital Accounts at the end of every calendar quarter (or portion thereof, in the case of the first calendar quarter end following the Effective Time, if the Effective Time did not fall on the first day of a calendar quarter) as follows:

(i) first, items of income and gain (if any) shall be allocated to the Manager Member in an amount equal to the product of (A) the Owners' Allocation for such calendar quarter (net of any Owners' Allocation Expenditures for such calendar quarter), multiplied by (B) a fraction (I) the numerator of which is the number of LLC Points held by the Manager Member as of the first day of such calendar quarter and (II) the denominator of which is the number of Vested LLC Points outstanding as of the first day of such calendar quarter;

(ii) second, items of income and gain (if any) shall be allocated to the Manager Member until the Manager Member has been allocated cumulative income and gain under this Section 4.2(c)(ii) which, together with income and gain previously allocated to the Manager Member under Section 4.2(e)(i) hereof, equals the cumulative amount of losses and deductions allocated to the Manager Member under Sections 4.2(d)(ii), 4.2(d)(iii) and 4.2(f) in prior periods (if any);

(iii) third, solely to the extent (if any) that FAI's Capital Account balance is less than its then-applicable Preferred Capital Account Balance, items of income and gain (if any) shall be allocated to FAI until FAI has been allocated cumulative income and gain under this Section 4.2(c)(iii) which, together with income and gain previously allocated to FAI under Section 4.2(e)(ii) hereof, equals the cumulative amount of losses and deductions allocated to FAI under Sections 4.2(d)(i)(B), 4.2(d)(iii) and 4.2(f) in prior periods (if any);



(iv) fourth, items of income and gain (if any) shall be allocated to each Non-Manager Member in an amount equal to the product of (I) the Owners' Allocation for such calendar quarter (net of any Owners' Allocation Expenditures for such calendar quarter), multiplied by (II) a fraction (x) the numerator of which is the number of Vested LLC Points held by such Non-Manager Member as of the first day of such calendar quarter and (y) the denominator of which is the number of Vested LLC Points outstanding as of the first day of such calendar quarter, until the aggregate amount of such items of income and gain allocated to the Members (including both the Manager Member and the Non-Manager Members) pursuant to Sections 4.2(c)(i), 4.2(c)(ii), 4.2(c)(iii) and this 4.2(c)(iv) for such calendar quarter equals the total amount of the Owners' Allocation (net of any Owners' Allocation Expenditures) for such calendar quarter; and

(v) finally, all remaining items of LLC income and gain shall be allocated among the Non-Manager Members in accordance with (and in proportion to) each Non-Manager Member's respective number of Vested LLC Points on the first day of such calendar quarter.

(d) Subject to Sections 4.2(f), 4.2(g) and 4.5 hereof, all items of LLC loss and deduction shall be allocated among the Members' Capital Accounts at the end of every calendar quarter (or portion thereof, in the case of the first calendar quarter end following the Effective Time, if the Effective Time did not fall on the first day of a calendar quarter) as follows:

(i) first, all items of LLC loss and deduction for such calendar quarter shall be allocated: (A) first, among the Non-Manager Members in accordance with (and in proportion to) each Non-Manager Member's respective number of Vested LLC Points on the first day of such calendar quarter, until the aggregate amount of such items of loss and deduction allocated to the Non-Manager Members pursuant to this clause (A) equals the aggregate amount of allocations of income and gain to the Non-Manager Members pursuant to Section 4.2(c)(v) for such calendar quarter and (B) second, among the Non-Manager Members in accordance with (and in proportion to) each Non-Manager Member's respective numbers of Vested LLC Points on the first day of such calendar quarter, until the Capital Accounts of all of the Non-Manager Members shall have been reduced to zero (0) (after giving effect to the allocations of income and gain for such calendar quarter under Section 4.2(c)); provided that no additional loss or deduction shall be allocated to any Non-Manager's Capital Account pursuant to this Section 4.2(d)(i) once such Capital Account has been reduced to zero (0) (but items of loss and deduction shall continue to be allocated to the Capital Accounts of the other Non-Manager Members pursuant to this Section 4.2(d)(i)

until all such Non-Manager Members' Capital Accounts have been reduced to zero (0));

(ii) second, any remaining items of LLC loss and deduction for such calendar quarter not allocated to the Non-Manager Members under Section 4.2(d)(i) shall be allocated to the Manager Member until its Capital Account shall have been reduced to zero (0); and



(iii) finally, any remaining items of LLC loss and deduction for such calendar quarter not allocated to the Members under Sections 4.2(d)(i) and 4.2(d)(ii) shall be allocated among all Members in accordance with (and in proportion to) each Member's respective number of Vested LLC Points as of the first day of such calendar quarter.

(e) If the LLC has a net gain from the sale, exchange or other disposition of all, or substantially all (as determined by the Manager Member), of the assets of the LLC and its Controlled Affiliates and the DE LLC and its Controlled Affiliates, then that net gain shall be allocated among the Members as follows:

(i) first, to the Manager Member until the Manager Member has been allocated cumulative gain which, together with income and gain previously allocated to the Manager Member under Section 4.2(c)(ii) and this Section 4.2(e)(i), equals the cumulative amount of losses and deductions allocated to the Manager Member under Sections 4.2(d)(ii), 4.2(d)(iii) and 4.2(f) in prior periods;

(ii) second, solely to the extent (if any) that FAI's Capital Account balance is less than its then-applicable Preferred Capital Account Balance, to FAI until FAI has been allocated cumulative gain which, together with income and gain previously allocated to FAI under Section 4.2(c)(iii) and this Section 4.2(e)(ii), equals the cumulative amount of losses and deductions allocated to FAI under Sections 4.2(d)(i)(B), 4.2(d)(iii) and 4.2(f) in prior periods;

(iii) third, an aggregate amount of gain equal to the positive difference between (A) the Liquidation Preference and (B) the aggregate positive Capital Account balances of those Members holding Series A LLC Points and/or Series B-1 LLC Points as of the date of the transaction (or an allocable portion thereof, in the case of any Member holding both Series A LLC Points and/or Series B-1 LLC Points, on the one hand, and Series B-2 LLC Points, on the other hand, as of the date of such transaction) to those Members holding Vested Series A LLC Points and/or Vested Series B-1 LLC Points as of the date of the transaction in accordance with (and in proportion to) their respective number of Vested Series A LLC Points and Vested Series B-1 LLC Points as of the date of the transaction; PROVIDED, HOWEVER, that if any gain would be allocable to the Non-Manager Members holding Series A LLC Points (other than FAI) pursuant to this Section 4.2(e)(iii), any gain allocable to FAI pursuant to this Section 4.2(e)(iii) shall instead be allocated to the Non-Manager Members holding Series A LLC Points (other than FAI) in accordance with (and in proportion to) their respective number of Vested Series A LLC Points as of the date of the transaction until the ratio of (I) the aggregate Capital Account balances of the Non-Manager Members holding Series A LLC Points (other than FAI) arising as a result of allocations made pursuant to this Section 4.2(e)(iii) and 4.2(e)(iv), on the one hand, to (II) the aggregate Preferred Capital Account Balances of the Manager Member and FAI, on the other hand, is equal to the ratio of (X) the Applicable Series A Aggregate Non-Manager Member Allocation Percentage, on the one hand, to (Y) the sum of



the Applicable Manager Member Allocation Percentage plus the Applicable FAI Allocation Percentage, on the other hand;

(iv) fourth, with respect to each remaining dollar of gain, (A) to the Manager Member that percentage of such dollar of gain equal to the Applicable Manager Member Allocation Percentage and (B) to the Non-Manager Members (other than FAI) the remaining portion of such dollar of gain (with such portion to be allocated among the Non-Manager Members (other than FAI) in accordance with (and in

proportion to) their respective number of Vested LLC Points as of the date of the transaction), until the ratio of (I) the aggregate Capital Account balances of the Non-Manager Members (other than FAI) arising as a result of allocations made pursuant to Section 4.2(e)(iii) and this Section 4.2(e)(iv), on the one hand, to (II) the aggregate Preferred Capital Account Balances of the Manager Member and FAI, on the other hand, is equal to the ratio of (X) the Applicable Aggregate Non-Manager Member Allocation Percentage, on the one hand, to (Y) the sum of the Applicable Manager Member Allocation Percentage plus the Applicable FAI Allocation Percentage, on the other hand; and

(v) thereafter, among the Members in accordance with (and in proportion to) their respective number of Vested LLC Points as of the date of the transaction.

(f) If the LLC has a net loss from any sale, exchange or other disposition of all, or substantially all (as determined by the Manager Member), of the assets of the LLC and its Controlled Affiliates and the DE LLC and its Controlled Affiliates, then that net loss shall be allocated among the Members in accordance with (and in proportion to) their respective number of Vested LLC Points as of the date of the transaction; provided that no additional losses shall be allocated to a Member once its Capital Account has been reduced to zero (0) (but losses shall continue to be allocated to the Capital Accounts of the other Members pursuant to this Section 4.2(f)) until all Members' Capital Accounts have been reduced to zero (0), and thereafter any remaining amount of such losses shall be allocated among all Members pursuant to this Section 4.2(f) in accordance with (and in proportion to) each Member's respective number of Vested LLC Points as of the date of the transaction.

(g) Upon the making of an indemnification payment pursuant to Article 13 of the Purchase Agreement (or offset of such a required payment against an amount owed to an indemnitor as permitted under the Purchase Agreement), which payment is treated as an adjustment to the WY LLC Closing Purchase Price, (i) the Manager Member's and FAI's respective Preferred Capital Account Balances and (ii) the Capital Account balances of each of the Members shall be adjusted on a pro forma basis to such levels as would have been in effect at the time of such indemnification payment if the WY LLC Closing Purchase Price had instead been reduced by the amount of such indemnification payment as of the Effective Time.

(h) Following (and not including) the date on which the Effective Time occurs, in the event that during any calendar quarter (or any fiscal year of the LLC)



there is any change of Members or LLC Points held by the Members (whether as a result of the admission of an Additional Non-Manager Member, the redemption by the LLC of all (or any portion of) any Member's LLC Points, an issuance or transfer of any LLC Points or otherwise), such transfer shall be deemed to have occurred as of the end of the last day of the calendar quarter in which such change occurred; PROVIDED, HOWEVER, that allocations in respect of Subsequent Purchase LLC Points for periods prior to the Subsequent Closing shall be made to FAI (with FAI and the Manager Member to receive respective allocations in respect of such LLC Points for the calendar quarter in which the Subsequent Closing occurs ratably based upon the number of days in such quarter that each of them held such LLC Points).

SECTION 4.3. DISTRIBUTIONS.

(a) Subject to Section 4.4 hereof, from and after the Effective Time, within thirty (30) days after the end of each calendar quarter, the LLC shall, to the extent cash is available therefor at the LLC or any of its Controlled Affiliates or at the DE LLC or any of its Controlled Affiliates (and the LLC shall cause its Controlled Affiliates to distribute any such available cash to the LLC and/or obtain a Working Capital Loan from the DE LLC, in each case to the extent required for distributions pursuant hereto and not in violation of any laws applicable to such Controlled Affiliates or the DE LLC), and based on the unaudited financial statements for such calendar quarter prepared in accordance with Section 9.3 hereof (after approval of such financial statements by the Manager Member), (i) first, distribute to the Manager Member an amount equal to the allocations of income and gain to the Manager Member pursuant to Sections 4.2(c)(i) and 4.2(c)(ii) for such calendar quarter and any previous calendar quarter to the extent not then distributed (less the Manager Member's pro rata portion of any reservation from the Owners'

Allocation for future Owners' Allocation Expenditures) and (ii) second, distribute to each Non-Manager Member (and each Person who was a Non-Manager Member at any time during such calendar quarter) an amount equal to the allocation of income and gain to such Non-Manager Member pursuant to Section 4.2(c)(iv) for such calendar quarter and any previous calendar quarter to the extent not then distributed, less an amount equal to the allocation of losses and deductions to such Non-Manager Member pursuant to Sections 4.2(d)(i)(B) and 4.2(d)(iii) for such calendar quarter (and less an amount equal to each such Person's pro rata portion of any reservation from the Owners' Allocation for future Owners' Allocation Expenditures). Within sixty (60) days after the end of each fiscal year of the LLC, the LLC shall, based on the audited financial statements prepared in accordance with Section 9.3 hereof, make a distribution of the remaining amounts (if any) for such completed fiscal year which were allocated pursuant to Sections 4.2(c)(i), 4.2(c)(ii) and 4.2(c)(iv) (but not previously distributed) and any previous fiscal year to the extent not then distributed (less each applicable recipient's pro rata portion of any reservation from the Owners' Allocation for future Owners' Allocation Expenditures), such distribution to be made in accordance with clauses (i) and (ii) of the prior sentence, whenever and to the extent cash is available therefor at the LLC or any of its Controlled Affiliates (and the LLC shall cause its Controlled Affiliates to distribute any such available cash to the LLC and/or obtain a Working Capital Loan from the DE LLC, in each case to the extent required for such distributions and not in violation of any laws applicable to such Controlled Affiliates or the DE LLC). Notwithstanding



the foregoing provisions of this Section 4.3(a), the LLC may, with the prior written approval of the Manager Member and the Management Committee, from time to time reserve and not distribute portions of the Owners' Allocation for LLC purposes (including without limitation to increase the net worth of the LLC, to make capital expenditures (such as the creation of or investment in a Controlled Affiliate), to create a reserve for anticipated repurchases of LLC Interests) or to make a Working Capital Loan to the DE LLC to be used for any such purpose, provided that any such reservation shall be made from all Members pro-rata in proportion to Vested LLC Points as of the first day of the quarter in which such reservation is made. To the extent that cash is for any reason not available to make a distribution to the Manager Member pursuant to this Section 4.3(a) at the time such distribution otherwise would have been required by this Section 4.3(a) to be made to the Manager Member if cash were available therefor (or in the event that the LLC for any other reason does not make a required distribution to the Manager Member within thirty (30) days following a calendar quarter end or sixty (60) days following a fiscal year end, as applicable), then such distribution shall be made to the Manager Member by the LLC as promptly as possible following the date it was otherwise required to be made under this Section 4.3(a), together with interest thereon calculated from the thirtieth (30th) day following such calendar quarter end or the sixtieth (60th) day following such fiscal year end (as applicable) at a rate per annum equal to the prime lending rate then in effect as reported by The Chase Manhattan Bank, which interest shall be borne by the LLC as an operating expense payable out of the Operating Allocation.

(b) Except to the extent distributions are provided for in Section 4.3(a) hereof, any other amounts or proceeds available for distribution to the Members (if any) (after taking into account the use or reservation of Operating Allocation pursuant to Section 3.5(c)) shall be distributed to the Members at such times as may be determined by the Manager Member, provided that any such distribution shall be made among the Members (i) if attributable to a sale of all, or substantially all (as determined by the Manager Member), of the assets of the LLC and its Controlled Affiliates and the DE LLC and its Controlled Affiliates, in the same manner and order as such distribution would have been made under Section 4.4 upon a dissolution, and (ii) if otherwise attributable, in accordance with (and in proportion to) their respective numbers of Vested LLC Points at the time of such distribution (PROVIDED, HOWEVER, that if a Member has made a Capital Contribution after the Effective Time (other than a Capital Contribution deemed to have been made by the Manager Member pursuant to the operation of the last paragraph of Section 3.5(c) hereof with respect to indemnification payments), the Manager Member may cause the LLC first to make a priority return of such Capital Contribution in the case of a distribution described in this clause (ii)).

(c) Notwithstanding any other provision of this Agreement, the LLC shall not make a distribution to any Member on account of its LLC Interest if such distribution would violate the Act or other applicable

law.

SECTION 4.4. DISTRIBUTIONS UPON DISSOLUTION; ESTABLISHMENT OF A RESERVE UPON DISSOLUTION. Upon any dissolution of the LLC, the assets of the LLC shall first go toward the payment (or the making of reasonable provision for the payment) of all liabilities of the LLC owing to creditors, including without limitation the establishment of such reserves as the



Manager Member (or if there is none, the Liquidating Trustee) deems necessary or advisable to provide for any liabilities or other obligations of the LLC. The Manager Member (or if there is none, the Liquidating Trustee) may cause the LLC to pay any such reserves over to a bank (or other third party) to be held in escrow for the purpose of paying any such liabilities or other obligations. At the expiration of such period(s) as the Manager Member (or Liquidating Trustee, if there is no Manager Member) may deem necessary or advisable, any remaining amount of such reserves (if any), and any other assets available for distribution, or a portion thereof (as determined by the Manager Member or, if there is none, the Liquidating Trustee), shall be distributed among the Members in accordance with the positive balances (if any) in their respective Capital Accounts (as determined immediately prior to such distribution after taking into account all Capital Account adjustments for the period in which the dissolution occurs) until all such positive Capital Account balances have been reduced to zero. If any assets of the LLC are to be distributed in kind in connection with such liquidation, such assets shall be distributed on the basis of their Fair Market Values (net of any liabilities encumbering such assets) and, to the greatest extent practicable under the circumstances (as determined by the Manager Member or, if there is none, the Liquidating Trustee), shall be distributed pro-rata in accordance with the total amounts to be distributed to each Member. In the event that a distribution referenced in the preceding sentence is not distributed pro-rata, the Members understand and acknowledge that a Member may be compelled to accept a distribution of any asset in kind from the LLC despite the fact that the percentage of the asset distributed to such Member exceeds the percentage of that asset which is equal to the percentage in which such Member shares in distributions from the LLC. Immediately prior to the effectiveness of any such distribution-in-kind, each item of gain and/or loss that would have been recognized by the LLC had the property being distributed instead been sold by the LLC for its Fair Market Value shall be determined and allocated to those Persons who were Members immediately prior to the effectiveness of such distribution in accordance with Sections 4.2(e) and 4.2(f).

SECTION 4.5. PROCEEDS FROM CAPITAL CONTRIBUTIONS AND THE SALE OF SECURITIES; INSURANCE PROCEEDS; CERTAIN SPECIAL ALLOCATIONS.

(a) MINIMUM GAIN CHARGEBACK. Notwithstanding any other provision in this Article IV, if there is a net decrease in Partnership Minimum Gain or Partner Nonrecourse Debt Minimum Gain (determined in accordance with the principles of Treasury Regulations Sections 1.704-2(d) and 1.704-2(i)) during any taxable year, the Members shall be specially allocated items of LLC income and gain for such year (and, if necessary, subsequent years) in an amount equal to their respective shares of such net decrease during such year, determined pursuant to Treasury Regulations Sections 1.704-2(g)(2) and 1.704-2(i)(5). The items to be so allocated shall be determined in accordance with Treasury Regulations Section 1.704-2(f). This Section 4.5(a) is intended to comply with the minimum gain chargeback requirements in such Treasury Regulations Sections and shall be interpreted consistently therewith; including that no chargeback shall be required to the extent of the exceptions provided in Treasury Regulations Sections 1.704-2(f) and 1.704-2(i)(4).

(b) QUALIFIED INCOME OFFSET. In the event any Member unexpectedly receives any adjustments, allocations, or distributions described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6), items of LLC income and gain shall be



specially allocated to such Member in an amount and manner sufficient to eliminate the deficit balance in his Capital Account created by such adjustments, allocations or distributions as promptly as possible.

(c) GROSS INCOME ALLOCATION. In the event any Member has a deficit Capital Account at the end of any fiscal year which is in excess of the sum of (i) the amount such Member is obligated to restore, if any, pursuant to any provision of this Agreement, and (ii) the amount such

Member is deemed to be obligated to restore pursuant to the penultimate sentences of Treasury Regulations Section 1.704-2(g)(1) and 1.704-2(i)(5), each such Member shall be specially allocated items of LLC income and gain in the amount of such excess as quickly as possible, provided that an allocation pursuant to this Section 4.5(c) shall be made only if and to the extent that a Member would have a deficit Capital Account in excess of such sum after all other allocations provided for in this Article IV have been tentatively made as if Section 4.5(b) and this Section 4.5(c) were not in this Agreement.

(d) NONRECOURSE DEDUCTIONS. Nonrecourse Deductions shall be allocated among the Members in accordance with their respective numbers of Vested LLC Points.

(e) PARTNER NONRECOURSE DEDUCTIONS. Partner Nonrecourse Deductions for any taxable period shall be allocated to the Member who bears the economic risk of loss with respect to the liability to which such Partner Nonrecourse Deductions are attributable in accordance with Treasury Regulations Section 1.704-2(j).

(f) CURATIVE ALLOCATIONS. The allocations set forth in Sections 4.5(a), (b), (c), (d), and (e) hereof (the "Regulatory Allocations") are intended to comply with certain requirements of the Treasury Regulations. It is the intent of the Members that, to the extent possible, all Regulatory Allocations shall be offset either with other Regulatory Allocations or with special allocations of other items of LLC income, gain, loss or deduction pursuant to this Section 4.5(f), and to the extent Regulatory Allocations are necessary, it is the intent of the Members that they be made in as consistent a manner with the provisions of Section 4.2 hereof as practicable, subject to compliance with the Treasury Regulations. Therefore, notwithstanding any other provision of this Article IV (other than the Regulatory Allocations), the Manager Member shall make such offsetting special allocations of LLC income, gain, loss or deduction in whatever manner it determines appropriate so that, after such offsetting allocations are made, each Member's Capital Account is, to the extent possible, equal to the Capital Account balance such Member would have had if the Regulatory Allocations were not a part of this Agreement and all LLC items were allocated pursuant to Section 4.2. In exercising its discretion under this Section 4.5(f), the Manager Member shall take into account future Regulatory Allocations under Section 4.5(a) that, although not yet made, are likely to offset other Regulatory Allocations previously made under Sections 4.5(d) and (e).

(g) Capital Contributions (other than any Capital Contributions deemed to have been made to the LLC by the Manager Member pursuant to the operation of the last paragraph of Section 3.5(c) hereof) made by any Member after the Effective



Time, and any proceeds from the issuance of securities by the LLC, may in the sole discretion of the Manager Member be used for the benefit of the LLC (including without limitation provision for the purchase or redemption of any LLC Interests to be purchased or redeemed by the LLC), or may be distributed by the LLC to the Members in the sole discretion of the Manager Member, in which case any such proceeds shall be allocated and distributed among the Members in accordance with their respective Vested LLC Points immediately prior to the date of such contribution or issuance of securities (it being understood that in the event the proceeds are a promissory note or other receivable, any such distribution shall only occur (if at all) upon receipt by the LLC of cash in respect thereof).

(h) In the event of the death or Permanent Incapacity of an Employee Stockholder covered by key-man life or disability insurance the premiums on which have been paid out of the Owners' Allocation (or the ratable portion attributable to those premiums paid out of the Owners' Allocation, if not entirely paid out of the Owners' Allocation), the proceeds of any such policy (net of any expected tax liability to be incurred by the LLC or any Controlled Affiliate thereof as a result of the receipt of such proceeds, and any such tax liability shall be paid out of such proceeds) shall be allocated (to the extent items of income and gain have resulted therefrom) and distributed among the Members in accordance with their respective number of Vested LLC Points immediately following the Purchase of LLC Interests from such Employee Stockholder (or its related Non-Manager Member) under Section 3.11 hereof (except to the extent that the Manager Member and the Management Committee agree in writing to otherwise make use of such proceeds for the benefit of the LLC (e.g., the making of capital expenditures)).

(i) All items of depreciation or amortization (as calculated for book purposes in accordance with GAAP, consistently applied) on account of the tangible items of property of the LLC at the Effective Time shall be allocated to the Non-Manager Members pursuant to Section 4.2(d)(i); in no event shall items of intangible property resulting from the purchases of LLC Interests occurring pursuant to the Purchase Agreement and the Management Owner Purchase Agreement be depreciated or amortized for Capital Account purposes under this Agreement (but any items of depreciation or amortization (as calculated for book purposes in accordance with GAAP, consistently applied) on account of intangible items of property of the LLC otherwise existing as of immediately prior to the Effective Time shall be specially allocated to the Manager Member and the Non-Manager Members in accordance with (and in proportion to) the amounts of their respective Preferred Capital Account balances). All items of depreciation or amortization (as calculated for book purposes in accordance with GAAP, consistently applied) on account of property (whether tangible or intangible) purchased out of the Operating Allocation shall be allocated to the Non-Manager Members pursuant to Section 4.2(d)(i), and all items of depreciation or amortization (as calculated for book purposes in accordance with GAAP, consistently applied) on account of property (whether tangible or intangible) purchased out of the Owners' Allocation (or on account of Services Payments made to the DE LLC in respect of expenses of the DE LLC consisting of repayments of principal by the DE LLC under a Working Capital Loan made to the DE LLC out of the Owners' Allocation of the LLC) shall be allocated among



the Members in accordance with their respective numbers of Vested LLC Points on the date the property was purchased. All items of depreciation or amortization (as calculated for book purposes in accordance with GAAP, consistently applied) or deduction on account of property (whether tangible or intangible) purchased out of funds received from FAI, FAID, either of the Charities or any of the Management Owners by reason of indemnification obligations under the Purchase Agreement or the Management Owner Purchase Agreement (as applicable) shall be specially allocated to the Manager Member.

SECTION 4.6. TAX ALLOCATIONS. For income tax purposes only, each item of income, gain, loss and deduction of the LLC shall be allocated among the Members in the same manner as the corresponding items of income, gain, loss and deduction and specially allocated items are allocated for Capital Account purposes, provided that in the case of any LLC asset the Carrying Value of which differs from its adjusted tax basis for federal income tax purposes, income, gain, loss and deduction with respect to such asset shall be allocated solely for income tax purposes in accordance with the traditional method of allocation pursuant to Treasury Regulations Section 1.704-3(b) so as to take account of the difference between the Carrying Value and the adjusted basis of such asset.

SECTION 4.7. OTHER ALLOCATION PROVISIONS. The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulations Section 1.704-1(b) and shall be interpreted and applied in a manner consistent with such regulations. Sections 4.2(c) to 4.2(f), and Sections 4.5 and 4.6 may be amended at any time by the Manager Member if necessary, in the opinion of tax counsel to the LLC or the Manager Member, to comply with such regulations, so long as any such amendment (a) does not materially change the relative economic interests of the Members and (b) to the extent practicable in the Manager Member's reasonable judgment, applies consistently to all Non-Manager Members.

SECTION 4.8. WITHHOLDING. The Manager Member is authorized to cause the LLC to withhold from distributions to a Member, or with respect to allocations to a Member, and to pay over to a federal, state or local government, any amounts required to be withheld pursuant to the Code or any other provisions of federal, state or local law. Any amounts so withheld shall be treated as distributed to such Member pursuant to this Article IV for all purposes of this Agreement and, if withheld from amounts allocated but not distributed, shall be offset against the next amounts otherwise distributable to such Member.

## ARTICLE V - TRANSFER OF LLC INTERESTS BY NON-MANAGER MEMBERS; RESIGNATION, REDEMPTION AND WITHDRAWAL BY NON-MANAGER MEMBERS; ADMISSION OF ADDITIONAL NON-MANAGER MEMBERS.

SECTION 5.1. TRANSFERABILITY OF INTERESTS. No interest of a Non-Manager Member (or transferee thereof) in the LLC (including without limitation LLC Interests) may, directly or indirectly, be sold, assigned, transferred, gifted or exchanged, nor may any Non-Manager Member (or transferee thereof) offer to do any of the foregoing (each, a "Transfer"), nor may any

direct or indirect interest in any Non-Manager Member be, directly or indirectly, Transferred by any holder thereof, nor may any stockholder or other holder of an ownership interest in any Non-Manager Member which is not a natural person offer to do any of the foregoing, and no Transfer by a Non-Manager Member (or transferee thereof) or holder of an ownership interest in a Non-Manager Member shall be binding upon the LLC or any Non-Manager Member, in each case unless (i) such Transfer is expressly permitted by this Article V and (ii) the Management Committee and the Manager Member each receive an executed copy of the documents effecting such Transfer and such documents are in compliance with the requirements of this Article V and otherwise in form and substance satisfactory to the Management Committee and the Manager Member (each acting reasonably); PROVIDED, HOWEVER, that the provisions of this Article V shall not be applicable to the Subsequent Purchase (which shall be expressly permitted hereunder). The transferee of an interest in the LLC may become a substitute Non-Manager Member, and a Non-Manager Member which is not a natural person may remain a Member of the LLC following the Transfer of an ownership interest in such Non-Manager Member, in each case only upon the terms and conditions set forth in Section 5.2. If a transferee of an interest of a Non-Manager Member in the LLC does not become (and until any such transferee becomes) a substitute Non-Manager Member, or if a Non-Manager Member in which an ownership interest has been Transferred does not remain a Member of the LLC following such Transfer, in either case in accordance with the provisions of Section 5.2, such Person shall not be entitled to exercise or receive any of the rights, powers or benefits of a Non-Manager Member other than the right to receive allocations of income, gain, loss and deduction and distributions which the assigning Non-Manager Member has Transferred to such Person. Each Employee Stockholder and Non-Manager Member agrees to comply, and to cause its owners and transferees to comply (as applicable), with the provisions of this Article V.

A Non-Manager Member's LLC Interests or, in the case of a Non-Manager Member which is not a natural person, direct ownership interests in such Non-Manager Member (but in no event indirect ownership interests in such Non-Manager Member without the prior written consent of both the Management Committee and the Manager Member granted after the Effective Time in their respective sole discretion) may be Transferred solely:

(a) (i) with the prior written consent of the Management Committee and the Manager Member granted after the Effective Time or (ii) with respect to Program LLC Points held by FAI as of the Effective Time, Transfers of such Program LLC Points made pursuant to the terms of the Equity Purchase Program;

(b) upon (i) the death of such Non-Manager Member (in the case of a Non-Manager Member who is a natural person), with respect to LLC Interests held by such Non-Manager Member, or (ii) upon the death of a direct holder of ownership interests in such Non-Manager Member (in the case of a Non-Manager Member which is not a natural person), with respect to the direct ownership interests in such Non-Manager Member held by such deceased holder, in either such case such specified ownership interests may be Transferred by will or the laws of descent and distribution, without the consent of the Manager Member but subject in all cases to the provisions of Section 3.11 hereof, which shall continue to be binding upon the LLC Interests of such Non-Manager Member (and the holders thereof) notwithstanding such death; PROVIDED, HOWEVER, that no Transfer of LLC Points (or an interest in a Non-Manager Member holding LLC Points)



shall be permitted pursuant to this Section 5.1(b) unless accompanied by a simultaneous Transfer by the same transferor (or by its Affiliated "Non-Manager Member" under the DE LLC Agreement, as applicable) to the same transferee of an equal number of DE LLC Points (or an equal proportionate direct interest in such "Non-Manager Member" under the DE LLC Agreement holding such DE LLC Points, as applicable); or

(c) (i) an Employee Stockholder who is a Non-Manager Member may Transfer his or her LLC Interests, or (ii) direct ownership interests in a Non-Manager Member which is not a natural person may be Transferred by its related Employee Stockholder, in either such case to members of such Employee Stockholder's Immediate Family (or trusts for their benefit and of which the exclusive beneficial owner is such Employee Stockholder and/or any such Immediate Family members), provided that any such trust does not require or permit distribution of such interests other than (A) to such Employee Stockholder or its related original Non-Manager Member

that is a party hereto or (B) to such Immediate Family members who are beneficiaries thereof with such distribution being contingent upon the compliance by such Immediate Family members with the documentation and other requirements of this Agreement applicable to transferees of LLC Interests), without the consent of the Management Committee or the Manager Member but subject in all cases to the provisions of Section 3.11 hereof, which shall continue to be binding upon the LLC Interests of such Non-Manager Member (and the holders thereof) notwithstanding such Transfer; PROVIDED, HOWEVER, that no Transfer of LLC Points (or an interest in a Non-Manager Member holding LLC Points) shall be permitted pursuant to this Section 5.1(c) unless accompanied by a simultaneous Transfer by the same transferor (or by its Affiliated "Non-Manager Member" under the DE LLC Agreement, as applicable) to the same transferee of an equal number of DE LLC Points (or an equal proportionate direct interest in such "Non-Manager Member" under the DE LLC Agreement holding such DE LLC Points, as applicable);

provided that in the case of (b) or (c) above, (i) the transferee first enters into an agreement with the LLC in form and substance reasonably satisfactory to the Manager Member (including without limitation with respect to any subsequent distribution of LLC Interests to beneficiaries being contingent upon them entering into such an agreement with the LLC, in the case of a transferee that is a trust or similar vehicle) agreeing to be bound by the provisions of this Agreement (and if such transferee is not already a party to a Non-Solicitation Agreement and becomes (or any related Person thereof, in the event such transferee is not a natural person, becomes) an employee of the LLC, the transferee (and each such related person) enters into a Non-Solicitation Agreement), and (ii) whether or not the transferee enters into such an agreement, such LLC Interests and ownership interests in such Non-Manager Member (as applicable) shall thereafter remain subject to this Agreement (and the transferee (and any related person thereof, in the event such transferee is not a natural person) shall become subject to the transferring Employee Stockholder's Non-Solicitation Agreement if such transferee (or a related person thereof) becomes an employee of the LLC). LLC Points which are Transferred pursuant to Section 5.1(a)(i) shall thereafter have such Put rights under Article VII of this Agreement as may be agreed to in writing following the Effective Time by the Manager Member in its sole discretion in connection with such Transfer.



Notwithstanding the foregoing, without the prior written consent of the Manager Member granted after the Effective Time, no Non-Manager Member's interest in the LLC may be Transferred (and no ownership interest in a Non-Manager Member which is not a natural person may be Transferred) (i) if after giving effect to such Transfer, the total number of Members of the LLC would be deemed to exceed one hundred (100) (as determined in accordance with Treasury Regulations ss. 1.7704-1(h)), unless either (A) such Transfer is a Transfer described in Treasury Regulations ss. 1.7704-1(e) or (B) such Transfer is pursuant to a Put right under Article VII and the sum of the percentage interests in profits or capital of the LLC Transferred during the taxable year of the LLC (other than in Transfers described in Treasury Regulations ss. 1.7704-1(e)) would, taking the Transfer in question into account and assuming the maximum exercise of the Non-Manager Members' Put rights under Article VII, exceed ten percent (10%) of the total interests in profits or capital of the LLC, or (ii) if such Transfer (A) is required to be registered under the Securities Act, or (B) is not required to be registered under the Securities Act by reason of Regulation S thereunder, but would have been required to be registered under the Securities Act if the Transfer had been made within the United States, or if such Transfer would otherwise violate the securities or other laws of any jurisdiction.

For all purposes of this LLC Agreement, any Transfers of LLC Interests shall be deemed to occur as of the end of the last day of the calendar quarter in which any such Transfer would otherwise have occurred. Upon any Transfer of LLC Interests in accordance with the provisions hereof, the Manager Member shall make the appropriate revisions to SCHEDULE A hereto.

Each time LLC Interests (including without limitation additional LLC Points) are Transferred (including without limitation pursuant to a Put) or Purchased, the Manager Member may in its sole discretion elect to revalue the Capital Accounts of all the Members. If the Manager Member so elects, then the Capital Accounts of all the Members shall be adjusted as follows: (i) The Manager Member shall determine the proceeds which would be realized if the LLC sold all its assets at such time for a price equal to the Fair Market Value of such assets, and (ii) the Manager Member shall allocate amounts equal to the gain or loss which would have been realized upon such a sale to the Capital Accounts of all the Members immediately prior to such Transfer in accordance with Sections 4.2(e) and 4.2(f) hereof.

No interests of a Non-Manager Member in the LLC (including without limitation LLC Interests) may be pledged, hypothecated, optioned or encumbered, nor may any direct or indirect ownership interests in a Non-Manager Member be pledged, hypothecated, optioned or encumbered, nor may any offer to do any of the foregoing be made, without the prior written consent of the Management Committee and the Manager Member granted after the Effective Time in their respective reasonable discretion.

SECTION 5.2. SUBSTITUTE NON-MANAGER MEMBERS. No transferee of interests of a Member in the LLC (including without limitation LLC Interests) shall become a Member, and no Non-Manager Member in which any direct or indirect ownership interests have been Transferred shall remain a Member of the LLC, in either case except in accordance with this Section 5.2. The Management Committee may, with the prior written consent of the Manager Member granted after the Effective Time, admit as a substitute or additional Non-Manager Member (with respect to all or a portion of the LLC Interests held by a Person) any Person that acquires an LLC Interest by Transfer from a Non-Manager Member in accordance with Section 5.1 hereof. The



Manager Member may, with the prior written consent of the Management Committee (such consent not to be unreasonably withheld), admit as a substitute or additional Non-Manager Member (with respect to all or a portion of the LLC Interests held by a Person) any Person that acquires an LLC Interest from the Manager Member in accordance with Section 6.1 hereof. The Management Committee may, with the prior written consent of the Manager Member granted after the Effective Time, permit any Non-Manager Member in which ownership interests have been Transferred to remain a Member of the LLC (and such Non-Manager Member otherwise automatically shall cease to be a Member of the LLC). The admission of a transferee as a substitute or additional Non-Manager Member shall, in all events, be conditioned upon the execution of an instrument satisfactory in form and substance to the Management Committee and the Manager Member, whereby such transferee becomes a party to this Agreement as a Non-Manager Member, as well as compliance by such transferee with the provisions of Section 3.8 hereof. Upon the admission of a substitute Non-Manager Member in accordance with this Section 5.2, the Manager Member shall make the appropriate revisions to SCHEDULE A hereto.

SECTION 5.3. ALLOCATION OF DISTRIBUTIONS BETWEEN TRANSFEROR AND TRANSFEREE; SUCCESSOR TO CAPITAL ACCOUNTS. Upon the Transfer of LLC Interests in accordance with this Article V, distributions pursuant to Article IV after the date of such Transfer shall be made to the Person owning the LLC Interest at the date of distribution, unless the transferor and transferee otherwise agree and so direct the LLC and the Manager Member in a written statement signed by both the transferor and transferee; PROVIDED, HOWEVER, that distributions in respect of allocations made with regard to Subsequent Purchase LLC Points for periods prior to the Subsequent Closing shall be made to FAI. Subject to Sections 5.9(c) and 5.9(d) hereof, in connection with a Transfer by a Member of LLC Interests, the transferee shall succeed to a pro-rata (based on the percentage of such Person's LLC Interests Transferred) portion of the transferor's Capital Account, unless the transferor and transferee otherwise agree and so direct the LLC and the Manager Member in a written statement signed by both the transferor and transferee and consented to in writing by the Management Committee and the Manager Member following the Effective Time.

SECTION 5.4. RESIGNATION, REDEMPTIONS AND WITHDRAWALS. No Non-Manager Member shall have the right to resign as a Member, to cause the redemption of its interest in the LLC in whole or in part, or otherwise to withdraw as a Member of the LLC, except (a) with the written consent of the Management Committee and the Manager Member granted after the Effective Time, (b) as is expressly provided for in Section 3.11 hereof in connection with a Purchase or (c) as is expressly provided for in Section 7.1 hereof. Upon any resignation, redemption or withdrawal as a Member, the Non-Manager Member shall only be entitled to the consideration (if any) provided for by Section 3.11 or Section 7.1 hereof upon the purchase of its LLC Interest, if and to the extent that one of such Sections provides for such a purchase (and shall in no event be entitled to a withdrawal, redemption or distribution of its Capital Account in whole or in part). Upon the resignation, redemption or withdrawal, in whole or in part, by a Non-Manager Member, the Manager Member shall make the appropriate revisions to SCHEDULE A hereto.

SECTION 5.5. ISSUANCE OF ADDITIONAL LLC INTERESTS.

(a) Except as provided in Section 5.2, additional Non-Manager Members (together with any Person admitted as a substitute or additional Non-Manager

Member pursuant to Section 5.2 hereof, the "Additional Non-Manager Members") may be admitted to the LLC, and such Additional Non-Manager Members may be issued LLC Interests, only upon the prior written consent of the Manager Member and the Management Committee granted after the Effective Time (and then upon such terms and conditions as may be established jointly by the Manager Member and the Management Committee, including without limitation upon such Additional Non-Manager Member's execution of an instrument in form and substance satisfactory to the Manager Member whereby such Person becomes a party to this Agreement as a Non-Manager Member as well as such Person's compliance with the provisions of Section 3.8 hereof). Unless the Manager Member and the Management Committee each shall have otherwise granted their prior written consent after the Effective Time, any issuance of LLC Points pursuant to this Section 5.5(a) shall be accompanied by a simultaneous issuance of the same number of DE LLC Points by the DE LLC to the same Person (or to its Affiliated "Non-Manager Member" under the DE LLC Agreement, as applicable) receiving LLC Points in such issuance by the LLC.

(b) Existing Non-Manager Members may be issued additional LLC Points by the LLC only upon the prior written consent of the Manager Member and the Management Committee granted after the Effective Time (and then upon such terms and conditions as may be established jointly by the Manager Member and the Management Committee). The Manager Member or its Affiliates may only be issued additional LLC Points (or other LLC Interests) upon the approval of the Management Committee. Unless the Manager Member and the Management Committee each shall have otherwise granted their prior written consent after the Effective Time, any issuance of LLC Points pursuant to this Section 5.5(b) shall be accompanied by a simultaneous issuance of the same number of DE LLC Points by the DE LLC to the same Person (or to its Affiliated "Non-Manager Member" under the DE LLC Agreement, as applicable) receiving LLC Points in such issuance by the LLC.

(c) Each time additional LLC Interests are issued (including, without limitation, additional LLC Points), the Capital Accounts of all the Members shall be adjusted as follows: (i) the proceeds which would be realized if the LLC sold all its assets at such time for a price equal to the Fair Market Value of such assets shall be determined as provided in the definition of Fair Market Value, and (ii) the Manager Member shall allocate amounts equal to the gain or loss which would have been realized upon such a sale to the Capital Accounts of all the Members immediately prior to such issuance in accordance with Sections 4.2(e) and 4.2(f) hereof.

(d) Upon the issuance of additional LLC Interests in accordance with the provisions of this Article V, the Manager Member shall make the appropriate revisions to SCHEDULE A hereto.

(e) Notwithstanding anything in this Agreement to the contrary, (i) no additional LLC Interests may be issued if, giving effect to such issuance, the total number of Members would be deemed to exceed one hundred (100) as determined in accordance with Treasury Regulation Section 1.7704-1 (h), and (ii) no LLC Interests may be issued (A) in a transaction that is required to be registered under the Securities Act, or (B) in a



transaction that is not required to be registered under the Securities Act by reason of Regulation S thereunder unless the offering and sale of the LLC Interests would not have been required to be registered under the Securities Act if the LLC Interests had been offered and sold within the United States, or in any transaction that would otherwise violate the securities or other laws of any jurisdiction.

(f) Until the earlier to occur of (i) the date of the consummation of the Subsequent Purchase pursuant to Section 12 of the Purchase Agreement or (ii) such time as it has become objectively determinable that AMG will not be required to consummate the Subsequent Purchase pursuant to Section 12 of the Purchase Agreement, any issuance of LLC Points by the LLC shall require the prior written approval of FAI (such approval not to be unreasonably withheld).

SECTION 5.6. ADDITIONAL REQUIREMENTS FOR TRANSFER OR FOR ISSUANCE. As additional conditions precedent to the validity of (x) any Transfer of a

Non-Manager Member's interest in the LLC (or, in the case of a Non-Manager Member which is not a natural person, direct or indirect ownership interests in such Non-Manager Member) (pursuant to Section 5.1), or (y) the issuance of additional LLC Interests (pursuant to Section 5.5 above), such Transfer or issuance (as applicable) shall not: (i) cause the LLC to become subject to registration as an "investment company" under the 1940 Act, and the rules and regulations of the SEC thereunder, (ii) result in the assignment or termination of any contract to which the LLC (or any Controlled Affiliate thereof) is a party and which individually or in the aggregate are material (it being understood and agreed that any contract pursuant to which the LLC or a Controlled Affiliate thereof provides Investment Management Services is material), or (iii) result in the treatment of the LLC as an association taxable as a corporation or as a "publicly traded partnership" for federal or state income tax purposes.

The Manager Member or the Management Committee in its discretion may require reasonable evidence as to the foregoing, including, without limitation, a favorable opinion of counsel in form and substance reasonably acceptable to the Manager Member and the Management Committee (as applicable), the expense of which shall be borne by the parties to such transaction (and to the extent the LLC is such a party, shall be paid from the Operating Allocation).

To the fullest extent permitted by law, any Transfer or issuance that violates the provisions of this Article V shall be null and void.

SECTION 5.7. REGISTRATION OF LLC INTERESTS. The LLC Interests constitute "securities," as such term is defined in 6 DEL. C. SS. 8-102(15), governed by Article 8 of the Uniform Commercial Code as in effect in the State of Delaware (6 DEL. C. SS. 8-101, ET SEQ.). The LLC shall maintain a record of the ownership of LLC Interests which shall be set forth on Schedule A hereto (and which shall be updated from time to time to reflect transfers of ownership of LLC Interests in accordance with the provisions of this Agreement). Subject to restrictions on the transferability of LLC Interests as set forth herein, LLC Interests shall be transferred by delivery to the LLC of an instruction by the registered owner of an LLC Interest requesting registration of transfer of such LLC Interest and the recording of such transfer in the records of the LLC.



SECTION 5.8. REPRESENTATION OF MEMBERS. The Manager Member and each Non-Manager Member (including any Additional Non-Manager Member) hereby represents and warrants to the LLC and each other Member, and acknowledges (as applicable), that (a) it has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of an investment in the LLC and making an informed investment decision with respect thereto, (b) it is able to bear the economic and financial risk of an investment in the LLC for an indefinite period of time, (c) it is acquiring an interest in the LLC for investment only and not with a view to, or for resale in connection with, any distribution to the public or public offering thereof, (d) the equity interests in the LLC have not been registered under the securities laws of any jurisdiction and cannot be disposed of unless they are subsequently registered and/or qualified under applicable securities laws and the provisions of this Agreement have been complied with, and (e) the execution, delivery and performance of this Agreement, and of each other agreement referenced herein to which such Member is a party, by such Member have been duly authorized in all necessary respects, do not require it to obtain any consent or approval that has not been obtained and do not contravene or result in a default under any provision of any existing law or regulation applicable to it, any provision of its charter, by-laws or other governing documents or any agreement or instrument to which it is a party or by which it is bound, and this Agreement and each such other agreement referenced herein to which such Member is a party has been duly executed and delivered by such Member and is enforceable against such Member in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability.

SECTION 5.9. CONVERSION OF LLC POINTS.

(a) Each Series B LLC Point automatically shall convert ("Convert") into one Series A LLC Point as follows:

(i) In the case of a Series B LLC Point which is issued and outstanding as of the Effective Time, such Series B LLC Point shall convert into one (1) Series A LLC Point on a date which is five (5) years from the Effective Time;

(ii) In the case of a Series B LLC Point which is sold and transferred to a Non-Manager Member pursuant to the Equity

Purchase Program, such Series B LLC Point shall convert into one (1) Series A LLC Point on the date which is five (5) years from the date of such sale and transfer pursuant to the Equity Purchase Program);

(iii) In the case of a Series B LLC Point which is sold and transferred to a Non-Manager Member pursuant to the provisions of Section 6.1 hereof, or which is sold and transferred to such Non-Manager Member pursuant to the provisions of Section 5.5 hereof, such Series B LLC Point shall convert into one (1) Series A LLC Point on the date which is five (5) years from the date of such sale and transfer; and



(iv) In the case of a Series B LLC Point which is purchased by the Manager Member (or its assignee) (whether pursuant to the provisions of Section 3.11 or otherwise), such Series B LLC Point shall convert into one (1) Series A LLC Point immediately following the consummation of such purchase by the Manager Member (or its assignee).

(b) In addition to the foregoing, each Series B LLC Point which is held by a Non-Manager Member who (i) dies (or whose related Employee Stockholder dies, in the case of a Non-Manager Member which is not itself an Employee Stockholder), (ii) has his or her (or whose related Employee Stockholder, in the case of a Non-Manager Member which is not itself an Employee Stockholder, has his or her) employment with the LLC terminate as a result of Permanent Incapacity, or (iii) is removed as a Member of the LLC pursuant to a Removal Upon the Instruction of the Management Committee, shall automatically Convert into one (1) Series A LLC Point as of immediately prior to such event. In addition to the foregoing, each Series B LLC Point which is held by a Non-Manager Member who is an Initial Member shall automatically immediately Convert into one (1) Series A LLC Point as of immediately following a delivery by the Manager Member of a written notice expressly exercising its rights pursuant to Section 3.2(b)(v) of this Agreement.

(c) In connection with any sale and transfer by the Manager Member (or any of its Affiliates or their respective assignees) of Series A LLC Points to any Person, the Manager Member may determine in its sole discretion to convert such Series A LLC Points into an equal number of Series B-2 LLC Points effective as of immediately prior to such sale and transfer, and (unless the Manager Member shall otherwise elect in writing after the Effective Time in its sole discretion) no portion of the Capital Account of such transferor Member shall be transferred to the Person receiving such Series B-2 LLC Points.

(d) Upon any sale and transfer of a Purchase Program Point that is a Series B-1 LLC Point or Series A LLC Point to a Non-Manager Member pursuant to the Equity Purchase Program, such Series B-1 LLC Point or Series A LLC Point (as applicable) shall automatically immediately convert into one (1) Series B-2 LLC Point as of immediately prior to such sale and transfer (and, in the event of any such Purchase Program Point that was held by another Member as of immediately prior to such sale and transfer pursuant to the Equity Purchase Program, no portion of the Capital Account of such transferor Member shall be transferred to the Non-Manager Member purchasing such Purchase Program Point).

SECTION 5.10. PURCHASE PROGRAM POINTS. FAI hereby agrees that all of the Purchase Program Points held by FAI as of the Effective Time (which 5,000 Purchase Program Points constitute the entire Purchase Reserve as of the Effective Time) shall be subject to subsequent sale and transfer in accordance with the terms and conditions of the Equity Purchase Program (as the same may be amended from time to time with the prior written consent of the Manager Member, FAI and the Management Committee granted after the Effective Time), and acknowledges and agrees that no consent or other approval of FAI shall be required for any such sale and transfer pursuant to the Equity Purchase Program. With respect to each Purchase



Program Point held by FAI as of the Effective Time, each of FAI and Foster Friess (as its related Employee Stockholder) covenants and agrees that, from and after the Effective Time until the earliest of (i) such time as such Purchase Program Point has been sold and transferred by FAI pursuant to the Equity

Purchase Program, (ii) such time as such Purchase Program Point has been purchased by the Manager Member (or its assignee) pursuant to Section 3.11 hereof or (iii) three months following the tenth (10th) anniversary of the Effective Time, FAI shall remain in existence and shall not Transfer (including without limitation pursuant to the exercise of a Put, and notwithstanding the Conversion of such Purchase Program Point to a Series A LLC Point) such Purchase Program Point (other than pursuant to a sale and transfer made under the Equity Purchase Program), except to the extent that FAI, the Management Committee and the Manager Member otherwise agree in writing after the Effective Time (and, for the avoidance of doubt, the other Transfer restrictions set forth in this Agreement shall thereafter continue to apply to any subsequent Transfer of such LLC Point). Unless the Manager Member and the Management Committee each shall have otherwise granted their prior written consent after the Effective Time, any sale and transfer of Purchase Program Points pursuant to the Equity Purchase Program shall be accompanied by a simultaneous sale and transfer of the same number of "Purchase Program Points" (as such term is defined in the DE LLC Agreement) pursuant to the "Equity Purchase Program" of the DE LLC to the same Person (or to its Affiliated "Non-Manager Member" under the DE LLC Agreement, as applicable) purchasing such Purchase Program Points pursuant to the Equity Purchase Program of the LLC.

## ARTICLE VI - TRANSFER OF LLC INTERESTS BY THE MANAGER MEMBER; REDEMPTION, REMOVAL AND WITHDRAWAL.

### SECTION 6.1. TRANSFERABILITY OF INTEREST.

(a) Except as set forth in this Section 6.1, without the prior written approval of the Management Committee, (i) none of AMG's direct or indirect interest in the LLC (including, without limitation, any interest which has been Transferred to the Manager Member) may be Transferred (other than as a result of any merger, consolidation, leveraged recapitalization, sale of all or substantially all of its assets or similar transaction of AMG (regardless of how structured), which shall in no event be subject to the restrictions set forth in this Section 6.1 or require the consent of the Management Committee or any Member of the LLC) and (ii) the LLC may not undergo any merger, consolidation, conversion, leveraged recapitalization, sale of all or substantially all of its assets or similar transaction (any of which transactions described in this clause (ii) shall also require the prior written consent of the Manager Member granted after the Effective Time); PROVIDED, HOWEVER, (A) it is understood and agreed that, in connection with the operation of the business of AMG and the Manager Member (including, without limitation, the financing of its interest herein and direct or indirect interests in additional investment management companies), AMG's direct or indirect interests in the LLC may be pledged and encumbered and lien holders of AMG's interests shall have and be able to exercise the rights of secured creditors with respect to such interests, (B) AMG may, with the prior written approval of the Management Committee



(such approval not to be unreasonably withheld), Transfer some (but not a majority) of its LLC Points to a Person who is not a Member but who is an Officer or employee of the LLC (or any Controlled Affiliate thereof) or who becomes an Officer or employee of the LLC (or any Controlled Affiliate thereof) or a Person majority owned by any such Person, (C) AMG may, with the prior written approval of the Management Committee (such approval not to be unreasonably withheld), Transfer some (but not a majority) of its LLC Points to existing Non-Manager Members, and (D) AMG may Transfer all or any portion of its LLC Interests to other direct or indirect wholly-owned subsidiaries of AMG (which shall thereafter be subject to the provisions of this Agreement applicable to the Manager Member).

Notwithstanding anything else set forth herein, AMG may, with the prior written approval of the Management Committee, Transfer all of its direct and indirect interests in the LLC to a bona fide third party purchaser in a single transaction or a series of related transactions (whether structured as an equity sale, a merger, a consolidation or otherwise), and, in any such case, each of the Non-Manager Members shall be required to Transfer, in the same transaction or transactions, all their interests in the LLC (and to enter into such customary documentation in connection therewith as is entered into by AMG); PROVIDED, however, that the aggregate purchase price (including all forms of consideration, including without limitation amounts to be received in the form of equity participation rights) to be received by the Members (other than bona fide compensation for future services to be performed following such transaction by any Member) shall be allocated among the Members in the same manner as the purchase price would have been distributed pursuant to

Section 4.4 following a sale of all or substantially all of the assets of the LLC and its Controlled Affiliates and the DE LLC and its Controlled Affiliates (with any net gain or loss from such transaction first having been allocated among the Members in accordance with Section 4.2(e) or 4.2(f), as applicable).

Until the earlier to occur of (i) the date of the consummation of the Subsequent Purchase pursuant to Section 12 of the Purchase Agreement or (ii) such time as it has become objectively determinable that AMG will not be required to consummate the Subsequent Purchase pursuant to Section 12 of the Purchase Agreement, any transaction requiring the prior written approval of the Management Committee under this Section 6.1(a) shall also require the prior written approval of FAI (other than a Transfer by AMG described in clause (B) of the proviso to the first paragraph of this Section 6.1(a), which shall not require the approval of FAI).

Upon any of the foregoing transactions, the Manager Member shall make the appropriate revisions to SCHEDULE A hereto.

(b) In the case of a Transfer upon foreclosure pursuant to a pledge of or lien on AMG's direct or indirect interest in the LLC pursuant to Section 6.1(a)(A), each transferee shall sign a counterpart signature page to this Agreement agreeing thereby to become either a Non-Manager Member or the Manager Member (provided, however, that once one such other transferee elects to become the Manager Member, no transferee (other than a subsequent transferee of such new Manager Member) may elect to be a Manager Member hereunder. If the transferees pursuant to Section 6.1(a)(A) receive all



of the Manager Member's LLC Interests and none of such transferees elects to become the Manager Member, then the Manager Member shall be deemed to have withdrawn from the LLC. If, however, one of the transferees elects to become the Manager Member and executes a counterpart signature page to this Agreement agreeing thereby to become the Manager Member, then notwithstanding any other provision hereof to the contrary, the old Manager Member shall thereupon be permitted to withdraw from the LLC as Manager Member.

(c) In the case of a Transfer pursuant to the second paragraph of Section 6.1(a), the old Manager Member shall be deemed to have withdrawn and its transferee shall be deemed to have become the new Manager Member hereunder.

SECTION 6.2. RESIGNATION, REDEMPTION, AND WITHDRAWAL. To the fullest extent permitted by law, except as set forth in Section 6.1, without the prior written consent of the Management Committee, the Manager Member shall not have the right to resign or withdraw from the LLC as Manager Member. With the prior written consent of the Management Committee, the Manager Member may resign or withdraw as Manager Member upon prior written notice to the LLC. Without the prior written consent of the Management Committee, the Manager Member shall have no right to have all or any portion of its interest in the LLC redeemed. Any resigned, withdrawn or removed Manager Member shall retain its interest in the capital of the LLC and its other economic rights under this Agreement as a Non-Manager Member having the number of LLC Points held by the Manager Member prior to its resignation, withdrawal or removal (except as otherwise may be agreed to in writing following the Effective Time by such Manager Member in connection with such resignation, withdrawal or removal). If a Manager Member who has resigned, withdrawn or been removed no longer has any economic interest in the LLC, then upon such resignation, withdrawal or removal such Person shall cease to be a Member of the LLC.

## ARTICLE VII - PUT OF LLC INTERESTS.

SECTION 7.1. NON-MANAGER MEMBER PUTS.

(a) Each Non-Manager Member may, at such Non-Manager Member's option and subject to the terms and conditions set forth in this Section 7.1, cause the Manager Member (or its assignee) to purchase portions of the Vested Series A LLC Points held by such Non-Manager Member (a "Put").

(b) For so long as a Non-Manager Member (or, in the case of a Non-Manager Member which is not a natural person, its related Employee Stockholder) remains employed by the LLC or the DE LLC (as applicable), such Non-Manager Member may (subject to the other terms and conditions set forth in this Section 7.1) cause the Manager Member (or its assignee) to purchase up to ten percent (10%) of the Series A LLC Points that are

Initial LLC Points of such Non-Manager Member (together with any such Series A LLC Points that are Initial LLC Points which previously could have been sold to the Manager Member by such Non-Manager Member pursuant to this Section 7.1(b) but were not previously sold) from such Non-Manager Member (and/or any



Permitted Transferees of such Non-Manager Member) on the last business day of the month of March, starting with the last business day of the first month of March that is at least five (5) years following the Effective Time (each a "Put Purchase Date"); PROVIDED, HOWEVER, that only up to an aggregate of fifty percent (50%) of a Non-Manager Member's Series A LLC Points that are Initial LLC Points may be sold by such Non-Manager Member pursuant to this Section 7.1(b); and PROVIDED, FURTHER, that the Manager Member shall in no event be required to purchase in excess of 10% of the total outstanding LLC Points of the LLC during any single calendar year pursuant to this Section 7.1 (measured as of the applicable Put Purchase Date before giving effect to any Puts in that calendar year), and in the event a greater number of LLC Points have purported to be Put pursuant to this Section 7.1 during any single calendar year, the number of LLC Points that are actually Put by Non-Manager Members pursuant to this Section 7.1 in such calendar year shall be reduced to a number that is equal to 10% of the total outstanding LLC Points of the LLC (as of such Put Purchase Date before giving effect to any Puts in that calendar year), with such reduction borne pro rata by the Non-Manager Members exercising Puts in that calendar year in proportion to the number of LLC Points they have attempted to Put in such calendar year pursuant to this Section 7.1, and the remainder of such purported Puts in such calendar year shall be deemed to have been irrevocably withdrawn for such calendar year; and PROVIDED, FURTHER, that for purposes of the percentage limitations set forth in this Section 7.1(b), the number of Initial LLC Points held by FAI shall be reduced by the number of Purchase Program Points existing as of immediately following the Effective Time (but, for the avoidance of doubt, such Purchase Program Points shall nonetheless be deemed to be "outstanding LLC Points" for purposes of determining the number of outstanding LLC Points under this Agreement); and PROVIDED, FURTHER, that, notwithstanding any of the other timing and volume limitations and notice requirements set forth in this Section 7.1 to the contrary, in the event that any LLC Points held by either William D'Alonzo or John Ragard (and their respective Permitted Transferees) were not purchased pursuant to Section 3.11 hereof in connection with the Retirement of such applicable Employee Stockholder on the eleventh (11th) anniversary of the Effective Time as a result of the operation of the third proviso to Section 3.11(a) hereof, such Designated Initial Member shall be permitted to Put one-half (1/2) of the remaining Vested Series A LLC Points held by it and its Permitted Transferees on the twelfth (12th) anniversary of the Effective Time by written notice of such Put to the Manager Member delivered not later than one month prior to the twelfth (12th) anniversary of the Effective Time (and such written notice shall constitute the Put Notice for such Put, the twelfth (12th) anniversary shall constitute the Put Purchase Date for such LLC Points, the Put Price shall be determined in accordance with Section 7.1(e) hereof and the manner of payment shall be determined in accordance with Section 7.1(f) hereof)). Notwithstanding any other provision set forth herein, a Non-Manager Member may only exercise its rights under this Section 7.1(b) if the Non-Manager Member simultaneously causes the DE LLC Manager Member to purchase an equal number of Initial DE LLC Points pursuant to the provisions of Section 7.1(b) of the DE LLC Agreement (and the Manager Member shall be permitted in its sole discretion (but shall not be required) to delay the consummation of the purchase of LLC Points pursuant to this Section 7.1(b) until such time as such Non-Manager Member (or its Affiliated "Non-Manager Member" under the DE LLC Agreement, as applicable) simultaneously sells



such Initial DE LLC Points to the DE LLC Manager Member pursuant to the provisions of Section 7.1(b) of the DE LLC Agreement).

(c) For so long as a Non-Manager Member (or, in the case of a Non-Manager Member which is not a natural person, its related Employee Stockholder) remains employed by the LLC or the DE LLC (as applicable), such Non-Manager Member may (subject to the other terms and conditions set forth in this Section 7.1) cause the Manager Member (or its assignee) to purchase up to ten percent (10%) of any Vested Series A LLC Points resulting from the Conversion of Series B-2 LLC Points sold and transferred to such Non-Manager Member pursuant to the Equity Purchase

Program (each such sale and transfer of Series B LLC Points to a Non-Manager Member pursuant to the Equity Purchase Program being referred to herein as a "Purchase Program Sale") from such Non-Manager Member (and/or any Permitted Transferees of such Non-Manager Member) on any Put Purchase Date starting on the first Put Purchase Date which is at least five (5) years following the date of such Purchase Program Sale, PROVIDED that, in the case of any Non-Manager Member who was expressly identified on Annex B to the Equity Purchase Agreement as of the Effective Time as a designated future purchaser of an expressly specified number of Series B-2 LLC Points pursuant to the Equity Purchase Program and who in fact purchased all or a portion of such identified Series B-2 LLC Points pursuant to the Equity Purchase Program in a Purchase Program Sale, on the first Put Purchase Date which is at least five (5) years following the date of such Purchase Program Sale such Non-Manager Member may cause the Manager Member (or its assignee) to purchase up to fifty percent (50%) of any Vested Series A LLC Points resulting from the Conversion of such Series B-2 LLC Points sold and transferred to such Non-Manager Member in such Purchase Program Sale (subject to the second proviso contained in Section 7.1(b)); PROVIDED, HOWEVER, that only up to an aggregate of fifty percent (50%) of the Series A LLC Points resulting from the Conversion of Series B LLC Points sold and transferred to a Non-Manager Member in a particular Purchase Program Sale may be sold by such Non-Manager Member pursuant to this Section 7.1(c); and PROVIDED, FURTHER, that any such sale pursuant to this Section 7.1(c) shall be subject to the second proviso contained in Section 7.1(b). Notwithstanding any other provision set forth herein, a Non-Manager Member may only exercise its rights under this Section 7.1(c) if the Non-Manager Member simultaneously causes the DE LLC Manager Member to purchase an equal number of Vested DE LLC Points (acquired pursuant to the same Purchase Program Sale as those Vested LLC Points being sold by such Non-Manager Member pursuant to this Section 7.1(c)) pursuant to the provisions of Section 7.1(c) of the DE LLC Agreement (and the Manager Member shall be permitted in its sole discretion (but shall not be required) to delay the consummation of the purchase of LLC Points pursuant to this Section 7.1(c) until such time as such Non-Manager Member (or its Affiliated "Non-Manager Member" under the DE LLC Agreement, as applicable) simultaneously sells such Vested DE LLC Points to the DE LLC Manager Member pursuant to the provisions of Section 7.1(c) of the DE LLC Agreement).

(d) If a Non-Manager Member desires to exercise its rights under Section 7.1(b) or 7.1(c) above, it and its Employee Stockholder shall give the Manager Member, AMG, each other Employee Stockholder and the LLC irrevocable written



notice (a "Put Notice") on or prior to the preceding October 1 (the "Notice Deadline"), stating that it is electing to exercise such rights, the number of Vested Series A LLC Points (the "Put LLC Points") to be sold in the Put, to what extent such Put is a Put of (A) Initial LLC Points ("Initial Put LLC Points") or (B) Series A LLC Points resulting from the Conversion of Series B-2 LLC Points received upon a Purchase Program Sale) ("Purchase Program Put LLC Points") and, if Purchase Program Put LLC Points are to be included in such Put, what Purchase Program Sale they are associated with. Puts in any given calendar year for which Put Notices are received before the Notice Deadline for that calendar year shall be completed as follows: AMG shall purchase from each Non-Manager Member (and/or its Permitted Transferees, as applicable) that number of Put LLC Points as is equal to the sum of (i) the number of Initial Put LLC Points to be sold by such Non-Manager Member (and/or its Permitted Transferees, as applicable) and designated as such in such Non-Manager Member's Put Notice, up to the maximum number of Initial Put LLC Points permitted by Section 7.1(b) to be Put by such Non-Manager Member in that year, and (ii) the number of Purchase Program Put LLC Points to be sold by such Non-Manager Member (and/or its Permitted Transferees, as applicable) and designated as such in such Non-Manager Member's Put Notice, up to the maximum number of Purchase Program Put LLC Points permitted by Section 7.1(c) to be Put by such Non-Manager Member in that year.

(e) The aggregate purchase price payable by the Manager Member (or its assignee) upon the purchase of Put LLC Points pursuant to a Put (the "Put Price") on a Put Purchase Date shall be an amount equal to the aggregate fair market value of the LLC Points purchased pursuant to a Put hereunder, which shall be conclusively determined as follows:

(i) In the case of Put LLC Points other than Purchase Program Put LLC Points, an amount equal to the product of

(A) seven (7.0), multiplied by

(B) the positive difference (if any) of (I) the sum of (X) fifty percent (50%) of the Base Owners' Allocation for the twenty four (24) months ending on the last day of the calendar quarter immediately preceding the calendar quarter in which such Put Purchase Date occurs, plus (Y) thirty three and one-third percent (33-1/3%) of the Earned Performance Owners' Allocation for the thirty six (36) months ending on the last day of the calendar quarter immediately preceding the calendar quarter in which such Put Purchase Date occurs, minus (II) the amount by which the combined actual expenses of the LLC, the DE LLC and any Controlled Affiliates of the LLC or the DE LLC (determined on a basis consistent with the determination of the permitted uses of the Operating Allocation under this Agreement and the DE LLC Agreement) (other than any premiums on key-man life and/or disability insurance paid out of the Owners' Allocation, and other than expenses of the LLC consisting of payments made by the LLC to the DE LLC under the Services Agreement, PROVIDED that the ten percent margin payable by the LLC to the DE LLC under the Services Agreement shall be included in such determination as an expense of the LLC) exceeded the Operating Allocation



(including any previously reserved Operating Allocation) during the twelve (12) months ending on the last day of the calendar quarter immediately preceding the calendar quarter in which such Put Purchase Date occurs, multiplied by

(C) a fraction, the numerator of which is the number of Put LLC Points to be purchased from such Non-Manager Member on such Put Purchase Date pursuant to such Put, and the denominator of which is the number of LLC Points outstanding on such Put Purchase Date (before giving effect to any issuances or redemptions of LLC Points on such date)

; PROVIDED, HOWEVER, that the Put Price determined pursuant to this clause (i) shall be reduced by the amount of the "Put Price" determined under clause (i) of Section 7.1(e) of the DE LLC Agreement in connection with the corresponding purchase of DE LLC Points priced pursuant to such provision of the DE LLC Agreement; and

(ii) In the case of Purchase Program Put LLC Points, an amount equal to their Purchase Program Points FMV

; PROVIDED, HOWEVER, that the Purchase Program Points FMV determined pursuant to this clause (ii) shall be reduced by the amount of the "Purchase Program Points FMV" determined under clause (ii) of Section 7.1(e) of the DE LLC Agreement in connection with the corresponding purchase of DE LLC Points priced pursuant to such provision of the DE LLC Agreement.

(f) In the case of any purchase pursuant to a Put, the Put Price shall be paid by the Manager Member (or, if the Manager Member shall have assigned its obligation to any other Person pursuant to paragraph (g) below, such other Person) on the relevant Put Purchase Date as follows, in each case against delivery of such documents or instruments of transfer as may reasonably be requested by the Manager Member (including representations and warranties from the transferring Non-Manager Member and any Permitted Transferees thereof which are selling Put LLC Points pursuant to such Put that they have sole record and beneficial title to the Put LLC Points, free and clear of any Liens other than those imposed by this Agreement and addressing such other customary matters as to authority, enforceability and similar subjects as the Manager Member reasonably requests):

(i) In the case of a purchase of Put LLC Points other than Purchase Program Put LLC Points, either (in the sole discretion of the Manager Member) (A) by certified check issued to the Non-Manager Member exercising such Put in the amount of the entire Put Price, or (B) by (I) certified check issued to the Non-Manager Member exercising such Put in an amount equal to fifty percent (50%) of the Put Price and (II) delivery of AMG Shares having a value equal to fifty percent (50%) of the Put Price as determined pursuant to the procedures set forth in Section 7.1(e)(i) ; or

(ii) In the case of a purchase of Purchase Program Put LLC Points,

(A) in the case of any such purchase where the Purchase Program Points FMV determined pursuant to Section 7.1(e)(ii) is less than or equal to the amount that would have been calculated under Section 7.1(e)(i) if such Put LLC Points had not been Purchase Program Put LLC Points, then in the manner set forth under Section 7.1(f)(i); or

(B) in the case of any such purchase where the Purchase Program Points FMV determined pursuant to Section 7.1(e)(ii) is greater than the amount that would have been calculated under Section 7.1(e)(i) if such Put LLC Points had not been Purchase Program Put LLC Points, then (I) that portion of the Purchase Program Points FMV equal to such calculation under Section 7.1(e)(i) shall be paid in the manner set forth under Section 7.1(f)(i), and (II) the excess shall be paid one hundred percent (100%) in Contingent Consideration at the same time payment is made pursuant to clause (I) of this Section 7.1(f)(ii)(B).

(g) The Manager Member may (i) assign any or all of its rights and obligations under this Section 7.1, in one or more instances, to any other direct or indirect wholly-owned subsidiary of AMG or (ii) with the written consent of the Management Committee, assign any or all of its rights and obligations under this Section 7.1, in one or more instances, to the LLC; PROVIDED, HOWEVER, that if the Manager Member assigns any or all its rights and obligations under this Section 7.1 to the LLC, then the Manager Member shall assign the identical and proportional rights and obligations under the DE LLC Agreement to the DE LLC; and PROVIDED, FURTHER, that, in the event such assignee is a wholly-owned subsidiary of AMG and thereafter ceases to be so owned, such assignee shall reassign to the Manager Member (or another direct or indirect wholly-owned subsidiary of AMG) all LLC Interests so acquired; and PROVIDED, FURTHER, that no such assignment shall relieve the Manager Member of its obligation to make payment of a Put Price (to the extent not paid by any such assignee).

(h) In the case of any Put, as of the applicable Put Purchase Date, each Non-Manager Member (and each of its applicable Permitted Transferees) selling Put LLC Points shall cease to hold the Put LLC Points purchased on the Put Purchase Date and shall cease to hold a pro-rata portion of such Non-Manager Member's (and each such Permitted Transferee's) Capital Account (which shall have been transferred to the Manager Member or its assignee making such purchase of Put LLC Points, or canceled by the LLC if the LLC is the assignee making such purchase) and shall no longer have any rights with respect to such portion of its LLC Interests.

(i) In the event that the Manager Member elects pursuant to the provisions of this Section 7.1 or pursuant to the provisions of Section 3.11 hereof (as applicable) to pay a portion of the Put Price or the Purchase Price under Section 3.11 hereof (as applicable) by the delivery of AMG Shares, the Manager Member shall give irrevocable written notice of such election to the Non-Manager Member exercising the Put (or the Selling Member pursuant to Section 3.11 hereof, as applicable) not less than twenty three trading days prior to the date on which such AMG Shares are required to be delivered pursuant to this Section 7.1 or Section 3.11 hereof (as applicable), and the number of



AMG Shares required to be delivered by the Manager Member shall be equal to the quotient obtained by dividing (A) that portion of the Put Price under this Section 7.1 or the Purchase Price under Section 3.11 hereof (as applicable) to be paid in AMG Shares by (B) the Average AMG Stock Price, where:

(i) The "Average AMG Stock Price" is defined to mean the average (arithmetic mean) Stock Price of AMG Shares during the twenty consecutive trading days ending on (and including) the third complete trading day immediately prior to the date on which such AMG Shares are required to be delivered hereunder; and

(ii) the "Stock Price" is defined to mean, for any trading day, the closing price for one AMG Share, which shall be the last sale price or, in the case no such sale takes place on such trading

day, the average of the closing bid and asked prices, in either case as reported in the principal consolidated transaction reporting system with respect to securities listed on the principal national securities exchange or other market on which AMG Shares is listed or admitted to trading; or, if not listed or admitted to trading on any national securities exchange, the last quoted price (or, if not so quoted, the average of the last quoted high bid and low asked prices) in the over-the-counter market, as reported by NASDAQ or such other system then in use; or, if on any such trading day no bids are quoted by any such organization, the average of the closing bid and asked prices as furnished by a professional market maker making a market in such security reasonably selected by the Board of Directors of AMG.

In the event that there is a stock split (or reverse stock split), stock dividend or other similar event during the relevant measuring periods under the foregoing calculations, equitable and appropriate adjustments shall be made in the application of the foregoing calculations of AMG's Average Stock Price to take account of such event.

ARTICLE VIII - DISSOLUTION AND TERMINATION.

SECTION 8.1. NO DISSOLUTION. The LLC shall not be dissolved by any admission of Additional Non-Manager Members, substitute Non-Manager Members or substitute Manager Members, or by the death, retirement, withdrawal, resignation, removal or bankruptcy of any Member from the LLC.

SECTION 8.2. EVENTS OF DISSOLUTION. The LLC shall be dissolved and its affairs wound up upon the occurrence of any of the following events (provided, however, that, unless the Manager Member and the Management Committee have otherwise consented in writing following the Effective Time, the LLC shall not be voluntarily dissolved or wound up unless the DE LLC is simultaneously dissolved and wound up):

(a) any date approved by the written consent of both the Management Committee and the Manager Member granted after the Effective Time (in their respective sole discretion); or



(b) at any time there are no Members of the LLC, unless the LLC is continued in accordance with the Act; or

(c) upon the entry of a decree of judicial dissolution under ss.18-802 of the Act.

SECTION 8.3. NOTICE OF DISSOLUTION. Upon the dissolution of the LLC, the Manager Member shall promptly notify the other Members of such dissolution.

SECTION 8.4. LIQUIDATION. Upon the dissolution of the LLC, the Manager Member, or if there is none, a Person or Persons approved by the holders of more than fifty percent (50%) of the Vested LLC Points then outstanding (including those held by the Person that was the Manager Member) shall carry out the winding up of the LLC (in such capacity, the "Liquidating Trustee"), and shall immediately commence to wind up the LLC's affairs; PROVIDED, HOWEVER, that a reasonable time shall be allowed for the orderly liquidation of the assets of the LLC and the satisfaction of liabilities to creditors so as to enable the Members to minimize the normal losses attendant upon a liquidation. The Members shall continue to share in allocations and distributions during liquidation in the same proportions, as specified in Article IV hereof, as before liquidation. The proceeds of liquidation shall be distributed as set forth in Section 4.4 hereof.

SECTION 8.5. TERMINATION. The LLC shall terminate when all of the assets of the LLC, after payment of or due provision for all debts, liabilities and obligations of the LLC, shall have been distributed to the Members in the manner provided for in Section 4.4 and the Certificate shall have been canceled in the manner required by the Act.

SECTION 8.6. CLAIMS OF THE MEMBERS. The Members and former Members shall look solely to the LLC's assets for the return of their Capital Contributions and Capital Accounts, and if the assets of the LLC remaining after payment of or due provision for all debts, liabilities and obligations of the LLC are insufficient to return such Capital Contributions or Capital Accounts, the Members and former Members shall have no recourse against the LLC or any other Member (including, without limitation, the Manager Member).

ARTICLE IX - RECORDS AND REPORTS.

SECTION 9.1. BOOKS AND RECORDS. The Management Committee shall (and each of the Non-Manager Members and Employee Stockholders shall use its reasonable best efforts to) cause the LLC to keep complete and accurate books of account with respect to the operations of the LLC, prepared in accordance with GAAP. Such books shall reflect that the interests in the LLC have not been registered under the Securities Act, and that the interests may not be sold or transferred without registration under the Securities Act or exemption therefrom and without compliance with Article V or Article VI of this Agreement. Such books shall be maintained at the principal office of the LLC in Jackson, Wyoming or at such other place as the Management Committee shall determine (with the prior written consent of the Manager Member granted after the Effective Time).



SECTION 9.2. ACCOUNTING. The LLC's books of account shall be kept on the accrual method of accounting (consistently applied), or on such other method of accounting as the Manager Member may from time to time determine with the advice of the Independent Public Accountants, and shall be closed and balanced at the end of each LLC fiscal year and shall be maintained for each fiscal year in a manner consistent with GAAP and with the principles and/or policies of AMG applied consistently with respect to its Controlled Affiliates. The taxable year of the LLC shall be the twelve months ending December 31, or such other taxable year as the Manager Member may designate with the advice of the Independent Public Accountants.

SECTION 9.3. FINANCIAL AND COMPLIANCE REPORTS. The Management Committee shall use its reasonable best efforts (and each of the Non-Manager Members and Employee Stockholders shall use its reasonable efforts) to cause the LLC to furnish to the Manager Member each of the following:

(a) Within ten (10) days after the end of each month and each fiscal quarter, information regarding the consolidated assets under management of the LLC, the DE LLC and any of their respective Controlled Affiliates (including the components of any changes from the information provided with respect to the prior period, information regarding net client cash flows and information regarding market appreciation and depreciation in client portfolios), and an unaudited financial report of the LLC (consolidated with any Controlled Affiliates thereof) prepared in accordance with GAAP using the accrual method of accounting consistently applied (except that the financial report may (i) be subject to normal year-end audit adjustments which are neither individually nor in the aggregate material and (ii) not contain all notes thereto which may be required in accordance with GAAP to be included in audited financial statements), which unaudited financial report shall have been certified by the most senior financial officer of the LLC to have been so prepared and shall include the following:

(i) statements of operations, changes in members' capital and cash flows for such month or quarter, together with a cumulative income statement from the first day of the then-current fiscal year to the last day of such month or quarter;

(ii) a balance sheet as of the last day of such month or quarter; and

(iii) with respect to the quarterly financial report, a detailed computation of the Owners' Allocation for such quarter.

(b) Within thirty (30) days after the end of each fiscal year of the LLC, audited financial statements of the LLC (consolidated with any Controlled Affiliates thereof), which shall include statements of operations, changes in members' capital and cash flows for such year and a balance sheet as of the last day thereof, each prepared in accordance with GAAP, using the accrual method of accounting, consistently applied, certified by the Independent Public Accountants.

(c) If requested by the Manager Member, within twenty-five (25) days after the end of each calendar quarter, the LLC's (and any Controlled Affiliates' thereof)



operating budget for each of the next four (4) fiscal quarters, in such form and containing such estimates as may be requested by the Manager Member from time to time.

(d) If requested by the Manager Member, copies of all

financial statements, reports, notices, press releases and other documents released to the public during such period.

(e) As promptly as is reasonably possible following request by the Manager Member from time to time, such other financial, operations, performance or other information or data as may be requested.

SECTION 9.4. MEETINGS.

(a) The Management Committee and the Officers shall hold such regular meetings at the LLC's principal place of business with representatives of the Manager Member as may be reasonably requested by the Manager Member from time to time. These meetings shall be attended (either in person or by telephone) by such members of the Management Committee, Officers and other employees of the LLC as may be requested by the Manager Member or any of the Officers.

(b) At each meeting described in Section 9.4(a), the Officers and other employees of the LLC shall discuss such matters regarding the LLC and its performance, operations and/or budgets as may be reasonably requested by the Manager Member, and each of the attendees (whether in person or by telephone) at such meeting shall have the right to submit proposals and suggestions regarding the LLC, and the attendees at the meeting shall, in good faith, discuss and consider such proposals and suggestions.

SECTION 9.5. TAX MATTERS.

(a) The Manager Member shall cause to be prepared and filed on or before the due date (or any extension thereof) federal, state, local and foreign tax or information returns required to be filed by the LLC (or any Controlled Affiliate thereof), and shall provide to the other Members, as soon as reasonably practicable following the close of each taxable year of the LLC, any information in the Manager Member's possession which is necessary to allow the other Members to timely prepare and file any federal, state or local income tax returns (including IRS Schedule K-1). The Manager Member, to the extent that funds are available at the LLC (or at any Controlled Affiliates thereof), shall cause the LLC (or such Controlled Affiliate thereof) to pay any taxes payable by the LLC (or such Controlled Affiliate) (it being understood that the expenses of preparation and filing of such tax returns, and the amounts of such taxes, are to be treated as operating expenses of the LLC to be paid from the Operating Allocation), provided that the Manager Member shall not be required to cause the LLC (or any Controlled Affiliate thereof) to pay any tax so long as the LLC (or such Controlled Affiliate thereof) is in good faith and by appropriate legal proceedings contesting the validity, applicability or amount thereof and such contest does not materially endanger any right or interest of the LLC (or such Controlled Affiliate) and adequate reserves therefor have been set aside by the LLC (or such Controlled Affiliate). Neither the LLC



nor any Employee Stockholder or Non-Manager Member shall do anything or take any action which would be inconsistent with the foregoing or with the Manager Member's actions as authorized by the foregoing provisions of this Section 9.5(a).

(b) The Manager Member shall be the tax matters partner for the LLC pursuant to Sections 6221 through 6233 of the Code.

(c) The Manager Member shall, in its sole discretion, make or cause to be made by the LLC (and any Controlled Affiliates thereof) any and all elections for federal, state, local and foreign tax matters, including any election to adjust the basis of the LLC's (or a Controlled Affiliate's) property pursuant to Section 754 of the Code or any comparable provision of state, local or foreign law.

## ARTICLE X - LIABILITY, EXCULPATION AND INDEMNIFICATION.

SECTION 10.1. LIABILITY. Except as otherwise provided by the Act, the debts, obligations and liabilities of the LLC (or of any Controlled Affiliate thereof), whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the LLC (or such Controlled Affiliate), and no Covered Person shall be obligated personally for any such debt, obligation or liability of the LLC (or any Controlled Affiliate thereof) solely by reason of being a Covered Person.

SECTION 10.2. EXCULPATION.

(a) No Covered Person shall be liable to the LLC, any Controlled Affiliate thereof or any other Covered Person for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the LLC or any Controlled Affiliate thereof and in a manner reasonably believed to be within the scope of authority conferred on such Covered Person by this Agreement, except that a Covered Person shall be liable for any such loss, damage or claim incurred by reason of any action or inaction of such Covered Person which constituted fraud, gross negligence, willful misconduct or a breach of this Agreement or, in the case of a Non-Manager Member or Employee Stockholder, the Employment Agreement and/or Non-Solicitation Agreement to which he, she or it is a party.

(b) A Covered Person shall be fully protected in relying in good faith upon the records of the LLC (or of any Controlled Affiliate thereof) and upon such information, opinions, reports or statements presented to the Covered Person by any Person as to matters the Covered Person 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 LLC (or any Controlled Affiliate thereof).

SECTION 10.3. FIDUCIARY DUTY.

(a) To the extent that, at law or in equity, a Covered Person has duties (including fiduciary duties) and liabilities relating thereto to the LLC, any Controlled



Affiliate thereof or any Member, a Covered Person acting under this Agreement shall not be liable to the LLC, any Controlled Affiliate thereof or any Member for its good faith reliance on the provisions of this Agreement. The provisions of this Agreement, to the extent that they restrict the duties and liabilities of a Covered Person otherwise existing at law or in equity, are agreed by the parties hereto to replace such other duties and liabilities of such Covered Person.

(b) Whenever in this Agreement the Manager Member is permitted or required to make a decision (i) in its "discretion" or "sole discretion" or under a grant of similar authority or latitude (or where no express standard is provided herein for such decision), the Manager Member shall be entitled to consider such interests and factors as it desires, including its own interests, and to reach any decision it may select regardless of the reasons therefor, or (ii) in its "good faith", "reasonable discretion" or under another express standard, the Manager Member shall act under such express standard and shall not be subject to any other or different standard imposed by this Agreement or other applicable law.

SECTION 10.4. INDEMNIFICATION. To the fullest extent permitted by applicable law, a Covered Person shall be entitled to indemnification from the LLC for any loss, damage or claim (including any amounts paid in settlement of any such claims) including expenses, fines, penalties and counsel fees and expenses incurred by such Covered Person ("Losses") by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the LLC (or any Controlled Affiliate thereof) and in a manner reasonably believed to be within the scope of authority conferred on such Covered Person by this Agreement, except that no Covered Person shall be entitled to be indemnified in respect of any Losses incurred by such Covered Person by reason of any action or inaction of such Covered Person which constituted fraud, gross negligence, willful misconduct or a breach of this Agreement, the Purchase Agreement or, in the case of the Non-Manager Member or Employee Stockholder, the Employment Agreement and/or Non-Solicitation Agreement to which he, she or it is a party; PROVIDED, HOWEVER, that any indemnity under this Section 10.4 shall be provided out of and to the extent of LLC assets only, and no Member or Covered Person shall have any personal liability to provide indemnity on account thereof.

SECTION 10.5. NOTICE; OPPORTUNITY TO DEFEND AND EXPENSES.

(a) Promptly after receipt by any Covered Person from any third party of notice of any demand, claim or circumstance that, immediately or with the lapse of time, would reasonably be expected to give rise to a claim or the commencement (or threatened commencement) of any action, proceeding or investigation (an "Asserted Liability") that could reasonably be expected to result in any Losses with respect to which the Covered Person might be entitled to indemnification from the LLC under Section 10.4, the Covered Person shall give written notice thereof (the

"Claims Notice") to the Management Committee and the Manager Member; PROVIDED, HOWEVER, that a failure to give such notice shall not prejudice the Covered Person's right to indemnification hereunder except to the extent that the LLC, a Controlled Affiliate thereof or the Manager Member is actually prejudiced thereby. The Claims Notice shall describe the Asserted Liability in such reasonable detail as is practicable under the



circumstances, and shall, to the extent practicable under the circumstances, indicate the amount (estimated, if necessary) of the Loss that has been or may be suffered by the Covered Person.

(b) The LLC may elect to compromise or defend, at its own expense and by its own counsel, any Asserted Liability; PROVIDED, HOWEVER, that if the named parties to any action or proceeding include (or could reasonably be expected to include) both the LLC (or a Controlled Affiliate thereof) and a Covered Person, or more than one Covered Persons, and the LLC is advised by counsel that representation of both parties by the same counsel would be inappropriate under applicable standards of professional conduct, the Covered Person may engage separate counsel at the expense of the LLC. If the LLC elects to compromise or defend such Asserted Liability, it shall within twenty (20) business days (or sooner, if the nature of the Asserted Liability so requires) notify the Covered Person of its intent to do so, and the Covered Person shall cooperate, at the expense of the LLC, in the compromise of, or defense against, such Asserted Liability. If the LLC elects not to compromise or defend the Asserted Liability, fails to notify the Covered Person of its election as herein provided, contests its obligation to provide indemnification under this Agreement, or fails to make or ceases making a good faith and diligent defense, the Covered Person may pay, compromise or defend such Asserted Liability all at the expense of the Covered Person (in accordance with the provisions of Section 10.5(c) below). Except as set forth in the preceding sentence, neither the LLC nor the Covered Person may settle or compromise any claim over the objection of the LLC or the Manager Member; PROVIDED, HOWEVER, that consent to settlement or compromise shall not be unreasonably withheld. In any event, the LLC and the Covered Person may participate at their own expense, in the defense of such Asserted Liability. The Covered Person shall in any event make available to the LLC any books, records or other documents within its control that are necessary or appropriate for such defense, all at the expense of the LLC.

(c) If the LLC elects not to compromise or defend an Asserted Liability, fails to notify the Covered Person of its election as above provided or fails to defend the Asserted Liability diligently and in good faith, then, to the fullest extent permitted by applicable law, expenses (including legal fees) incurred by a Covered Person in defending any Asserted Liability, shall, from time to time, be advanced by the LLC prior to the final disposition of such claim, demand, action, suit or proceeding upon receipt by the LLC of an undertaking by or on behalf of the Covered Person to repay such amount if it shall be determined that the Covered Person is not entitled to be indemnified as authorized in Section 10.4 hereof. The LLC may, if the Manager Member deems it appropriate, require any Covered Person for whom expenses are advanced to deliver adequate security to the LLC for his or her obligation to repay such indemnification.

SECTION 10.6. MISCELLANEOUS.

(a) The right of indemnification hereby provided shall not be exclusive of, and shall not affect, any other rights to which a Covered Person may be entitled at law, under other agreements or otherwise. Nothing contained in this Article X shall limit any lawful rights to indemnification existing independently of this Article X.



(b) The indemnification rights provided by this Article X shall also inure to the benefit of the heirs, executors, administrators, successors and assigns of a Covered Person and any officers, directors, members, partners, shareholders, employees and Affiliates of such Covered Person (and any former officer, director, member, partner, shareholder or employee of such Covered Person, if the Loss was incurred while such Person was an officer, director, member, partner, shareholder or employee of such Covered Person). The Management Committee or the Manager Member may extend the indemnification called for by Section 10.4 to non-employee agents of the LLC (or any Controlled Affiliate thereof), the Manager

Member or any of its Affiliates acting on behalf of the LLC (or any Controlled Affiliate thereof) (provided that no such indemnification shall cover any loss, damage or claim incurred by reason of any action or inaction of such indemnified Person which constituted fraud, gross negligence, willful misconduct or a breach of any agreement with the LLC or any of its Affiliates to which he, she or it is a party).

ARTICLE XI - MISCELLANEOUS.

SECTION 11.1. NOTICES. All notices, requests, elections, consents or demands permitted or required to be made under this Agreement ("Notices") shall be in writing, signed by the Person or Persons giving such notice, request, election, consent or demand and shall be delivered personally or by confirmed facsimile, or sent by registered, certified mail or commercial courier to the Members at their addresses set forth on the signature pages hereof or on SCHEDULE A hereto, or to the LLC as described in the next sentence (as applicable), or at such other addresses as may be supplied by written notice given in conformity with the terms of this Section 11.1. All Notices to the LLC shall be made to the Manager Member at the address set forth on the signature pages hereof or on SCHEDULE A hereto, with a copy (which shall not constitute notice) to the Management Committee at the principal offices of the LLC. The date of any such personal or facsimile delivery, or the date of delivery by an overnight courier, or the date five (5) days after the date of mailing by registered or certified mail, as applicable, shall be the date of such notice having been delivered hereunder.

SECTION 11.2. SUCCESSORS AND ASSIGNS. Subject to the restrictions on Transfer set forth herein, this Agreement shall be binding upon and shall inure to the benefit of the Members, their respective successors, successors-in-title, heirs and assigns, and each and every successors-in-interest to any Member, whether such successor acquires such interest by way of gift, purchase, foreclosure or by any other method, and each shall hold such interest subject to all of the terms and provisions of this Agreement.

SECTION 11.3. AMENDMENTS. Amendments may be made to this Agreement with (i) the prior written consent of the Manager Member granted after the Effective Time and (ii) the prior written consent of the Management Committee; PROVIDED, HOWEVER, that, without the vote, consent or approval of any other Member, the Manager Member shall make such updates and additions to SCHEDULE A hereto as are required by the provisions hereof; and, provided FURTHER, that, without the vote, consent or approval of any other Member, the Manager Member may amend this Agreement to correct any printing, stenographic or clerical errors; and PROVIDED,



FURTHER, that any amendment to this Agreement (A) imposing any obligation on a Non-Manager Member to contribute capital to the LLC shall be effective only with such Non-Manager Member's consent, (B) reducing the required percentage of LLC Points held by Members (or any group of Members) for any consent or vote in this Agreement shall be effective only with the consent or vote of Members (or such group) having the percentage of LLC Points held by Members theretofore required, and (C) that materially and adversely affects a particular Non-Manager Member differently from some other Non-Manager Members (other than a difference solely as a result of the different proportional LLC Interests of the Members or the different Officer or other employment roles held by different Non-Manager Members) shall be effective only with the prior written consent of such Non-Manager Member (unless such change is expressly provided for by this Agreement).

SECTION 11.4. NO PARTITION. No Member, nor any successor-in-interest to any Member, shall have the right while this Agreement remains in effect to have the property of the LLC partitioned, or to file a complaint or institute any proceeding at law or in equity to have the property of the LLC partitioned, and each Member, on behalf of itself, its successors, representatives, heirs and assigns, hereby waives any such right. It is the intent of the Members that during the term of this Agreement, the rights of the Members and the Employee Stockholders, and their respective successors-in-interest, as among themselves, shall be governed by the terms of this Agreement, and that the right of any Member or successors-in-interest to assign, Transfer, sell or otherwise dispose of his interest in the LLC shall be subject to the limitations and restrictions of this Agreement.

SECTION 11.5. NO WAIVER; CUMULATIVE REMEDIES. The failure of any Member to insist upon strict performance of a covenant hereunder or of any obligation hereunder, irrespective of the length of time for which such failure continues, shall not be a waiver of such Member's right to demand strict compliance in the future. No consent or waiver, express or implied, to or of any breach or default in the performance of any obligation hereunder, shall constitute a consent or

waiver to or of any other breach or default in the performance of the same or any other obligation hereunder. 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 its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

SECTION 11.6. DISPUTE RESOLUTION. All disputes arising in connection with this Agreement shall be resolved by binding arbitration in accordance with the applicable rules of the American Arbitration Association. The arbitration shall be held in Wilmington, Delaware before a single arbitrator selected in accordance with Section 12 of the American Arbitration Association Commercial Arbitration Rules who shall have substantial business experience in the investment advisory industry, and shall otherwise be conducted in accordance with the American Arbitration Association Commercial Arbitration Rules. The parties covenant that they will participate in the arbitration in good faith and that they will share equally its costs except as otherwise provided herein. The provisions of this Section 11.6 shall be enforceable in any court of competent jurisdiction, and the parties shall bear their own costs in the event of any proceeding to enforce this Agreement except as otherwise provided herein. The arbitrator shall assess costs and expenses (including the reasonable legal fees and expenses of the prevailing party or parties and any expenses incurred in connection with compelling arbitration) in favor of



the prevailing party or parties against the other party or parties to such proceeding. Any party unsuccessfully refusing to comply with an order of the arbitrators shall be liable for costs and expenses, including attorney's fees, incurred by the other party in enforcing the award.

SECTION 11.7. PRIOR AGREEMENTS SUPERSEDED. This Agreement, together with the schedules and exhibits hereto, supersede the prior understandings and agreements among the parties with respect to the subject matter hereof and thereof, provided that the Purchase Agreement, the Employment Agreements, the Non-Solicitation Agreements and the other written agreements expressly contemplated hereby to be in effect as of the Effective Time shall not be superseded and shall survive in accordance with their respective terms.

SECTION 11.8. CAPTIONS. Titles or captions of Articles or Sections contained in this Agreement are inserted as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.

SECTION 11.9. COUNTERPARTS. This Agreement may be executed in a number of counterparts, all of which together shall for all purposes constitute one Agreement, binding on all the Members notwithstanding that all Members have not signed the same counterpart.

SECTION 11.10. APPLICABLE LAW; JURISDICTION. This Agreement and the rights and obligations of the parties hereunder shall be governed by and interpreted, construed and enforced in accordance with the laws of the State of Delaware, without applying the choice of law or conflicts of law provisions thereof. Each of the parties hereby consents to personal jurisdiction, service of process and venue in the federal or state courts sitting in Wilmington, Delaware for any claim, suit or proceeding arising under this Agreement to enforce any arbitration award or obtain equitable relief and hereby irrevocably agrees that all claims in respect of such action or proceeding may be heard and determined in such state court or, to the extent permitted by law, in such federal court (subject to the provisions of Section 11.6 hereof). To the extent permitted by law, each of the parties hereby irrevocably consents to the service of process in any such action or proceeding by the mailing by certified mail of copies of any service or copies of the summons and complaint and any other process to such party at the address specified in Section 11.1 hereof. The parties agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions.

SECTION 11.11. INTERPRETATION. All terms herein using the singular shall include the plural; all terms using the plural shall include the singular; in each case, the term shall be as appropriate to the context of each sentence. Throughout this Agreement, nouns, pronouns and verbs shall be construed as masculine, feminine and neuter, whichever shall be applicable. Any reference to the Code, the Act or other statutes or laws will include all amendments, modifications, or replacements of the specific sections and provisions concerned. The parties intend that this Agreement and the provisions contained herein shall not be construed or interpreted for or against any party hereto because that party drafted or caused that party's legal representative to draft any of its provisions.

SECTION 11.12. SEVERABILITY. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.



SECTION 11.13. CREDITORS. None of the provisions of this Agreement shall be for the benefit of or, to the extent permitted by law, enforceable by any creditor of (i) any Member, (ii) any Employee Stockholder or (iii) the LLC, other than a Member who is also a creditor of the LLC.

SECTION 11.14. REFERENCES TO THIS AGREEMENT. Numbered or lettered articles, sections and subsections herein contained refer to articles, sections and subsections of this Agreement unless otherwise expressly stated. References to paragraphs refer to paragraphs in the same Section unless otherwise expressly stated. References to clauses refer to clauses in the same paragraph unless otherwise expressly stated.

SECTION 11.15. EXHIBITS, SCHEDULES AND ANNEXES. All Exhibits, Schedules and Annexes attached to this Agreement are incorporated and shall be treated as if set forth herein. Only the Manager Member, the CEO and the members of the Management Committee shall have the right to review SCHEDULE A hereto and ANNEX B to the Equity Purchase Program, and each of the Non-Manager Members and Employee Stockholders (in his or her capacity as a Non-Manager Member or Employee Stockholder, as applicable) expressly waives his or her rights under the Act (including without limitation under Section 18-305 thereof) to review SCHEDULE A hereto and ANNEX B to the Equity Purchase Program (and acknowledges and agrees that such waiver is reasonable in light of the interests of the LLC and its Members). Each Non-Manager Member shall have the right to receive a copy of this Agreement and the Exhibits, Schedules and Annexes attached hereto, provided that SCHEDULE A hereto and ANNEX B to the Equity Purchase Program will be redacted as to names, LLC Points, Capital Contributions, the LLC Points which have not yet vested and the vesting schedule with respect to such LLC Points, and other financial information of the other Members, and such Non-Manager Member shall have the right to review only that information regarding such Non-Manager Member's own LLC Points, Capital Contribution, LLC Points which have not yet vested and the vesting schedule with respect to such LLC Points, as well as the total number of outstanding LLC Points and Program LLC Points available for issuance pursuant to the Equity Purchase Program and the total amount of capital contributed by the Members in the aggregate. Notwithstanding the foregoing, the Management Committee may in its sole discretion furnish to any one or more Non-Manager Members (and to the exclusion of any one or more other Non-Manager Members) such additional information relating to SCHEDULE A hereto and ANNEX B to the Equity Purchase Program as the Management Committee (in its sole discretion) determines from time to time.

SECTION 11.16. ADDITIONAL DOCUMENTS AND ACTS. Each Non-Manager Member and Employee Stockholder agrees to execute and deliver such additional documents and instruments and to perform such additional acts as may be reasonably requested by the Manager Member to effectuate, carry out and perform all of the terms, provisions, and conditions of this Agreement and the actions contemplated hereby.

SECTION 11.17. MANAGERS. The members of the Management Committee and the Officers of the LLC shall be deemed to be "managers" within the meaning of Section 303 of the Act and shall have the protections of such Section (provided that, for the avoidance of doubt, no such Person shall be deemed a "manager" within the meaning of the Act for any other purpose hereunder).



SECTION 11.18. GUARANTY OF AMG. AMG hereby unconditionally and irrevocably guarantees the timely performance by the Manager Member of its obligations under Sections 3.11 and 7.1 hereof; PROVIDED, HOWEVER, that the guaranty set forth in this Section 11.18 may be terminated with the prior written consent of the Management Committee, PROVIDED, FURTHER, HOWEVER, that such guarantee may not be terminated if the Manager Member has exercised any of its rights under Section 3.2(b)(v) hereof.

[INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF the Initial Non-Manager Members and the Manager Member have executed and delivered this Amended and Restated Limited Liability Company Agreement as of the day and year first above written.

MANAGER MEMBER:

FA (WY) ACQUISITION COMPANY, INC.

By: /s/ Seth W. Brennan
---
Name: Seth W. Brennan
Title: Executive Vice President

AFFILIATED MANAGERS GROUP, INC.,
solely with respect to its obligations under
Section 11.18 of this Agreement:

By: /s/ Seth W. Brennan
---
Name: Seth W. Brennan
Title: Executive Vice President

NON-MANAGER MEMBERS:

FRIESS ASSOCIATES, INC.

By: /s/ Foster S. Friess
---
Name: Foster S. Friess
Title: President

FOSTER S. FRIESS, as the related Employee
Stockholder of Friess Associates, Inc.

/s/ Foster S. Friess
---
Foster S. Friess

/s/ Lynda J. Campbell
---
Lynda J. Campbell

/s/ William F. D'Alonzo
---
William F. D'Alonzo

/s/ Nathan Dougall
---
Nathan Dougall

/s/ William Dugdale
---
William Dugdale

/s/ Jon S. Fenn
---
Jon S. Fenn

/s/ Carl S. Gates
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Carl S. Gates

/s/ Christopher G. Long
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Christopher G. Long

/s/ Francis Okoniewski
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Francis Okoniewski

/s/ John P. Ragard
- ----------------------------------------
John P. Ragard

/s/ Ethan Steinberg
- ----------------------------------------
Ethan Steinberg

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Exhibit 10.28

EXECUTION COPY

FRIESS ASSOCIATES OF DELAWARE, LLC

AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT

DATED AS OF AUGUST 28, 2001

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# FRIESS ASSOCIATES OF DELAWARE, LLC

## AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT

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This Amended and Restated Limited Liability Company Agreement (the "Agreement") of Friess Associates of Delaware, LLC (the "LLC" or the "Company") is made and entered into as of August 28, 2001, to become effective as of (and subject to the occurrence of) the Effective Time (as defined herein), by and among the Persons identified as the Manager Member and the Non-Manager Members on SCHEDULE A attached hereto as members of the LLC, and any Persons who may become members of the LLC in the future in accordance with the provisions hereof.

WHEREAS, a limited liability company has been formed pursuant to the Delaware Limited Liability Company Act, 6 DEL. C ss.18-101, ET SEQ., as it may be amended from time to time and any successor to such Act (the "Act"), by filing a Certificate of Formation of the LLC with the office of the Secretary of State of the State of Delaware on August 8, 2001, and entering into a Limited Liability Company Agreement of the LLC, dated as of August 8, 2001; and

WHEREAS, pursuant to the Purchase Agreement, AMG has agreed, in each case on the terms and subject to the conditions set forth in the Purchase Agreement, to cause FA (DE) Acquisition Company, LLC ("FA (DE) Acquisition") to purchase (i) from Friess Associates of Delaware, Inc. ("FAID") (A) at the Closing, all of the LLC Interests owned by FAID, other than those LLC Points to be held by FAID as of immediately following the Effective Time (including the Preferred Capital Account Balance associated with such retained LLC Points as of immediately following the Effective Time) as set forth on SCHEDULE A hereto, and (B) at the Subsequent Closing, certain additional LLC Points owned by FAID, and (ii) from Foster Friess at the Closing, all of the LLC Interests owned by Foster Friess; and

WHEREAS, the Members desire to continue the LLC as a limited liability company under the Act and to amend and restate the Limited Liability Company Agreement of the LLC, dated as of August 8, 2001, in its entirety as herein set forth, such amendment and restatement to become effective as of, and subject to the occurrence of, the Effective Time; and

WHEREAS, prior to the Effective Time and pursuant to the Purchase Agreement, the LLC will enter into a services agreement with the WY LLC (the "Services Agreement") pursuant to which, from and after the Effective Time, the LLC will perform various sub-advisory, sub-administrative and other investment management related services for the WY LLC (all as more fully described in the Services Agreement) and be compensated for said services from and after the Effective Time in the manner provided for in the Services Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in consideration of the mutual covenants hereinafter set forth, the parties hereby agree as follows:

## ARTICLE I - DEFINITIONS.

SECTION 1.1. DEFINITIONS. Unless the context otherwise requires, the terms defined in this Article I shall, for the purposes of this Agreement, have the meanings herein specified.

"1940 ACT" shall mean the Investment Company Act of 1940, as it may be amended from time to time, and any successor to such act.

"ACT" shall have the meaning specified in the recitals hereto.

"ADDITIONAL NON-MANAGER MEMBERS" shall have the meaning specified in Section 5.5 hereof.

"ADVISERS ACT" shall mean the Investment Advisers Act of 1940, as it may be amended from time to time, and any successor to such act.

"AFFILIATE" shall mean, with respect to any person or entity (herein the "first party"), any other person or entity that directly or indirectly controls, or is controlled by, or is under common control with, such first party. The term "control" as used herein (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to (a) vote twenty-five percent (25%) or more of the outstanding voting securities of such person or entity, or (b) otherwise direct the management or policies of such person or entity by contract or otherwise. For purposes of this Agreement, the LLC is not an Affiliate of any Member; provided, however, that the LLC and the WY LLC shall be deemed Affiliates of each other for purposes of this Agreement. For purposes of this Agreement, FAI and FAID shall at all times be deemed Affiliates of each other and of Foster Friess.

"AGREEMENT" shall have the meaning specified in the preamble hereto.

"AMG" shall mean Affiliated Managers Group, Inc., a Delaware corporation, and any successors or assigns thereof.

"AMG SHARES" shall mean shares of AMG's common stock, par value $.01 per share.

"APPLICABLE AGGREGATE NON-MANAGER MEMBER ALLOCATION PERCENTAGE" shall mean, as of the date of any transaction described in Section 4.2(e) hereof, the quotient (expressed as a percentage) obtained by dividing (i) the aggregate number of Vested LLC Points held by the Non-Manager Members (other than FAID) as of the date of such transaction by (ii) the number of Vested LLC Points outstanding as of the date of such transaction.

"APPLICABLE FAID ALLOCATION PERCENTAGE" shall mean, as of the date of any transaction described in Section 4.2(e) hereof, the quotient (expressed as a percentage) obtained by dividing (i) the number of Vested LLC Points held by FAID as of the date of such transaction by (ii) the number of Vested LLC Points outstanding as of the date of such transaction.

"APPLICABLE MANAGER MEMBER ALLOCATION PERCENTAGE" shall mean, as of the date of any transaction described in Section 4.2(e) hereof, the quotient (expressed as a percentage) obtained by dividing (i) the aggregate number of Vested LLC Points held by the Manager Member and its



Affiliates as of the date of such transaction by (ii) the number of Vested LLC Points outstanding as of the date of such transaction.

"APPLICABLE SERIES A AGGREGATE NON-MANAGER MEMBER ALLOCATION PERCENTAGE" shall mean, as of the date of any transaction described in Section 4.2(e) hereof, the quotient (expressed as a percentage) obtained by dividing (i) the aggregate number of Vested Series A LLC Points held by the Non-Manager Members holding Series A LLC Points (other than FAID) as of the date of such transaction by (ii) the number of Vested LLC Points outstanding as of the date of such transaction.

"ASSERTED LIABILITY" shall have the meaning specified in Section 10.5(a) hereof.

"AVERAGE AMG STOCK PRICE" shall have the meaning specified in Section 7.1(i) hereof.

"BOOK VALUE" shall mean, as of any date of determination hereunder, an amount equal to the book value of the assets of the LLC, based upon the financial statements of the LLC as of the last day of the fiscal quarter immediately preceding the quarter during which such determination is to be made. Any determination of Book Value hereunder shall be made by the Manager Member in its sole discretion, and such determination shall be binding on all parties absent a mathematical error. For the avoidance of doubt, the book value of the assets of the LLC shall not include any items of intangible property resulting from the purchases of LLC Interests occurring pursuant to the Purchase Agreement and the Management Owner Purchase Agreement.

"CAPITAL ACCOUNT" shall mean the capital account maintained by the LLC with respect to each Member in accordance with the capital accounting rules described in Section 4.2 hereof.

"CAPITAL CONTRIBUTION" shall mean, as to each Member, the amount of money and/or the agreed fair market value of any property (net of any liabilities encumbering such property that the LLC is considered to assume or take subject to) contributed to the capital of the LLC by such Member.

"CARRYING VALUE" shall mean, with respect to any LLC asset, the asset's

adjusted basis for federal income tax purposes, except that the Carrying Values of all LLC assets shall be adjusted to equal their respective Fair Market Values in accordance with the rules set forth in Treasury Regulations Section 1.704-1(b)(2)(iv)(f), except as otherwise provided herein, immediately prior to: (a) the date of the acquisition of any additional LLC Interest by any new or existing Member in exchange for more than a de minimis Capital Contribution; (b) the date of the distribution of more than a de minimis amount of LLC property (other than a pro rata distribution) to a Member; or (c) the date of the termination of the LLC under Section 708(b)(1)(B) of the Code, provided that adjustments pursuant to clauses (a) and (b) above shall be made only if the Manager Member reasonably determines that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members. The Carrying Value of any LLC asset distributed to any Member shall be adjusted immediately prior to such distribution to equal its Fair Market Value.

"CEO" shall have the meaning specified in Section 3.3 hereof.



"CERTIFICATE" shall mean the Certificate of Formation of the LLC filed under the Act, as the same may be amended and/or restated from time to time in accordance with the terms hereof.

"CHARITY" shall have the meaning specified in the Purchase Agreement.

"CLAIMS NOTICE" shall have the meaning specified in Section 10.5(a) hereof.

"CLIENT" shall mean all Past Clients, Present Clients and Potential Clients, subject to the following general rules: (i) with respect to each Client, the term shall also include any Persons which are known to the Employee Stockholder to be Affiliates of such Client, directors, officers or employees of such Client or any such Affiliates thereof, or Persons who are members of the Immediate Family of any of the foregoing Persons or Affiliates of any of them; (ii) with respect to any Client that is a collective investment vehicle (provided that, for the avoidance of doubt, a 401(k) retirement plan shall not itself be considered a "collective investment vehicle" except to the extent a particular Employee Stockholder or Non-Manager Member (as applicable) has actual knowledge of the identities of investors therein), the term shall also include any investor or participant in such Client (provided that, in the case of any collective investment vehicle that is a registered investment company, an investor or participant therein shall not be deemed a "Client" hereunder unless such investor or participant has in the aggregate at least $500,000 under management by the LLC and its Controlled Affiliates (whether through investments in registered investment companies or otherwise)); and (iii) with respect to any Client that is a trust or similar entity, the term shall include the settlor and each of the beneficiaries of such Client and the Affiliates and Immediate Family members of any such Persons.

"CLOSING" shall have the meaning specified in the Purchase Agreement.

"CODE" OR "INTERNAL REVENUE CODE" shall mean the United States Internal Revenue Code of 1986, as from time to time amended, and any successor thereto, together with all regulations promulgated thereunder.

"COMMITTEE VOTE" shall have the meaning specified in Section 3.2(b)(iv) hereof.

"COMPANY" shall have the meaning specified in the preamble hereto.

"CONSENTING PERCENTAGE" shall have the meaning specified in the Purchase Agreement (PROVIDED, HOWEVER, that, solely for purposes of the use of such term in this Agreement and any "Put Option Agreements" (or similar agreements) entered into between the Manager Member and any Employee Stockholder or Non-Manager Member, the Consenting Percentage shall be recalculated as of the Closing True-Up Date (as defined in the Purchase Agreement) to take into account any increase thereto resulting from the inclusion of any Applicable Excluded Contracts as of such date).

"CONTINGENT CONSIDERATION" shall mean, with respect to the Manager Member's (or its assignee's) purchase of LLC Points pursuant to Section 3.11 or Section 7.1 (as applicable), an obligation on the part of the Manager Member (or its successor or assigns) to pay to the Selling Member (or its successors or assigns), on the Liquidation Date, an amount equal to the lesser of:

(i) the portion of the Purchase Price indicated in Section 3.11(f)(i)(D), Section 3.11(f)(ii), Section 3.11(f)(iii)(B) or Section 7.1(f)(ii)(B), as applicable; or

(ii) the amount calculated in clause (i) of this definition, multiplied by a fraction, (A) the numerator of which is the Book Value as of the Liquidation Date, and (B) the denominator of which is the Book Value as of the time the termination of the Selling Member's (or its related Employee Stockholder's, as applicable) employment with the LLC occurred.

Notwithstanding any provision of this Agreement to the contrary (including, without limitation, the provision of Section 3.11(f) hereof), the Manager Member may (without the need for any vote or consent of any Member or Members) assign and delegate its obligation to pay the Contingent Consideration (including, by way of example and not of limitation, to a transferee of LLC Interests pursuant to Section 6.1(a)).

"CONTROLLED AFFILIATE" shall mean, with respect to a Person, any Affiliate of such Person with respect to which such Person possesses (directly or indirectly) the power to direct the management or relevant policies of such Affiliate (by ownership of voting securities, by contract or otherwise); provided, however, that no bona fide collective investment vehicle in which at least a majority in interest of the economic interests are held by third parties shall be deemed a Controlled Affiliate of the LLC. For the avoidance of doubt, the WY LLC shall not be deemed a Controlled Affiliate of the LLC.

"CONVERT" shall have the meaning specified in Section 5.9, hereof, and "Conversion" shall have the corresponding meaning.

"COVERED PERSON" shall mean a Member, any Affiliate of a Member, any officer, director, shareholder, partner, employee or member of a Member or any of its Affiliates, any member of the Management Committee or any Officer.

"DESIGNATED INITIAL MEMBER" shall mean each of FAID, William D'Alonzo, John Ragard and Jon Fenn.

"DE LLC CLOSING PURCHASE PRICE" shall have the meaning specified in the Purchase Agreement.

"DE LLC SUBSEQUENT PURCHASE PRICE" shall have the meaning specified in the Purchase Agreement.

"EFFECTIVE TIME" shall mean the time of the Closing under the Purchase Agreement.

"ELIGIBLE PERSON" shall have the meaning specified in Section 3.2(b)(i) hereof.

"EMPLOYEE STOCKHOLDER" shall mean (a) in the case of any Non-Manager Member which is a natural person, such Non-Manager Member, and (b) in the case of any Non-Manager Member which is not a natural person, that certain employee of the LLC or the WY LLC who is the settlor of or owner of issued and outstanding capital stock of, or other equity interests in, such Non-Manager Member and is listed as such on SCHEDULE A hereto (including any such



employee after such employee has transferred any of his or her interest in such Non-Manager Member to a Permitted Transferee) (and each such Employee Stockholder agrees to cause his or her related Non-Manager Member to comply with the provisions of this Agreement applicable to such Non-Manager Member).

"EMPLOYMENT AGREEMENT" shall have the meaning ascribed thereto in the Purchase Agreement.

"EQUITY PURCHASE PROGRAM" shall mean the LLC's Equity Purchase Program in the form attached hereto as EXHIBIT A.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time, and any successor to such Act.

"FA (DE) ACQUISITION" shall have the meaning specified in the recitals hereto.

"FAI" shall mean Friess Associates, Inc., a Delaware corporation.

"FAID" shall have the meaning specified in the recitals hereto.

"FAIR MARKET VALUE" shall mean the fair market value as reasonably determined by the Manager Member or, for purposes of Section 4.4 hereof, if there shall be no Manager Member, the Liquidating Trustee.

"FOR CAUSE" shall mean, with respect to the termination of an Employee Stockholder's employment with the LLC or with the WY LLC, or his or her removal from the Management Committee or from his or her position as an Officer, any of the following:

(a) The Employee Stockholder has engaged in any criminal act which is or involves a violation of federal or state securities laws or regulations (or equivalent laws or regulations of any country or political subdivision thereof), embezzlement, fraud, wrongful taking or misappropriation of property, theft or any other crime involving dishonesty or other serious felony offense and has been convicted (whether or not subject to appeal) or pled nolo contendre (or any similar plea) to any criminal offense in connection with or relating to such act;

(b) The Employee Stockholder has (i) persistently and willfully failed to perform his or her duties or (ii) failed to devote substantially all of his or her working time to the performance of such duties, and in either such case such failure has continued for a period of not less than thirty (30) days following written notice (provided that the Manager Member shall consult with the Management Committee to the extent practicable prior to making a determination that the actions of an Employee Stockholder constitute "Cause" under this paragraph (b)), except, in the case of an Employee Stockholder who is a party to an Employment Agreement or a Non-Solicitation Agreement, as may be specifically permitted by the terms of such Employment Agreement or Non-Solicitation Agreement; or



(c) The Employee Stockholder has (i) engaged in a Prohibited Competition Activity, (ii) violated or breached any material provision of his or her Employment Agreement or Non-Solicitation Agreement or of this Agreement or the WY LLC Agreement, or (iii) engaged in any of the activities prohibited by Section 3.9 hereof resulting (or reasonably likely to result) (solely in the case of this clause (iii)) in harm that is not immaterial or insignificant to AMG, the Manager Member, the LLC, the WY LLC or any of their respective Controlled Affiliates.

"GAAP" shall mean U.S. generally accepted accounting principles.

"GOVERNMENTAL AUTHORITY" shall mean any foreign, federal, state or local court, governmental authority or regulatory body.

"IMMEDIATE FAMILY" shall mean, with respect to any natural person, (a) such person's spouse, parents, grandparents, children, grandchildren and siblings, (b) such person's former spouse(s) and current spouses of such person's children, grandchildren and siblings and (c) estates, trusts, partnerships and other entities of which a majority of the interests are held directly or indirectly by the foregoing.

"INDEBTEDNESS" shall mean, with respect to a Person, (a) all indebtedness of such Person for borrowed money or for the deferred purchase price of property or services (other than current trade liabilities incurred in the ordinary course of business and payable in accordance with customary practices), (b) any other indebtedness of such Person which is evidenced by a note, bond, debenture or similar instrument, (c) all obligations of such Person under any financing leases, (d) all obligations of such person in respect of acceptances issued or created for the account of such Person, (e) all obligations of such Person under non-competition agreements reflected as liabilities on a balance sheet of such Person in accordance with GAAP, (f) all liabilities secured by any Lien on any property owned by such Persons even though such Person has not assumed or otherwise become liable for the payment thereof, and (g) all net obligations of such Person under interest rate, commodity, foreign currency and financial markets swaps, options, futures and other hedging obligations.

"INDEPENDENT PUBLIC ACCOUNTANTS" shall mean PricewaterhouseCoopers, or such other independent certified public accountant as may be retained by the LLC in the future with the prior written approval of the Manager Member.

"INITIAL LLC POINTS" means, with respect to a Non-Manager Member and its Permitted Transferees, those Series B LLC Points held by such Non-Manager Member in the LLC at the Effective Time together with any Series A LLC Points resulting from the Conversion of such Series B LLC Points and, with respect to FAID, the Subsequent Purchase LLC Points, provided that LLC Points shall cease to be Initial LLC Points from and after the date on which they are acquired by the

Manager Member (or its assignee) or Transferred to any other Person who is not a Permitted Transferee of the transferor.

"INITIAL MEMBERS" shall mean those Persons who are Members at the Effective Time.

"INITIAL PUT LLC POINTS" shall have the meaning specified in Section 7.1(d) hereof.



"INITIAL WY LLC POINTS" shall mean "Initial LLC Points," as defined in the WY LLC Agreement.

"INTELLECTUAL PROPERTY" shall have the meaning specified in Section 3.9(d) hereof.

"INVESTMENT MANAGEMENT SERVICES" shall mean any services which involve (a) the management of an investment account or fund (or portions thereof or a group of investment accounts or funds) for compensation, (b) the giving of advice with respect to the investment and/or reinvestment of assets or funds (or any group of assets or funds) for compensation or (c) otherwise acting as an "investment adviser" within the meaning of the Advisers Act, and performing activities related or incidental thereto.

"IRS" shall mean the Internal Revenue Service of the United States Department of the Treasury, and any successor Governmental Authority thereto.

"LIEN" shall mean any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge or other security interest or any preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement and any financing lease having substantially the same economic effect as any of the foregoing) or any other restrictions, liens or claims of any kind or nature whatsoever, excluding liens of lessors under operating leases that do not extend beyond the property leased. Notwithstanding the foregoing, the following items shall not constitute Liens under this Agreement (i) Liens for taxes, assessments, governmental charges or claims that are being contested in good faith by appropriate legal proceedings promptly instituted and diligently conducted and for which an adequate reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been made; (ii) statutory Liens of landlords and carriers, warehousemen, mechanics, suppliers, materialmen, repairmen or other similar Liens arising in the ordinary course of business and with respect to amounts not yet delinquent or being contested in good faith by appropriate legal proceedings promptly instituted and diligently conducted and for which an adequate reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been made; and (iii) statutory Liens incurred in the ordinary course of business in connection with workers' compensation, unemployment insurances and other types of social security.

"LIQUIDATION DATE" shall mean (a) the date upon which the final distribution is made to the Members under Section 4.4 hereof, or (b) the date of the closing of a transaction under the second paragraph of Section 6.1(a).

"LIQUIDATION PREFERENCE" shall mean, as of any time of determination, an amount equal to the sum of (i) the aggregate positive Capital Account balances of those Members holding Series A LLC Points and/or Series B-1 LLC Points as of such time of determination (or an allocable portion thereof, in the case of any Member holding both Series A LLC Points and Series B-1 LLC Points, on the one hand, and Series B-2 LLC Points, on the other hand, at such time of determination), plus (ii) ten million dollars ($10,000,000), plus (iii) accretion at a rate of ten percent (10%) per annum, calculated from the Effective Time through such time of determination, on a principal amount equal to the aggregate positive Capital Account balances as



of the Effective Time of those Members holding Series A LLC Points and/or Series B-1 LLC Points plus ten million dollars ($10,000,000) (compounded annually).

"LIQUIDATING TRUSTEE" shall have the meaning specified in Section 8.4 hereof.

"LLC" shall have the meaning specified in the preamble hereto.

"LLC INTEREST" means a Member's limited liability company interest in the

LLC, which includes such Member's LLC Points (whether vested or unvested) as well as such Member's Capital Account and other rights under this Agreement and the Act.

"LLC POINTS" shall mean, collectively, the Series A LLC Points and the Series B LLC Points (including the Series B-1 LLC Points and the Series B-2 LLC Points) authorized by the LLC pursuant hereto, entitling the holders thereof to the relative rights, title and interests in the profits, losses, deductions and credits of the LLC at any particular time as are set forth in this Agreement, and any and all other benefits to which a holder thereof may be entitled as a Member as provided in this Agreement (including, without limitation, certain voting rights as set forth herein). With respect to a particular Member as of any date, "LLC Points" shall mean the aggregate number of Series A LLC Points, Series B-1 LLC Points and Series B-2 LLC Points belonging to such Member as set forth on SCHEDULE A hereto, as amended from time to time in accordance with the terms hereof, and as in effect on such date.

"LOSSES" shall have the meaning specified in Section 10.4 hereof.

"MAJORITY VOTE" shall mean the affirmative approval, by vote or written consent, of Non-Manager Members holding a majority of the outstanding LLC Points then held by all Non-Manager Members.

"MANAGEMENT COMMITTEE" shall have the meaning specified in Section 3.2(a) hereof.

"MANAGEMENT OWNER PURCHASE AGREEMENT" shall mean that certain Management Owner Purchase Agreement, dated as of August 28, 2001, by and among AMG and each of the Management Owners (other than Foster Friess), as the same may be amended from time to time.

"MANAGEMENT OWNERS" shall have the meaning ascribed thereto in the Purchase Agreement.

"MANAGER MEMBER" shall mean FA (DE) Acquisition, and any Person who becomes a successor Manager Member as provided herein; PROVIDED, HOWEVER, that if any Affiliate of the Manager Member shall at any time hold LLC Points, such LLC Points shall be treated in the identical manner as LLC Points held by the Manager Member for all purposes under this Agreement (including without limitation the allocation provisions contained in Section 4.2 hereof, the distribution provisions contained in Sections 4.3 and 4.4 hereof, and the transfer provisions contained in Section 6 hereof).

"MEMBERS" shall mean any Person admitted to the LLC as a "member" within the meaning of the Act, which includes the Manager Member and the Non-Manager Members (unless otherwise indicated), and includes any Person admitted as a substitute Non-Manager Member



or an Additional Non-Manager Member pursuant to the provisions of this Agreement, in such Person's capacity as a member of the LLC (unless otherwise indicated). For purposes of the Act, the Members shall constitute one (1) class or group of members.

"NON-MANAGER MEMBER" shall mean any Person admitted to the LLC as a Member pursuant to the terms hereof, other than the Manager Member.

"NONRECOURSE DEDUCTIONS" shall have the meaning set forth in Treasury Regulations Section 1.704-2(b). The amount of Nonrecourse Deductions for a partnership taxable year equals the net increase, if any, in the amount of Partnership Minimum Gain during that partnership taxable year, reduced (but not below zero) by the aggregate distributions made during the year of proceeds of a nonrecourse liability that are allocable to an increase in Partnership Minimum Gain, determined according to the provisions of Treasury Regulations Section 1.704-2(c).

"NON-SOLICITATION AGREEMENT" shall have the meaning ascribed thereto in the Purchase Agreement.

"NOTICE DEADLINE" shall have the meaning specified in Section 7.1(d) hereof.

"NOTICES" shall have the meaning specified in Section 11.1 hereof.

"OFFICERS" shall have the meaning specified in Section 3.3 hereof.

"OPERATING ALLOCATION" shall mean, for any period, an amount equal to the Revenues From Operations for such period.

"PARTNER NONRECOURSE DEBT MINIMUM GAIN" shall mean an amount with respect to each partner nonrecourse debt (as defined in Treasury Regulations Section 1.704-2(b)(4)) equal to the Partnership Minimum Gain that would result if such partner nonrecourse debt were treated as a nonrecourse liability (as defined in Treasury Regulations Section 1.752-1(a)(2)) determined in accordance with Treasury Regulations Section 1.704-2(i)(3).

"PARTNER NONRECOURSE DEDUCTIONS" shall have the meaning set forth in Treasury Regulations Section 1.704-2(i)(2).

"PARTNERSHIP MINIMUM GAIN" shall have the meaning set forth in Treasury Regulations Sections 1.704-2(b)(2) and 1.704-2(d).

"PAST CLIENT" shall mean at any particular time, any Person who at any point prior to such time had been an advisee or investment advisory customer of, or otherwise a recipient of Investment Management Services from, the LLC or the WY LLC (including, without limitation, either of their predecessors, FAID and FAI, or any predecessor thereto) or a Controlled Affiliate of the LLC, the WY LLC or any such predecessor, but at such time is not an advisee or investment advisory customer or client of, or recipient of Investment Management Services from, the LLC, the WY LLC or any of their Controlled Affiliates (directly or indirectly).



"PERMANENT INCAPACITY" shall mean, with respect to an Employee Stockholder, that such Employee Stockholder has been permanently and totally unable, by reason of injury, illness or other similar cause (determined pursuant to the process set forth in the following sentence) to have performed his or her substantial and material duties and responsibilities for a period of three hundred sixty-five (365) consecutive days, which injury, illness or similar cause (as determined pursuant to such process) also would render such Employee Stockholder incapable of operating in a similar capacity during the twelve-month period following such three hundred sixty-five (365) days. The foregoing determination shall be made by a licensed physician selected jointly by the Management Committee and the Manager Member (in the case of a termination of an Employee Stockholder's employment with the LLC, if such Employee Stockholder is employed by the LLC), or in the manner provided for in the definition of "Permanent Incapacity" contained in the WY LLC Agreement (in the case of a termination of an Employee Stockholder's employment with the WY LLC, if such Employee Stockholder is employed by the WY LLC); PROVIDED, HOWEVER, that if such Employee Stockholder is employed by the LLC and the Manager Member or the LLC (with the prior written consent of the Manager Member granted after the Effective Time) has purchased lump-sum key-man disability insurance with respect to such Employee Stockholder, which policy is then in effect, then such determination shall be made either (i) by an agreement between such physician and a physician selected by the insurance company with which the Manager Member or the LLC has entered into such insurance policy, or, if the two physicians cannot arrive at an agreement, a third physician will be chosen by the first two physicians, and the majority decision of the three physicians will then be binding, or (ii) if a different procedure is then required under such insurance policy, then by using such other procedure as may then be required by the insurance company issuing such policy.

"PERMITTED TRANSFEREE" shall mean, with respect to any Non-Manager Member, its transferees pursuant to the provisions of Sections 5.1(b) and 5.1(c) hereof and, solely to the extent expressly so provided in any consent of either the Management Committee or the Manager Member pursuant to Section 5.1(a), its transferees pursuant to Section 5.1(a) hereof (and in the absence of such an express provision, transferees pursuant to the provisions of Section 5.1(a) shall not be deemed "Permitted Transferees" of the transferor Non-Manager Member hereunder).

"PERSON" means any individual, partnership (limited or general), corporation, limited liability company, limited liability partnership, association, trust, joint venture, unincorporated organization or other entity.

"POTENTIAL CLIENT" shall mean, at any particular time, any Person to whom the LLC or the WY LLC (including, without limitation, either of their predecessors, FAID and FAI, or any predecessors thereto), a Controlled Affiliate of the LLC or the WY LLC or any such predecessor, or any director, officer employee, agent or consultant (or persons acting in any similar capacity) of any such Person (acting on their behalf), has, within two (2) years prior to such time, offered (whether by means of a personal meeting or by telephone call, letter, written proposal or otherwise) to provide Investment Management Services, but who is not at such time an investment advisory customer of, or otherwise a recipient of Investment Management Services from, the LLC, the WY LLC or any of their Controlled Affiliates (directly or indirectly). The

preceding sentence is meant to exclude (i) advertising, if any, through mass media in which the offer, if any, is available to the general public, such as magazines, newspapers and sponsorships



of public events and (ii) "cold calls" and mass-mailing form letters, in each case to the extent not directed towards any particular Person and not resulting in an indication of interest or a request for further information.

"PREFERRED CAPITAL ACCOUNT BALANCE" shall mean (i) with respect to the Manager Member, (A) the DE LLC Closing Purchase Price plus (B) from and after the date of the Subsequent Purchase, the DE LLC Subsequent Purchase Price, (ii) with respect to FAID, (A) the DE LLC Closing Purchase Price multiplied by 49/51, minus (B) from and after the date of the Subsequent Purchase, the dollar amount determined in clause (A) multiplied by 19/49, and (iii) with respect to each other Non-Manager Member, $0.

"PRESENT CLIENT" shall mean, at any particular time, any Person who is at such time an advisee or investment advisory customer of, or otherwise a recipient of Investment Management Services from, the LLC, the WY LLC or any of their Controlled Affiliates (directly or indirectly).

"PROGRAM PUT LLC POINTS" shall have the meaning specified in Section 7.1(d) hereof.

"PROGRAM TRANSFER" shall have the meaning specified in Section 7.1(c) hereof.

"PROHIBITED COMPETITION ACTIVITY" shall mean any of the following activities:

(a) directly or indirectly, whether as owner, part owner, member, director, officer, trustee, employee, agent or consultant for or on behalf of any Person other than the LLC, the WY LLC or any of their Controlled Affiliates: (i) diverting or taking away any funds or investment accounts with respect to which the LLC, the WY LLC or any of their Controlled Affiliates is performing Investment Management Services (other than funds of which the applicable Employee Stockholder or Non-Manager Member and/or members of its Immediate Family are the sole beneficial owners, subject to any applicable restrictions relating thereto set forth in the Purchase Agreement); or (ii) soliciting any Person to divert or take away any such funds or investment accounts (other than funds of which the applicable Employee Stockholder or Non-Manager Member and/or members of its Immediate Family are the sole beneficial owners, subject to any applicable restrictions relating thereto set forth in the Purchase Agreement); or

(b) directly or indirectly, whether as owner, part owner, partner, member, director, officer, trustee, employee, agent or consultant for or on behalf of any Person other than the LLC, the WY LLC or any of their Controlled Affiliates, performing any Investment Management Services (provided that an Employee Stockholder who directly performs Investment Management Services for his or her own account or a member of his or her Immediate Family without a fee or other remuneration, shall not be considered to have engaged in a Prohibited Competition Activity).

"PURCHASE" shall have the meaning specified in Section 3.11(a).

"PURCHASE AGREEMENT" shall mean that certain Purchase Agreement, dated as of August 28, 2001, by and among AMG, FAI and its stockholders, FAID and its stockholders and the Charities, as the same may be amended from time to time.



"PURCHASE AGREEMENTS" shall mean, collectively, the Purchase Agreement and the Management Owner Purchase Agreement.

"PURCHASE CLOSING DATE" shall have the meaning specified in Section 3.11(b).

"PURCHASE PRICE" shall have the meaning specified in Section 3.11(c).

"PURCHASE PROGRAM POINTS" shall mean Series B-2 LLC Points that have been sold and transferred pursuant to the Equity Purchase Program, together with any Series A LLC Points resulting from the Conversion of such Series B-2 LLC Points following their sale and transfer pursuant to the Equity Purchase Program;

provided that LLC Points shall cease to be Purchase Program Points at such time as they are purchased by the Manager Member (or its assignee) pursuant to Section 3.11 or Section 7.1 of this Agreement from a Member who acquired such Purchase Program Points in a sale and transfer pursuant to the Equity Purchase Program (but thereafter shall continue to be LLC Points notwithstanding such purchase).

"PURCHASE PROGRAM POINTS FMV" shall have the meaning set forth in Section 3.11(c)(iv).

"PURCHASE PROGRAM PUT LLC POINTS" shall have the meaning specified in Section 7.1(d).

"PURCHASE PROGRAM SALE" shall have the meaning specified in Section 7.1(c).

"PURCHASE RESERVE" shall mean the number of Series B-2 LLC Points available for sale and transfer pursuant to the Equity Purchase Program at any time. At the Effective Time, there are 5,000 Series B-2 LLC Points in the Purchase Reserve (all of which are outstanding and held by FAID as of the Effective Time (subject to subsequent Conversion to Series A LLC Points on the fifth (5th) anniversary of the Effective Time if such LLC Points continue to be held by FAID), subject to Conversion to Series B-2 LLC Points pursuant to Section 5.9 hereof upon sale and transfer pursuant to the Equity Purchase Program).

"PUT" shall have the meaning specified in Section 7.1(a) hereof.

"PUT LLC POINTS" shall have the meaning specified in Section 7.1(d) hereof.

"PUT NOTICE" shall have the meaning specified in Section 7.1(d) hereof.

"PUT PRICE" shall have the meaning specified in Section 7.1(e) hereof.

"PUT PURCHASE DATE" shall have the meaning specified in Section 7.1(b) hereof.

"REGULATORY ALLOCATIONS" shall have the meaning specified in Section 4.5(f) hereof.

"REMOVAL FOR ACTING CONTRARY TO THE BEST INTERESTS OF THE LLC" shall mean, with respect to a Non-Manager Member, a determination by (i) the Management Committee (excluding for all purposes the Non-Manager Member whose removal is being considered (or its related Employee Stockholder, as applicable), other than in the case of any Designated Initial Member, who shall be permitted to participate in such determination in accordance with Section 3.3 hereof), with the prior written consent of the Manager Member granted after the Effective Time, or (ii) the



Manager Member, in either such case to remove such Non-Manager Member as a member of the LLC following a termination of the employment of such Non-Manager Member (or the Employee Stockholder which is related to such Non-Manager Member, as applicable) after the Non-Manager Member (or its related Employee Stockholder, as applicable) has engaged in conduct falling within the definition of For Cause hereunder or been found to have engaged in Unsatisfactory Performance hereunder.

"REMOVAL UPON THE INSTRUCTION OF THE MANAGEMENT COMMITTEE" shall mean, with respect to a Non-Manager Member, a determination by the Management Committee (excluding for all purposes the Non-Manager Member whose removal is being considered (or its related Employee Stockholder, as applicable), other than in the case of any Designated Initial Member, who shall be permitted to participate in such determination in accordance with Section 3.3 hereof), with the prior written consent of the Manager Member granted after the Effective Time, to remove such Non-Manager Member as a member of the LLC following a termination of the employment of such Non-Manager Member (or the Employee Stockholder which is related to such Non-Manager Member, as applicable) with the LLC for any reason other than those described in the definition of Removal For Acting Contrary to the Best Interests of the LLC (and, for the avoidance of doubt, any Purchase under Section 3.11 hereof following a termination at the election of the LLC of the employment of a Non-Manager Member (or its related Employee Stockholder) for any reason other than those described in the definition of Removal For Acting Contrary to the Best Interests of the LLC shall be deemed a Removal Upon the Instruction of the Management Committee).

"RETIREMENT" shall mean (i) with respect to an Employee Stockholder who is

employed by the LLC, the termination by such Employee Stockholder of such Employee Stockholder's employment with the LLC (a) after the date such Employee Stockholder shall have been continuously employed by the LLC for a period of fifteen (15) years commencing with the later of the Effective Time or the date such Employee Stockholder commenced his or her employment with the LLC (not including its predecessors, FAID and FAI), as applicable, except to the extent a period shorter than fifteen (15) years has been expressly specified (with the Manager Member's prior written consent granted after the Effective Time in its sole discretion, provided that the Manager Member also shall be deemed to have consented after the Effective Time to those Retirement dates expressly set forth in the Employment Agreements and Non-Solicitation Agreements of even date herewith that have been executed by FA (DE) Acquisition or FA (WY) Acquisition) in any Employment Agreement or Non-Solicitation Agreement entered into between the LLC and such Employee Stockholder (in which case such shorter period shall apply in lieu of such fifteen (15) year period), and (b) pursuant to a written notice given to the LLC and the Manager Member not less than one (1) year prior to the date of such termination (or such longer notice period as may be expressly specified in such Employee Stockholder's Employment Agreement or Non-Solicitation Agreement with the Manager Member's prior written consent granted after the Effective Time in its sole discretion), and (ii) with respect to an Employee Stockholder who is employed by the WY LLC, such Employee Stockholder's retirement in accordance with the provisions therefor included in the definition of "Retirement" contained in the WY LLC Agreement.

"REVENUES FROM OPERATIONS" shall mean, for any period, the consolidated gross revenues of the LLC and any Controlled Affiliates thereof (excluding any portion of the gross revenues of



a Controlled Affiliate of the LLC attributable to minority equity interests therein held by Persons other than the LLC, the WY LLC, the Non-Manager Members or any of their respective Affiliates or Immediate Family members, in each case except to the extent otherwise agreed to in writing by the Management Committee and the Manager Member after the Effective Time), determined on an accrual basis in accordance with GAAP consistently applied (but including other income such as interest, dividend income and proceeds from the sale of assets, except to the extent otherwise expressly provided in the following proviso); PROVIDED, HOWEVER, that Revenues From Operations shall not include (a) proceeds from the sale, exchange or other disposition of all, or substantially all, of the assets of the LLC and its Controlled Affiliates and the WY LLC and its Controlled Affiliates (and any such proceeds shall be allocated in accordance with Sections 4.2(e) and 4.2(f) hereof), (b) revenues from the issuance by the LLC of additional LLC Points, other LLC Interests or other securities issued by the LLC or any of its Controlled Affiliates (and any such proceeds shall be utilized in accordance with Section 4.5(g) hereof), (c) payments received from FAI, FAID, either of the Charities or any of the Management Owners by reason of indemnification obligations under the Purchase Agreement or the Management Owner Purchase Agreement (as applicable) (however provided, including pursuant to one of the offset mechanisms specified in Section 13 of the Purchase Agreement or Section 10 of the Management Owner Purchase Agreement resulting in such funds being retained by the LLC instead of being paid to any such Person) (and any such payments shall be deemed an adjustment to the Purchase Price under the Purchase Agreement and a corresponding Capital Contribution to the LLC by the Manager Member, and shall be utilized in accordance with the last paragraph of Section 3.5(c)) and (d) interest payments made by the LLC or the WY LLC to the other in respect of any Working Capital Loans outstanding from time to time (and any such payments shall be added directly to the Operating Allocation of the WY LLC for the period in which they are accrued).

"SEC" shall mean the Securities and Exchange Commission, and any successor Governmental Authority thereto.

"SECURITIES ACT" shall mean the Securities Act of 1933, as it may be amended from time to time, and any successor thereto.

"SELLING MEMBER" shall have the meaning specified in Section 3.11(a).

"SERIES A LLC POINTS" shall mean, as of any date, with respect to a Member, the number of Series A LLC Points of such Member as set forth on Schedule A hereto, as amended from time to time in accordance with the terms hereof, and as in effect on such date. Series A LLC Points shall have the rights and preferences set forth in this Agreement, but except where otherwise specified shall be treated as one class of LLC Points with the Series B-1 LLC Points and the Series B-2 LLC Points.

"SERIES B LLC POINTS" shall mean, as of any date, with respect to a Member, the aggregate number of Series B-1 LLC Points and Series B-2 LLC Points of such Member as set forth on Schedule A hereto, as amended from time to time

in accordance with the terms hereof, and as in effect on such date. Series B LLC Points shall have the rights and preferences set forth in this Agreement, but except where otherwise specified shall be treated as one class of LLC Points with the Series A LLC Points.



"SERIES B-1 LLC POINTS" shall mean, as of any date, with respect to a Member, the number of Series B-1 LLC Points of such Member as set forth on Schedule A hereto, as amended from time to time in accordance with the terms hereof, and as in effect on such date. Series B-1 LLC Points shall have the rights and preferences set forth in this Agreement, but except where otherwise specified shall be treated as one class of LLC Points with the Series B-2 LLC Points and the Series A LLC Points.

"SERIES B-2 LLC POINTS" shall mean, as of any date, with respect to a Member, the number of Series B-2 LLC Points of such Member as set forth on Schedule A hereto, as amended from time to time in accordance with the terms hereof, and as in effect on such date. Series B-2 LLC Points shall have the rights and preferences set forth in this Agreement, but except where otherwise specified shall be treated as one class of LLC Points with the Series B-1 LLC Points and the Series A LLC Points.

"SERVICES AGREEMENT" shall have the meaning specified in the recitals hereto.

"SERVICES PAYMENTS" shall mean payments required to be made to the LLC pursuant to the Services Agreement.

"STOCK PRICE" shall have the meaning specified in Section 7.1(i) hereof.

"SUBSEQUENT CLOSING" shall have the meaning specified in the Purchase Agreement.

"SUBSEQUENT PURCHASE" shall have the meaning specified in the Purchase Agreement.

"SUBSEQUENT PURCHASE LLC POINTS" shall mean those Series A LLC Points held by FAID to be purchased in the Subsequent Purchase pursuant to the Purchase Agreement.

"TRANSFER" shall have the meaning specified in Section 5.1 hereof, and "Transferred" shall have the correlative meaning.

"UNSATISFACTORY PERFORMANCE" shall mean (i) in the case of a termination of an Employee Stockholder's employment with the LLC (if such Employee Stockholder is employed by the LLC), a written determination by the CEO, with the written consent of the Manager Member granted after the Effective Time, that an Employee Stockholder has failed to meet minimum requirements of satisfactory performance of his or her job, after such Employee Stockholder has received written notice (with a copy to the Manager Member) that the Management Committee was considering such a determination and the Employee Stockholder has had a reasonable opportunity to respond in writing or in person (at such Employee Stockholder's request) after his or her receipt of such notice, and (ii) in the case of a termination of an Employee Stockholder's employment with the WY LLC (if such Employee Stockholder is employed by the WY LLC), a determination of unsatisfactory performance made in accordance with the provisions therefor included in the definition of "Unsatisfactory Performance" contained in the WY LLC Agreement.

"VESTED LLC POINTS" shall mean, at any time and with respect to any Member, the number of LLC Points held by such Member which have vested at such time, as determined pursuant to an agreement among the LLC, the Manager Member and such Member in connection



with the issuance or transfer of such LLC Points, and "Vested Series A LLC Points", "Vested Series B LLC Points", "Vested Series B-1 LLC Points", and "Vested Series B-2 LLC Points" shall have the corresponding meanings. The number of Vested LLC Points held by each member and the vesting schedule with respect to LLC Points which are not vested, shall be indicated on SCHEDULE A hereto, which Schedule shall be updated by the Manager Member as additional LLC Points are issued and/or vest from time to time. For the avoidance of doubt, (i) all of the Initial LLC Points shall be deemed Vested LLC Points as of the Effective Time (including any such Initial LLC Points that are subsequently Transferred pursuant to the Equity Purchase Program), (ii) any outstanding LLC Points held

by the Manager Member or any of its Affiliates shall be deemed Vested LLC Points while held by any of such Persons, and (iii) any outstanding LLC Points which have not yet vested as of any time of determination shall nonetheless be deemed outstanding LLC Points (but not "Vested LLC Points") as of such time of determination for all purposes under this Agreement.

"VESTED WY LLC POINTS" shall have the meaning specified in the WY LLC Agreement.

"WORKING CAPITAL LOAN" shall mean a loan made by the LLC to the WY LLC, or by the WY LLC to the LLC, in either case on arms' length terms either (i) in the reasonable discretion of the Management Committee and the "Management Committee" of the WY LLC, if such loan is to be made out of the Operating Allocation, or (ii) with the prior written consent of the "Manager Member" and the "Management Committee" of the WY LLC granted after the Effective Time (in each of their sole discretion), if such loan is to be made out of the Owners' Allocation of the WY LLC, PROVIDED that, in either such case, the documentation relating to such loan shall be written and shall be in form and substance reasonably satisfactory to the Manager Member and the Management Committee (and to the "Manager Member" and the "Management Committee" of the WY LLC) and approved by each of them in writing after the Effective Time.

"WY LLC" shall mean Friess Associates, LLC, a Delaware limited liability company.

"WY LLC AGREEMENT" shall mean the Amended and Restated Limited Liability Company Agreement of the WY LLC of even date herewith, as the same may be amended from time to time in accordance with the terms thereof.

"WY LLC INTEREST" shall have the meaning specified in the WY LLC Agreement.

"WY LLC MANAGER MEMBER" shall mean the "Manager Member" of the WY LLC, as such term is defined in the WY LLC Agreement.

"WY LLC POINTS" shall have the meaning specified in the WY LLC Agreement.

In addition to the foregoing, other capitalized terms used in this Agreement shall have the meaning ascribed thereto in the text of this Agreement.



## ARTICLE II - ORGANIZATION AND GENERAL PROVISIONS.

SECTION 2.1. CONTINUATION.

(a) Effective as of (and subject to the occurrence of) the Effective Time, the Members hereby agree to continue the LLC as a limited liability company under and pursuant to the provisions of the Act, and agree that the rights, duties and liabilities of the Members shall be as provided in the Act, except as otherwise provided herein; PROVIDED, HOWEVER, that, in the event that an Employee Stockholder's employment with FAI, FAID and all of their Affiliates (including without limitation the WY LLC) is terminated for any reason prior to the Effective Time, such Employee Stockholder (and its related Non-Manager Member, if any) shall cease to be a party hereto upon such termination of employment (and shall not have any rights, duties or liabilities hereunder). In the event that the Purchase Agreement is terminated in accordance with its terms prior to the Effective Time, this Agreement shall have no effect and shall be null and void without any Person being required to take any action.

(b) Upon the execution of this Agreement or a counterpart of this Agreement, the Initial Members shall continue as members of the LLC.

(c) The name, LLC Points and Capital Contribution of each Member (including the agreed value of such Capital Contribution) shall be listed on SCHEDULE A attached hereto. The Manager Member shall update SCHEDULE A from time to time as it deems necessary in accordance with this Agreement, to accurately reflect the information to be contained therein. Any amendment or revision to SCHEDULE A shall not be deemed an amendment to this Agreement. Any reference in this Agreement to SCHEDULE A shall be deemed to be a reference to SCHEDULE A as amended and in effect from time to time.

(d) The Manager Member, as an authorized person within the meaning of the Act, shall execute, deliver and file any certificates required or permitted by the Act to be filed in the office of the Secretary of State of the State of Delaware.

SECTION 2.2. NAME. The name of the LLC heretofore formed and continued hereby is Friess Associates of Delaware, LLC. At any time the Management Committee, with the written consent of the Manager Member granted after the Effective Time, may change the name of the LLC. The business of the LLC (and of any Controlled Affiliate of the LLC) may be conducted (upon compliance with all applicable laws) under any other name designated by the Management Committee with the prior written consent of the Manager Member granted after the Effective Time (and the LLC and its Controlled Affiliates shall in no event conduct business under other names without such agreement of the Management Committee and the Manager Member, subject to Section 2.6).

SECTION 2.3. TERM. The term of the LLC commenced on the date the Certificate was filed in the Office of the Secretary of State of the State of Delaware and shall continue until the LLC is dissolved in accordance with the provisions of this Agreement.

SECTION 2.4. REGISTERED AGENT AND REGISTERED OFFICE. The LLC's registered agent and registered office in Delaware shall be Corporation Service Company, 1013 Center Road,



Wilmington, New Castle County, Delaware 19085. At any time, the Manager Member may designate another registered agent and/or registered office.

SECTION 2.5. PRINCIPAL PLACE OF BUSINESS. The principal place of business of the LLC (and any Controlled Affiliates of the LLC) shall be at 3711 Kennett Pike, Greenville, Delaware 19807. At any time the Management Committee may change the location of the LLC's (or any Controlled Affiliate's) principal place of business (and the LLC's and its Controlled Affiliates' principal place of business shall in no event be changed without the written agreement of the Management Committee and, if such location is to be changed to outside of Greenville, Delaware, the written agreement of the Manager Member).

SECTION 2.6. QUALIFICATION IN OTHER JURISDICTIONS. The Management Committee shall cause the LLC (and any Controlled Affiliates thereof) to be qualified or registered (under assumed or fictitious names if necessary) in any jurisdiction in which they transact business or in which such qualification or registration otherwise is required.

SECTION 2.7. PURPOSES AND POWERS. The principal business activity and purposes of the LLC (and any Controlled Affiliates thereof) shall be to engage in the investment advisory and investment management business and any businesses related thereto or useful in connection therewith (including the provision of trust and other fiduciary services). However, the business and purposes of the LLC (and any Controlled Affiliates thereof) shall not be limited to such initial principal business activities if the Management Committee and the Manager Member otherwise agree in writing, and in such event, the LLC (and any Controlled Affiliates thereof) shall have authority to engage in any other lawful business, purpose or activity permitted by the Act. The LLC shall possess and may exercise all of the powers and privileges granted by the Act, together with any powers incidental thereto, including such powers or privileges that are necessary or convenient to the conduct, promotion or attainment of the business purposes or activities of the LLC, including without limitation the following powers:

(a) to conduct its business and operations and to have and exercise the powers granted to a limited liability company by the Act in any state, territory or possession of the United States or in any foreign country or jurisdiction;

(b) to purchase, receive, take, lease or otherwise acquire, own, hold, improve, maintain, use or otherwise deal in and with, sell, convey, lease, exchange, transfer or otherwise dispose of, mortgage, pledge, encumber or create a security interest in all or any of its real or personal property, or any interest therein, wherever situated;

(c) to borrow or lend money or obtain or extend credit and other financial accommodations, to invest and reinvest its funds in any type of security or obligation of or interest in any public, private or governmental entity, and to give and receive interests in real and personal property as security for the payment of funds so borrowed, loaned or invested;

(d) to make contracts, including contracts of insurance, incur liabilities and give guaranties, including without limitation, guaranties of obligations of other Persons who are interested in the LLC or in whom the LLC has an interest;

(e) to employ Officers, employees, agents and other persons, to fix the compensation and define the duties and obligations of such personnel, to organize committees of the Management Committee, to delegate to such personnel and committees the Management Committee's power and authority, to establish and carry out retirement, incentive and benefit plans for such personnel, and to indemnify such personnel to the extent permitted by this Agreement and the Act;

(f) to make donations irrespective of benefit to the LLC for the public welfare or for community, charitable, religious, educational, scientific, civic or similar purposes;

(g) to institute, prosecute, and defend any legal action or arbitration proceeding involving the LLC, and to pay, adjust, compromise, settle, or refer to arbitration any claim by or against the LLC or any of its assets;

(h) to indemnify any Person in accordance with the Act and to obtain any and all types of insurance;

(i) to negotiate, enter into, renegotiate, extend, renew, terminate, modify, amend, waive, execute, acknowledge or take any other action with respect to any lease, contract or security agreement in respect of any assets of the LLC;

(j) to form, sponsor, organize or enter into joint ventures, general or limited partnerships, limited liability companies, trusts and any other combinations or associations formed for investment purposes;

(k) to make, execute, acknowledge and file any and all documents or instruments necessary, convenient or incidental to the accomplishment of the purposes of the LLC; and

(l) to cease its activities and cancel its Certificate.

SECTION 2.8. TITLE TO PROPERTY. All property owned by the LLC, real or personal, tangible or intangible, shall be deemed to be owned by the LLC as an entity, and no Member, individually, shall have any ownership of such property.

## ARTICLE III - MANAGEMENT OF THE LLC.

SECTION 3.1. MANAGEMENT IN GENERAL.

Subject to the other terms and conditions of this Agreement, including the delegations of power and authority set forth herein, the management and control of the business of the LLC shall be vested exclusively in the Manager Member, and the Manager Member shall have exclusive power and authority, in the name of and on behalf of the LLC, to perform all acts and do all things which, in its sole discretion, it deems necessary or desirable to conduct the business of the LLC, with or without the vote or consent of the other Members in their capacity



as such; PROVIDED, HOWEVER, that the Manager Member's power and authority over those matters delegated exclusively to the Management Committee pursuant to Section 3.5 of this Agreement shall be limited to (i) the Manager Member's power and authority under Section 3.2(b)(v) to designate members of the Management Committee and (ii) such other power and authority as is expressly granted or reserved to the Manager Member by other provisions of this Agreement (other than this Section 3.1(a)). Members, in their capacity as such, shall have no right to amend or terminate this Agreement or to appoint, select, vote for or remove the Manager Member, the Officers or their agents or to exercise voting rights or call a meeting of the Members, except as specifically provided in this Agreement. No Member other than the Manager Member shall have the power to sign for or bind the LLC in its capacity as a Member, but the Manager Member may delegate the power to sign for or bind the LLC to one or more Officers (including without limitation through delegation to the Management Committee).

(a) The Manager Member shall, subject to all applicable provisions of this Agreement and the Act, be authorized in the name of and on behalf of the LLC (subject to the limitations on the authority of the Manager Member set forth herein): (i) to enter into, execute, amend, supplement, acknowledge and deliver any and all contracts, agreements, leases or other instruments for the operation of the LLC's business; and (ii) in general to do all things and execute all documents necessary or

appropriate to conduct the business of the LLC as set forth in Section 2.7 hereof, or to protect and preserve the LLC's assets. The Manager Member may delegate any or all of the foregoing powers to one or more of the Officers (including without limitation through delegation to the Management Committee).

(b) The Manager Member is required to be a Member, and shall hold office until its resignation in accordance with the provisions hereof. The Manager Member is the "manager" (within the meaning of the Act) of the LLC. The Manager Member shall devote such time to the business and affairs of the LLC as it deems necessary, in its sole discretion, for the performance of its duties, but in any event, shall not be required to devote full time to the performance of such duties and may delegate its duties and responsibilities as provided herein.

(c) Any action taken by the Manager Member, and the signature of the Manager Member (or an authorized representative thereof) on any agreement, contract, instrument or other document on behalf of the LLC, shall be sufficient to bind the LLC and shall conclusively evidence the authority of the Manager Member and the LLC with respect thereto (in each case subject to the limitations on the authority of the Manager Member set forth herein).

(d) Any Person dealing with the LLC, the Manager Member or any Member may rely upon a certificate signed by the Manager Member as to (i) the identity of the Manager Member or any other Member; (ii) any factual matters relevant to the affairs of the LLC; (iii) the Persons who are authorized to execute and deliver any document on behalf of the LLC; or (iv) any action taken or omitted by the LLC or the Manager Member.



SECTION 3.2. MANAGEMENT COMMITTEE OF THE LLC.

(a) The LLC shall have a Management Committee (the "Management Committee") which shall have the power and authority delegated to it under this Section 3.2 and under Sections 3.5(a) and 3.5(b) of this Agreement to conduct the day-to-day operations, business and activities of the LLC. Each Non-Manager Member hereby grants to the Management Committee (acting by a Committee Vote), a revocable proxy to vote the LLC Points held by such Member in connection with any election pursuant to Section 3.2(b)(ii) hereof to fill a vacancy in the Management Committee, and such proxy may only be revoked by written notice from a Member to the Management Committee and the Manager Member, which written notice must expressly reference this Section of this Agreement.

(b) The Management Committee shall be comprised as follows:

(i) The Management Committee shall initially have five (5) members and consist of Foster Friess, William D'Alonzo, Jon Fenn, John Ragard and Christopher Long. The number of members of the Management Committee may be increased or decreased by the Management Committee at any time with the written consent of the Manager Member granted after the Effective Time, such consent not to be unreasonably withheld (but, subject to clause (ii) below, not decreased to a number less than three (3) members). No person who is not both (A) an active employee of either the LLC or the WY LLC and (B) an Employee Stockholder (an "Eligible Person") may be, become or remain a member of the Management Committee (subject to clause (v) below). The Employee Stockholders and the Non-Manager Members shall ensure that the Management Committee of the LLC shall at all times be comprised of the same persons as the "Management Committee" of the WY LLC (as such term is defined in the WY LLC Agreement).

(ii) Any vacancy in the Management Committee however occurring (including a vacancy resulting from an increase in the size of the Management Committee) may be filled by any Eligible Person reasonably acceptable to the Manager Member and elected by a majority vote of all Members holding LLC Points, with each LLC Point (regardless of whether such LLC Point is a Series A LLC Point or a Series B LLC Point) being counted equally in such vote. In lieu of any such vacancy being filled, the Management Committee may determine to reduce the size of the Management Committee in accordance with clause (i) above (but not, without the prior written consent of the Manager Member granted after the Effective Time, to a number less than three (3) members); provided that if at any time there are fewer than three (3) members of the Management Committee, such vacancies must be filled and, if they remain unfilled for a period of greater than five days, shall be filled by any Eligible

Person reasonably acceptable to the Manager Member and elected by a majority vote of all Members holding LLC Points, with each LLC Point (regardless of whether such LLC Point is a Series A LLC Point or a Series B LLC Point) being counted equally in such vote.



(iii) Members of the Management Committee shall remain members of the Management Committee until their resignation, removal or death. Any member of the Management Committee may resign by delivering his or her written resignation to the CEO (or, in the case of a resignation of the CEO, to the other members of the Management Committee) and the Manager Member. At any time that there are more than three (3) members of the Management Committee, any member of the Management Committee may be removed from such position: (A) With or without cause, by the Management Committee acting by a Committee Vote (with such Committee Vote being calculated for all purposes as if the member of the Management Committee whose removal is being considered were not a member of the Management Committee) with the written consent of the Manager Member granted after the Effective Time, or (B) For Cause by the Manager Member, with prior or concurrent notice to the Management Committee specifying the reasons for the decision. Any Employee Stockholder who is a member of the Management Committee shall be deemed to have resigned from the Management Committee and shall no longer be a member of the Management Committee immediately upon such Employee Stockholder ceasing to be an Eligible Person for any reason.

(iv) At any meeting of the Management Committee, presence in person or by telephone (or other electronic means) of a majority of the members of the Management Committee shall constitute a quorum. At any meeting of the Management Committee at which a quorum is present, a majority of the total members of the Management Committee may take any action on behalf of the Management Committee (any such action taken by such members of the Management Committee is sometimes referred to herein as a "Committee Vote"). Any action to be taken by the Management Committee may be taken without a meeting of the Management Committee only if (A) a written consent thereto is signed by all the members of the Management Committee and (B) the Manager Member has been given a copy of such written consent not less than forty-eight (48) hours prior to such action (or such shorter period as to which the Manager Member shall consent in writing). Notice of the time, date and place of any meeting of the Management Committee shall be given to all members of the Management Committee and the Manager Member at least forty-eight (48) hours in advance of the meeting. A representative of the Manager Member shall be entitled to attend each meeting of the Management Committee. Notice need not be given to any member of the Management Committee or the Manager Member if a waiver of notice is given (orally or in writing) by such member of the Management Committee or the Manager Member (as applicable), before, at or after the meeting. Members of the Management Committee are not "managers" (within the meaning of the Act) of the LLC (except to the extent otherwise expressly provided in Section 11.17 hereof).

(v) The Manager Member hereby grants to the Management Committee (acting by a Committee Vote) a revocable proxy to vote the LLC Points held by the Manager Member in connection with any majority vote pursuant to Section 3.2(b)(ii) hereof to fill a vacancy in the Management



Committee. Notwithstanding any other provisions of this Agreement to the contrary, the Manager Member shall have full power and authority at any time in its sole discretion (and without the consent or approval of the Management Committee or the Non-Manager Members) (i) to increase the number of members of the Management Committee and to fill the vacancies created by any such increase with one or more other Employee Stockholders or with any other persons selected by the Manager Member and/or (ii) to revoke the proxy granted by the Manager Member to the Management Committee in the immediately preceding sentence, provided that any such increase and/or proxy revocation may only be effected by written notice from the Manager Member to the Management Committee, which written notice must expressly reference this Section of this Agreement.

SECTION 3.3. OFFICERS OF THE LLC. In each case subject to the immediately following paragraph relating to the CEO, the Management Committee may designate employees of the LLC as officers of the LLC (the "Officers") as it deems necessary or desirable to carry on the business of the LLC. The Management Committee may delegate any of its power or authority to an Officer or Officers subject to modification and withdrawal of such delegated power and authority by the Management Committee. Any two or more offices may be held by the same person. New offices may be created and filled by the Management Committee. Each Officer shall hold office until his or her successor is designated by the Management Committee or until his or her earlier death, resignation or removal. Any Officer may resign at any time upon written notice to the CEO (or, in the case of a resignation of the CEO, to the other members of the Management Committee) and the Manager Member. Any Officer designated by the Management Committee may be removed from his or her office (i) with or without cause by the Management Committee (excluding for all purposes the Person being considered), with the prior written consent of the Manager Member granted after the Effective Time in the case of a removal of the CEO from his or her position as CEO, or (ii) For Cause by the Manager Member (with prior or concurrent notice to the Management Committee specifying the reasons for the decision), in each case at any time, subject to any applicable terms of such Officer's Employment Agreement with the LLC, if any. Any removal of an Officer from his or her position as such shall not have any effect on the employment status of such Employee Stockholder with the LLC or any Controlled Affiliate thereof (except as expressly provided in the immediately following paragraph with respect to a removal of the CEO from his or her position as such). A vacancy in any office occurring because of death, resignation, removal or otherwise may be filled by the Management Committee. Any designation of Officers, a description of any duties delegated to such Officers, and any removal of such Officers by the Management Committee, shall be approved by the Management Committee in writing, which approval shall be delivered to the Manager Member. The Officers are not "managers" (within the meaning of the Act) of the LLC (except to the extent otherwise expressly provided in Section 11.17 hereof).

The Management Committee shall (with the prior written consent of the Manager Member granted after the Effective Time, such consent not to be unreasonably withheld) appoint a Chief Executive Officer (the "CEO") of the LLC who shall be an Officer and shall have principal responsibility (delegated from the Management Committee) for the day-to-day management and operations of the LLC, including the hiring and firing of the Officers and



employees of the LLC and its Controlled Affiliates (other than with respect to Designated Initial Members and their related Employee Stockholders) and the power and authority to make (or to make recommendations with respect to) transactions in securities and other instruments in Client accounts, in each case subject to the same limitations and other requirements set forth herein that would be applicable to the Management Committee if it were conducting such management and operations of the LLC; PROVIDED, HOWEVER, that Foster Friess shall be the CEO as of the Effective Time and for up to the first six (6) months following the Effective Time (provided that he remains an Eligible Person during such period), subject to his removal from such position in accordance with the provisions below relating to a removal of the CEO, and commencing at the end of such initial period, William D'Alonzo shall become the CEO (provided that he is an Eligible Person at that time), subject to his subsequent removal from such position in accordance with the provisions below relating to a removal of the CEO. Whenever this Agreement provides that the Management Committee has the power and authority or is required to take an action, the CEO shall have the exclusive power and authority (as between the CEO and the Management Committee) to take such action (except as otherwise expressly provided in this paragraph), provided that the Management Committee shall retain the power and authority to take such action (or to delegate to any other Officer the power and authority to take such action) in the event that the CEO is unable or unwilling to act in a manner that, in the reasonable determination of the Management Committee, is timely (and in the event of a dispute with respect to any such intervention by the Management Committee which has not been resolved within a reasonable period of time by the CEO and the Management Committee, the Manager Member shall be authorized to resolve such dispute in its reasonable discretion); PROVIDED, HOWEVER, that the Management Committee shall have the power and authority (and, for the avoidance of doubt, the CEO shall not individually have such power and authority), in each case subject to the other limitations set forth in this Agreement:

(i) Upon a Committee Vote (and for the avoidance of doubt, the CEO shall be entitled to participate in the vote on the matter of his or her own removal) to remove the CEO from his or her position as CEO with or without cause (with the prior written consent of the Manager Member granted after the Effective Time in its sole discretion);

(ii) upon a Committee Vote (and for the avoidance of doubt, the CEO shall be entitled to participate in such vote), following consultation with the CEO, to determine (A) the compensation of the CEO by the LLC from time to time and (B) any allocations of Purchase Program Points to the CEO for purchase pursuant to the Equity Purchase Program (provided that such compensation and any such allocations of Purchase Program Points shall be reasonable under the circumstances, including without limitation in light of the operating margins of the LLC at the time such decisions are made and the compensation to be paid, and Purchase Program Points to be allocated, to the other Employee Stockholders, and in the event of a dispute with respect to such matters which has not been resolved within a reasonable period of time by the CEO and the Management Committee, the Manager Member shall be authorized to resolve such dispute in its good faith discretion, and such resolution shall be final and binding upon all parties hereto);



(iii) subject to Section 3.3(vi) hereof, upon a Committee Vote (and for the avoidance of doubt, such Employee Stockholder whose removal (or the removal of whose related Non-Manager Member, as applicable) is being considered shall be entitled to participate in such vote) to make determinations with respect to any Removal For Acting Contrary to the Best Interests of the LLC, Removal Upon the Instruction of the Management Committee, termination of employment For Cause, termination of employment other than For Cause or determination of Unsatisfactory Performance, in each case with respect to the CEO (or his or her related Non-Manager Member, as applicable) or any Designated Initial Member (or its related Employee Stockholder, as applicable), and in each case only with the prior written consent of the Manager Member granted after the Effective Time in its sole discretion;

(iv) upon a Committee Vote (and for the avoidance of doubt, the CEO shall be entitled to participate in such vote) to (A) change the size of the Management Committee and appoint and remove members of the Management Committee (in each case in the manner provided for in Section 3.2(b) hereof) and (B) make those determinations required to be made by the Management Committee with respect to the selection of physicians as contemplated by the definition of Permanent Incapacity hereunder;

(v) upon a Committee Vote, to appoint any successor CEO upon a vacancy occurring in the office of CEO for any reason; and

(vi) upon a Committee Vote (and for the avoidance of doubt, such Employee Stockholder with respect to which such matter is being decided shall be entitled to participate in such vote, and if he is not then a member of the Management Committee, shall nonetheless be permitted to participate as if he were a member of the Management Committee at such time), to determine those additional matters with respect to Designated Initial Members (and their related Employee Stockholders) specified in items 2-4 set forth on SCHEDULE B hereto (including without limitation the scope of the duties of each Designated Initial Member and his reporting obligations, in each case subject to the terms of such Designated Initial Member's Employment Agreement); PROVIDED, HOWEVER, that, to the extent the consent of a Designated Initial Member is required by the provisions set forth on SCHEDULE B hereto for such determination to be effective with respect to such Designated Initial Member, any such determination shall be effective with respect to such Designated Initial Member (or its related Employee Stockholder, as applicable) only if he has affirmatively voted in favor of such determination as part of such Committee Vote.

Following consultation with the Management Committee (and after reflecting the reasonable views of the Management Committee with respect thereto), the CEO shall determine (A) the compensation of the Officers and employees of the LLC and its Controlled Affiliates from time to time and (B) any allocations of Purchase Program Points to the Officers and employees of the LLC and its Controlled Affiliates for purchase pursuant to the Equity Purchase Program; PROVIDED, HOWEVER, that, solely in the case of Designated Initial Members (or their related

Employee Stockholders, as applicable), such compensation and any such allocations of Purchase Program Points shall be reasonable under the circumstances, including without limitation in light of the operating margins of the LLC at the time such decisions are made and the compensation to be paid, and Purchase Program Points to be allocated, to the other Employee Stockholders, and in the event of a dispute with respect to such matters which has not been resolved within a reasonable period of time by the CEO and an applicable Designated Initial Member, the Manager Member shall be authorized to resolve such dispute in its good faith discretion, and such resolution shall be final and binding upon all parties hereto; and PROVIDED, FURTHER, that the reduction of a Designated Initial Member's (or its related Employee Stockholder's, as applicable) compensation in the circumstances specified in item 1 set forth on SCHEDULE B hereto shall only be effective with respect to such Designated Initial Member (or its related Employee Stockholder) if he has consented to such reduction. The CEO also may be removed from his or her position as CEO by the Manager Member at any time For Cause (with prior or concurrent notice to the Management Committee specifying the reasons for the decision). Any removal of the CEO from his or her position as CEO by the Management Committee or the Manager Member (but, for the avoidance of doubt, not by a resignation of the CEO or any other termination of the CEO's status as CEO) shall result in the automatic concurrent termination of the CEO's employment with the LLC, the WY LLC and their respective Controlled Affiliates (except to the extent the CEO, the Manager Member and the Management Committee may otherwise agree in writing in connection with the termination of the CEO's status as CEO, in their respective sole discretions). The Management Committee shall ensure that the CEO of the LLC (if any) shall at all times be the same person as the "CEO" of the WY LLC (as such term is defined in the WY LLC Agreement). The CEO shall at all times be a member of the Management Committee. No person who is not an Eligible Person may be, become or remain the CEO of the LLC (and any person who is CEO shall be deemed to have resigned as CEO immediately upon such person ceasing to be an Eligible Person). If at any time the person serving as CEO of the LLC ceases to serve as CEO for any reason, the Management Committee shall (with the prior written consent of the Manager Member granted after the Effective Time, such consent not to be unreasonably withheld) promptly appoint a new CEO of the LLC (unless the Manager Member and the Management Committee shall otherwise consent in writing). If at any time there is no CEO of the LLC, the Management Committee shall have the power and authority to take such actions as are specified in this Agreement to be taken by the CEO. The CEO is not a "manager" (within the meaning of the Act) of the LLC (except to the extent otherwise expressly provided in Section 11.17 hereof).

SECTION 3.4. EMPLOYEES OF THE LLC.

(a) The decision to employ and the terms of employment of any employee of the LLC (or any Controlled Affiliates thereof) who is not an Employee Stockholder (including, without limitation, with respect to the hiring, all aspects of compensation, promoting, demoting and terminating of such employees) shall be determined by the CEO, subject, in all cases, to compliance with all applicable laws, rules and regulations and with the provisions of Section 3.5 hereof. Notwithstanding the foregoing, the Manager Member may terminate the employment by the LLC (or any Controlled Affiliate thereof) of any employee who has engaged in any activity included in the definition of "For Cause" with prior or concurrent notice to the Management Committee specifying the reasons for such decision.



(b) The granting or Transferring of LLC Interests in connection with any hiring or promotion of an employee shall be subject to the terms and conditions set forth in Articles V and VI hereof.

(c) Any Person who is an Employee Stockholder and is employed by the LLC may have his or her employment with the LLC terminated by the LLC only: (i) in the case of a termination For Cause, either by the Manager Member (with prior or concurrent notice to the Management Committee specifying the reasons for the decision) or by the Management Committee (excluding for all purposes the Person whose termination is being considered, other than in the case of any Designated Initial Member, who shall be permitted to participate in such determination in accordance with Section 3.3 hereof) with the prior written consent of the Manager Member granted after the Effective Time, (ii) in the case of any other termination by the LLC, by the Management Committee (excluding for all purposes the Person whose termination is being considered, other than in the case of any Designated Initial Member, who shall be permitted to participate in such determination in accordance with Section 3.3 hereof) with the prior written consent of the Manager Member granted after the Effective Time, or (iii) solely in the case of the CEO, upon an automatic termination of employment resulting from the removal of the CEO from his

or her status as CEO to the extent expressly provided for in the second paragraph of Section 3.3 hereof. With respect to any Employee Stockholder who is employed by the WY LLC, the LLC shall at no time employ such Employee Stockholder without the prior written consent of the Manager Member granted after the Effective Time (such consent not to be unreasonably withheld) (provided that an Employee Stockholder who is an employee of the WY LLC may act as a member of the Management Committee and/or an Officer of the LLC without being an employee of the LLC).

(d) Upon termination for any reason of the employment with the LLC, the WY LLC and their respective Controlled Affiliates of any Employee Stockholder who serves as a director or trustee of any Client of the LLC, the WY LLC or any of their respective Controlled Affiliates if such Client is a registered investment company or a pooled investment vehicle sponsored by the LLC, the WY LLC or any of their respective Controlled Affiliates (or any predecessor to any such Person, including without limitation FAID and FAI), such Employee Stockholder shall resign from such director or trustee position unless otherwise requested in writing by the Management Committee and the Manager Member to remain in such position (provided that no such Employee Stockholder shall be obligated to remain in any such position following such a written request except in his or her sole discretion).

SECTION 3.5. OPERATION OF THE BUSINESS OF THE LLC.

(a) Subject to the terms hereof, the Management Committee is hereby delegated the exclusive power and authority to make recommendations with respect to transactions in securities and other instruments in accounts of Clients, and to execute (or cause the execution of) transactions in, and to exercise all other rights, powers and privileges with respect to, securities and other instruments in accounts of Clients, which



power and authority may be delegated to the Officers of the LLC from time to time in the discretion of the Management Committee.

(b) Subject to the limitations expressly set forth elsewhere in this Agreement (including without limitation in the other provisions of this Section 3.5), and subject to such power and authority as is expressly granted or reserved to the Manager Member by other provisions of this Agreement (e.g., Section 3.5(f)), the Management Committee is hereby irrevocably delegated (to the greatest extent permitted by applicable law) the exclusive power and authority from the Manager Member to manage the day-to-day operations, business and activities of the LLC (without the vote or consent of any Member in its capacity as such), including, without limitation, the power and authority, in the name of and on behalf of the LLC, to:

(i) determine the use of the Operating Allocation as set forth in Section 3.5(c) below;

(ii) execute such documents and do such acts as are necessary to register (or provide or qualify for exemptions from any such registrations) or qualify the LLC (or any Controlled Affiliates thereof) under applicable federal and state securities laws;

(iii) enter into contracts and other agreements with respect to the provision of Investment Management Services and execute other instruments, documents or reports on behalf of the LLC (and any Controlled Affiliates thereof) in connection therewith;

(iv) enter into contracts, agreements and commitments with respect to the operation of the business of the LLC (and any Controlled Affiliates thereof) as are consistent with the other provisions of this Agreement and the Act; and

(v) act for and on behalf of the LLC (and any Controlled Affiliates thereof) in all matters incidental to the foregoing and other day-to-day matters.

(c) The Operating Allocation for any period (plus any unused amounts previously reserved from prior period Operating Allocations and the proceeds of any Working Capital Loans received from the WY LLC during such period) shall be used to provide for and pay the LLC's (and any Controlled Affiliates' thereof) expenses, obligations and other costs (including without limitation (i) the payment of premiums during such period with respect to any insurance coverages maintained, (ii) all

capital expenditures and capital contributions made by the LLC (or any Controlled Affiliate thereof) during such period, (iii) the satisfaction of any net worth, working capital or similar requirements imposed by applicable laws and regulations in connection with the businesses conducted and registrations held by the LLC (or any Controlled Affiliate thereof) or otherwise reasonably necessary in connection with the conduct of the businesses of the LLC (and any Controlled Affiliates thereof), (iv) payments of interest and repayments of principal to the WY LLC in respect of any Working Capital Loan (to the extent then due under the terms of such loans), (v) compensation and benefits payable



to employees (including the Officers and the Employee Stockholders) and (vi) at the discretion of the Management Committee, establishing reserves for future such payments (as determined by the Management Committee), and all such expenses, obligations and other costs of the LLC (and any Controlled Affiliates thereof) shall be paid out of the Operating Allocation (except to the extent that any such expenses or other costs are to be paid for using the proceeds of Working Capital Loans). Without the prior written consent of the Manager Member granted after the Effective Time (which written consent makes specific reference to this Section 3.5(c)), the LLC shall not (nor shall any Controlled Affiliate of the LLC) incur (and the Employee Stockholders shall use their reasonable best efforts to prevent the LLC (or any Controlled Affiliate thereof) from incurring) any expenses, obligations or other costs, or take any action to incur any expenses, obligations or other costs, which expenses, obligations and other costs in the aggregate (i) exceed the ability of the LLC to pay or provide for them out of the Operating Allocation on a current or previously reserved basis, or (ii) exceed, for any period, an amount equal to ninety and nine-tenths percent (90.9%) of the positive difference (if any) between (A) the "Operating Allocation" of the WY LLC (as such term is defined in the WY LLC Agreement) minus (B) the aggregate expenses, obligations and other costs of the WY LLC and its Controlled Affiliates during such period (excluding Services Payments required to be made by the WY LLC to the LLC in respect of such period). Except to the extent otherwise required by applicable law, the LLC (and any Controlled Affiliates thereof) shall only make payments of compensation (including bonuses) to employees (including the Officers and the Employee Stockholders) out of the balance of the Operating Allocation remaining after the payment (or reservation for payment) of all the other expenses, obligations, expenditures and other costs for the applicable period. Any excess of the Operating Allocation remaining for any fiscal year following the payment (or reservation for payment) of all expenses, obligations and other costs (including any such amount established as a reserve in a prior period that is reasonably determined by the Management Committee to have been in excess of what was necessary for such reserve) may be used by the LLC in such fiscal year or, if not so used, shall be automatically reserved (without any action being required by any Person) for use in future fiscal years in accordance with this Section 3.5(c) (in each case subject to the limitation set forth in clause (ii) of the second preceding sentence above). To the extent cash is available therefor at the LLC or any of its Controlled Affiliates and is necessary for the operation of the business of the WY LLC and its Controlled Affiliates or to fund distributions required to be made to the members of the WY LLC by the provisions of Section 4.3(a) of the WY LLC Agreement, the Non-Manager Members shall (as a priority over any distributions otherwise required or permitted to be made to the Members hereunder) cause the LLC (and, to the extent necessary therefor, cause any Controlled Affiliates of the LLC to distribute such cash to the LLC) to lend such cash to the WY LLC pursuant to a Working Capital Loan from the LLC to the WY LLC.

For purposes of this Agreement (and notwithstanding any contrary treatment required by the LLC or AMG for financial reporting purposes), (i) any business expenses or other costs of the LLC (or any Controlled Affiliate thereof) to the extent paid utilizing funds provided to the LLC by FAI, FAID, either of the Charities or any of the Management Owners by reason of indemnification obligations under the Purchase Agreement or the Management Owner Purchase Agreement (as applicable) (including without limitation pursuant to one of the offset



mechanisms specified in Section 13 of the Purchase Agreement or Section 10 of the Management Owner Purchase Agreement resulting in such funds being retained by the LLC) shall be deemed not to be paid for from the Operating Allocation (and if previously so paid or reserved for, such calculation and treatment shall

be reversed) and shall be deemed not to be business expenses or other costs of the LLC (or any Controlled Affiliate thereof) for purposes of the required uses of the Operating Allocation pursuant to the provisions of this Agreement, and (ii) such funds provided to the LLC by any of the foregoing Persons shall be deemed an adjustment to the "Purchase Price" under the Purchase Agreement or the "Minority Purchase Price" under the Management Owner Purchase Agreement (as applicable) and a corresponding Capital Contribution to the LLC by the Manager Member, and shall not be deemed Revenues From Operations hereunder or constitute income or gain of the LLC.

(d) The LLC shall not (nor shall any Controlled Affiliate of the LLC) do or commit to do, and the Employee Stockholders and Non-Manager Members shall use their reasonable best efforts to prevent the LLC (or any Controlled Affiliate thereof) from doing or committing to do (including without limitation by not taking any such action in their capacity as Officers of the LLC), any of the following without the prior written consent of the Manager Member granted after the Effective Time (which written consent makes specific reference to this Section 3.5(d)):

(i) enter into, amend, modify or terminate any contract, agreement or understanding (written or oral) if such action or the resulting contract, agreement or understanding could reasonably be expected to conflict with the provisions of this Section 3.5;

(ii) enter into, amend, modify or terminate any contract, agreement or understanding (written or oral) if such action or the resulting contract, agreement or understanding (individually or in the aggregate) would reasonably be expected to have a material adverse impact on the availability of the Operating Allocation in future periods (including, without limitation, long-term leases or employment contracts);

(iii) enter into, amend, modify or terminate any contract, agreement or understanding (written or oral) if such action or the resulting contract, agreement or understanding has the effect of creating a Lien upon any of the assets of the LLC (other than Liens securing indebtedness of the LLC incurred to finance the acquisition of fixed or capital assets (whether pursuant to a deferred purchase agreement with a vendor, a loan, a financing lease or otherwise), provided that (A) such Liens shall be created substantially simultaneously with the acquisition of such fixed or capital assets, (B) such Liens do not at any time encumber any property other than property financed by such indebtedness, (C) the amount of indebtedness secured thereby is not thereafter increased and (D) the principal amount of indebtedness secured by such Lien shall at no time exceed the purchase price of such property) or upon any portion of the Owners' Allocation;

(iv) take any action (or omit to take any action) if such action (or omission) would reasonably be expected to result in the termination of the



employment by the LLC of any Employee Stockholder as a result of a material reduction in his or her compensation, responsibilities or other material aspects of his or her employment conditions (other than any termination For Cause or Unsatisfactory Performance), provided that the foregoing shall not impose any limitation on the ability of an Employee Stockholder to terminate his or her employment with the LLC in accordance with the provisions hereof and any applicable Employment Agreement and shall not require the LLC to pay increased compensation to retain the services of any Employee Stockholder;

(v) create, incur, assume, or suffer to exist any Indebtedness, other than (A) Indebtedness (I) incurred to finance the acquisition of fixed or capital assets (whether pursuant to a deferred purchase arrangement with a vendor, a loan, a financing lease or otherwise) at any time not to exceed $350,000 in the aggregate outstanding (including any then-outstanding Indebtedness of the WY LLC and its Controlled Affiliates) and (II) that consists of obligations to be repaid solely out of Operating Allocation and (B) Working Capital Loans otherwise permitted or required by the terms of this Agreement;

(vi) establish or modify any material compensation arrangement (other than salary and cash bonuses in the ordinary course) or program (whether cash or non-cash benefits) applicable to any

employee, in any such case which is subject to ERISA, which requires qualification under the Code, or which otherwise (A) requires the Manager Member (other than in its capacity as Manager Member) or any of its Affiliates to take any action which it would not take but for the establishment or modification of such compensation arrangement or program or (B) prevents the Manager Member or any of its Affiliates from taking any action which it would otherwise have been able to take but for the establishment or modification of such compensation arrangement or program (and the Management Committee shall give the Manager Member not less than thirty (30) days prior written notice before the LLC (or any Controlled Affiliate thereof) establishes or modifies any material compensation arrangement (other than salary and cash bonuses in the ordinary course) or program);

(vii) enter into, amend, modify or terminate any contract, agreement or understanding (written or oral) (A) containing severance or termination payment arrangements, other than severance or termination payment arrangements with bona fide employees of the LLC or its Controlled Affiliates (other than any Employee Stockholder or Non-Manager Member or an Immediate Family member thereof) which do not exceed $250,000 individually to any one such employee or represent potential liabilities at any one time outstanding (taking into account such contract, agreement or understanding and all other such contracts, agreements and understandings of the LLC, the WY LLC and their respective Controlled Affiliates then in effect) in excess of $1,000,000 in the aggregate, (B) which could reasonably be expected to cause the Manager Member or any of its Affiliates to be liable for termination or severance payments or other contractual payments upon a termination of any employee's employment with the LLC (or any Controlled Affiliate thereof) or (C) which is with an Employee Stockholder, a



Non-Manager Member, an Affiliate of an Employee Stockholder or a Non-Manager Member, or a partner, shareholder, director, officer, employee or Immediate Family Member of any of the foregoing;

(viii) (A) enter into any line of business other than the provision of Investment Management Services, (B) acquire, form or otherwise establish any subsidiary or Controlled Affiliate of the LLC or otherwise make any investment (other than cash management activities in the ordinary course of business) in, or otherwise conduct business through, any other Person, (C) acquire any material assets or other properties, other than capital expenditures made out of Operating Allocation in the ordinary course of business consistent with past practice and not involving the acquisition of any Person as a going concern, (D) sell, transfer or otherwise dispose of any material assets or other properties, other than sales of worn-out or obsolete equipment made in the ordinary course of business consistent with past practice, or (E) permit any of the Employee Stockholders, Non-Manager Members or Immediate Family members of any of the foregoing (or any Affiliate of any such Person) to have a direct or indirect economic interest in any collective investment vehicle or other product sponsored or otherwise managed by the LLC or any of its Controlled Affiliates (other than as a result of the economic interests of the LLC and its Controlled Affiliates in such collective investment vehicle or other product, and other than bona fide investments made by any such Person in any such collective investment vehicle or other product);

(ix) (A) make any change in the Certificate (or the constituent documents of any Controlled Affiliate of the LLC), modify, amend or terminate, or otherwise waive or fail to diligently enforce any rights under, the Services Agreement, or fail to make any reimbursements of previous payments if due under the terms of the Services Agreement, (B) authorize or issue any membership or other equity or ownership interests or other securities of any type of the LLC (or any Controlled Affiliate thereof), (C) repurchase, redeem or otherwise acquire any outstanding membership or other equity or ownership interests or other securities of the LLC (or any Controlled Affiliate thereof), (D) make any dividend or other distribution in respect of its membership or other equity or ownership interests (other than as expressly required by other provisions of this Agreement), (E) settle or compromise any material litigation, arbitration, investigation, audit or other proceeding, (F) terminate its existence or voluntarily file for or otherwise commence proceedings with respect to bankruptcy, reorganization,

receivership or similar status, (G) except to the extent any of the following actions described in this clause (G) (I) relate solely to a tax period ending on or prior to the Effective Time and (II) would not have an adverse effect (economic or otherwise) on any Person who became a Member at the Effective Time or at any time thereafter or otherwise affect tax periods commencing on or after the Effective Time, make or change any tax election, waive or extend the statute of limitations in respect of taxes, amend any tax return, enter into any closing agreement with respect to taxes, settle any tax claim or assessment or surrender any right to a claim for a tax refund, (H) change any method or principle of accounting in a manner inconsistent with past practice or change



regular independent accountants, (I) cause or permit the LLC or any Controlled Affiliate thereof at any time to have any source of gross revenues other than Services Payments and income received in respect of balances maintained by the LLC or any Controlled Affiliate thereof in short-term, high quality investment accounts or bank accounts, (J) materially change or otherwise modify the scope of the business functions and other activities conducted by the LLC and its Controlled Affiliates in the State of Delaware from those conducted by the LLC and its Controlled Affiliates in the State of Delaware as of immediately following the Effective Time, cease to do business in the State of Delaware or transfer any Employee Stockholder who is a party to an Employment Agreement out of the State of Delaware, or (K) make any loan or advance to any Person, other than advances of business expenses and Working Capital Loans in the ordinary course of business consistent with past practice;

(x) voluntarily terminate any investment advisory agreement with (or otherwise relating to) a Client that is a registered investment company (or series thereof) (unless, in the joint written determination of the Management Committee and the Manager Member following the Effective Time, such termination is in the best interests of the LLC); or

(xi) (A) take any action which pursuant to any provision of this Agreement (other than Section 3.1) may be taken only by the Manager Member with or without the consent of the Non-Manager Members or the Employee Stockholders, or (B) take any action which requires the approval or consent of the Manager Member pursuant to any provision of this Agreement.

(e) The LLC (and each Controlled Affiliate thereof) shall maintain (and the Employee Stockholders and Non-Manager Members shall use their reasonable best efforts to cause the LLC (and each Controlled Affiliate thereof) to maintain), in full force and effect, such insurance as is customarily maintained by companies of similar size in the same or similar businesses (including, without limitation, errors and omissions liability insurance), the premiums on which will be paid out of the Operating Allocation (and the beneficiary of which shall be the LLC and/or its applicable Controlled Affiliates, as applicable); PROVIDED, HOWEVER, that this sentence shall not require the LLC or any Controlled Affiliate thereof to maintain key-man life or disability insurance policies. In the event that the Manager Member or any of its Affiliates shall determine (at its own expense) to maintain separate key-man life and/or disability insurance policies with respect to any Employee Stockholder (of which the Manager Member or any of its Affiliates may be the beneficiary), and in connection with any such policies maintained by the LLC for its own benefit, such Employee Stockholder shall cooperate with the Manager Member, its Affiliates and the LLC (as applicable) in connection with obtaining and maintaining such insurance policies (including without limitation by submitting to any customary examinations and truthfully answering any questions asked by the insurer in connection with obtaining such policies).

(f) In addition to, and not in limitation of, the Manager Member's powers and authority under this Agreement (including, without limitation, pursuant to



Section 3.1(a) hereof), the Manager Member shall also have the power (after consultation with the Management Committee, to the extent practicable), whether or not they involve day-to-day operations, business

and activities of the LLC (or any Controlled Affiliate thereof), to take any or all of the following actions:

(i) such actions as it deems necessary or appropriate to cause the LLC or, insofar as it is within the power and authority of the LLC, any Controlled Affiliate of the LLC, or any officer, employee, member, partner, or agent thereof, to comply with all laws, rules and regulations applicable to such Person in connection with the businesses and other activities of the LLC, the WY LLC and their respective Affiliates;

(ii) such actions as it deems necessary or appropriate to cause the LLC to fulfill its obligations and exercise its rights under the Purchase Agreement and this Agreement; and

(iii) any other action necessary or appropriate to prevent actions that require the Manager Member's consent pursuant to the terms of this Agreement if such consent has not then been given.

(g) Notwithstanding any of the provisions of this Agreement to the contrary, all accounting, financial reporting and bookkeeping procedures of the LLC (and any Controlled Affiliates thereof) shall be established in conjunction with policies and procedures determined under the supervision of the Manager Member and in a manner consistent with the corresponding policies and procedures of the WY LLC. The Management Committee shall have a continuing obligation to keep AMG's chief financial officer informed of material financial developments with respect to the LLC (and any Controlled Affiliates thereof). Notwithstanding any other provisions of this Agreement to the contrary, all legal, compliance and regulatory matters of the LLC (and any Controlled Affiliates thereof) shall be coordinated with the Manager Member and AMG, and the LLC's (and any of its Controlled Affiliates') legal compliance activities shall be conducted and established in conjunction with policies and procedures determined under the supervision of the Manager Member to the extent such policies and procedures are consistent with "best practices" in the investment management industry (and in a manner consistent with the corresponding activities of the WY LLC).

(h) Each Employee Stockholder and Non-Manager Member covenants and agrees that such Employee Stockholder or Non-Manager Member, as the case may be, will at all times conduct its activities in connection with the LLC and the WY LLC (and any Controlled Affiliates thereof), and any services provided to the LLC or the WY LLC (or to any Controlled Affiliates thereof), in accordance with all applicable laws, rules and regulations, and that it will use its reasonable best efforts (i) to ensure that the business and activities of the LLC and the WY LLC (and any Controlled Affiliates thereof) are conducted in compliance with all applicable laws, rules and regulations in all material respects and (ii) to preserve the goodwill and franchise value of the LLC and the WY LLC (and any Controlled Affiliates thereof).



(i) Notwithstanding any of the provisions of this Agreement to the contrary, the Manager Member shall have the power to establish and mandate that the LLC (and any of its Controlled Affiliates) participate in employee benefit plans which are subject to ERISA or require qualification under Section 401 of the Internal Revenue Code to the extent necessary in order to make the expenses of any such plan(s) deductible or otherwise to comply with ERISA or the Code, and may establish or modify the terms of any such plan to the extent necessary in connection therewith (to the extent that such terms are required by law or necessary to make such expenses deductible or to comply with ERISA or the Code), provided that any such action taken by the Manager Member shall treat the Affiliates of the Manager Member subject to such action in an equitable manner (i.e., a manner not materially more disadvantageous to one Affiliate than to other Affiliates of the Manager Member) to the extent permissible under ERISA and the Code and consistent with achieving tax deductibility.

(j) Notwithstanding any other provisions of this Agreement to the contrary, the Management Committee, each Employee Stockholder and each Non-Manager Member shall cooperate with the Manager Member and its Affiliates in implementing any initiative generally involving the LLC (and/or any Controlled Affiliates thereof) and a number of such Affiliates, but only on such terms and conditions as the participation of the LLC (and any Controlled Affiliates thereof) in such initiative has been approved by the Management Committee.

(k) Notwithstanding any other provisions of this Agreement to

the contrary (and in addition to the separate approval of the Management Committee with respect thereto, to the extent such Management Committee approval is required by other provisions of this Agreement), any (i) voluntary liquidation of the LLC, (ii) sale, exchange or other disposition of all, or a substantial portion of, the assets of the LLC and its Controlled Affiliates, or (iii) Transfer by the Manager Member of all its interests in the LLC in a single transaction or series of related transactions (subject to the same exceptions set forth in the proviso to the first paragraph of Section 6.1 hereof), shall require a majority vote of all Members holding LLC Points, with each LLC Point (regardless of whether such LLC Point is a Series A LLC Point or a Series B LLC Point) being counted equally in such vote.

(l) Each Employee Stockholder that serves as a member of the Management Committee (for so long as such Employee Stockholder serves as a member of the Management Committee) agrees to use its reasonable best efforts (to the extent within his or her power to do so) to cause the following to be true regarding each Mutual Fund (other than a Subadvised Fund) (each as defined in the Purchase Agreement): (i) For a period of not less than three years following the Effective Time, no more than twenty-five percent (25%) of the members of the board of directors of such Mutual Fund shall be "interested persons" (as defined in the Investment Company Act of 1940) of AMG, FAI, FAID, the LLC or the WY LLC; and (ii) for a period of not less than two years following the Effective Time, the LLC shall not have any express or implied understanding, arrangement or intention to impose an "unfair burden" (as defined in the Investment Company Act of 1940) on such Mutual Fund as a result of the transactions contemplated by the Purchase Agreements.



SECTION 3.6. COMPENSATION AND EXPENSES OF THE MEMBERS. The Manager Member may receive compensation for services provided to the LLC (or any Controlled Affiliate thereof) only to the extent approved by the Management Committee. The LLC shall, however, pay and/or reimburse the Manager Member for extraordinary expenses reasonably incurred by the Manager Member or AMG directly in connection with the operation of the LLC (and any Controlled Affiliates thereof). It is expressly understood by the parties hereto that the Manager Member's general overhead items and expenses (including, without limitation, salaries, rent and travel expenses) shall not be reimbursed by the LLC. Stockholders, officers, directors, Members and agents of Members may serve as employees of the LLC (or any Controlled Affiliate thereof) and be compensated therefor out of the Operating Allocation as determined by the Management Committee (or its delegate(s)) pursuant to Section 3.5(c). Except in respect of their provision of services as employees of the LLC (or any Controlled Affiliate thereof) for which they may be compensated out of the Operating Allocation as contemplated by the preceding sentence, Employee Stockholders, Non-Manager Members and members of their Immediate Family may not receive compensation on account of the provision of services to the LLC (or any Controlled Affiliate thereof).

SECTION 3.7. OTHER BUSINESS OF THE MANAGER MEMBER AND ITS AFFILIATES. The Manager Member, AMG and their respective Affiliates may engage, independently or with others, in other business ventures of every nature and description, including the acquisition, creation, financing, trading in, and operation and disposition of interests in, investment managers and other businesses that may be competitive with the LLC's (or any of its Controlled Affiliates') business. Neither the LLC (or any Controlled Affiliate thereof) nor any of the Employee Stockholders or Non-Manager Members shall have any right in or to any other such ventures by virtue of this Agreement or the limited liability company created or continued hereby, nor shall any such activity by the Manager Member, AMG or such Affiliates in and of itself be deemed wrongful or improper or result in any liability of the Manager Member, AMG or such Affiliates. None of the Manager Member, AMG or any of their Affiliates shall be obligated to present any opportunity to the LLC (or any Controlled Affiliate thereof) even if such opportunity is of such a character which, if presented to the LLC (or a Controlled Affiliate thereof), would be suitable for the LLC (or such a Controlled Affiliate thereof). Neither the Manager Member nor AMG shall disclose any Intellectual Property owned or used in the course of business by the LLC (or any Controlled Affiliate thereof) to any Person, including, without limitation, any other of their Affiliates, and each of the Manager Member and AMG agrees always to keep secret and not ever to publish, divulge, furnish, use or make accessible to anyone any Intellectual Property that is not otherwise publicly available (other than as a result of a breach of the provisions of this Section 3.7), in each case other than in connection with the conduct of the business of the LLC and its Controlled Affiliates, as required by court order or by law or in connection with the enforcement of this Agreement or the Purchase Agreement.

SECTION 3.8. NON-MANAGER MEMBERS AND NON-SOLICITATION AGREEMENTS. Each Employee Stockholder as of the Effective Time and, if there is one, the

Non-Manager Member of which it is a stockholder (its Non-Manager Member), has provided the LLC with either (a) an Employment Agreement or (b) a Non-Solicitation Agreement that is in full force and effect as of the Effective Time. Any substitute Non-Manager Member (pursuant to Section 5.2 hereof) or Additional Non-Manager Member (as defined in Section 5.5 hereof), as well as any Employee Stockholder related thereto, which is not already bound by an Employment Agreement or a Non-



Solicitation Agreement at the time it becomes a substitute Non-Manager Member, Additional Non-Manager Member or Employee Stockholder, as applicable, shall, prior to and as a condition precedent to becoming a Non-Manager Member or Employee Stockholder (as applicable), provide the LLC with an agreement that is substantially identical to the form of Non-Solicitation Agreement attached hereto as EXHIBIT B (together with any changes or modifications thereto as the Manager Member may deem necessary or desirable at such time) (which shall thereafter be deemed a "Non-Solicitation Agreement" hereunder), and such agreements shall, at all times, provide that each of the LLC and the Manager Member shall be entitled to enforce the provisions of such agreements on its own behalf and that the Management Committee or the Manager Member shall be entitled to enforce the provisions of such agreements on behalf of the LLC. At the time any purchaser of Purchase Program Points pursuant to the Equity Purchase Program becomes a Member of the LLC, the Manager Member and AMG shall enter into with such purchaser (if such purchaser is not already a party to such an agreement with the Manager Member) an agreement that is substantially identical to a Make-Whole Bonus Agreement in the form attached hereto as Exhibit D, unless the Manager Member and the Management Committee shall otherwise agree in writing.

SECTION 3.9. NON-SOLICITATION AND NON-DISCLOSURE BY NON-MANAGER MEMBERS AND EMPLOYEE STOCKHOLDERS.

(a) Each Non-Manager Member and each Employee Stockholder agrees, for the benefit of the LLC, the other Members and their respective Affiliates, that such Non-Manager Member or Employee Stockholder (as the case may be) shall not, while employed by the LLC or any of its Affiliates, engage in any Prohibited Competition Activity.

(b) In addition to, and not in limitation of, the provisions of Section 3.9(a) hereto, each Non-Manager Member and each Employee Stockholder agrees, for the benefit of the LLC, the other Members and their respective Affiliates, that such Non-Manager Member or Employee Stockholder (as the case may be) shall not, during the period beginning on the date such Non-Manager Member becomes a Non-Manager Member or Employee Stockholder becomes an Employee Stockholder (as applicable), and until the date which is two (2) years after the termination of such Non-Manager Member's status as a Non-Manager Member or Employee Stockholder's employment with the LLC and all of its Affiliates (as applicable) (unless a shorter period is agreed to by the Manager Member, the Management Committee and the Employee Stockholder or Non-Manager Member (as applicable) in writing following the Effective Time), without the express written consent of the Manager Member and the Management Committee granted after the Effective Time, directly or indirectly, whether as owner, part-owner, shareholder, partner, member, director, officer, trustee, employee, agent or consultant, or in any other capacity, on behalf of itself or any firm, corporation or other business organization other than the LLC, the WY LLC and their Controlled Affiliates:

(i) provide Investment Management Services to any Person that is a Past, Present or Potential Client; PROVIDED, HOWEVER, that this clause (i) shall not be applicable to Clients (including Potential Clients) who are also members of the



Immediate Family of the Employee Stockholder or Non-Manager Member (as the case may be);

(ii) solicit or induce, whether directly or indirectly, any Person for the purpose (which need not be the sole or primary purpose) of (A) causing any funds (other than funds of which such Employee Stockholder or Non-Manager Member and/or members of its Immediate Family are the sole beneficial owners, subject to any applicable restrictions relating thereto set forth in the Purchase Agreement) with respect to which the LLC, the WY LLC or any of their respective Controlled Affiliates provides Investment Management Services to be withdrawn from such management, or (B) causing any

Client (including any Potential Client) not to engage the LLC, the WY LLC or any of their respective Controlled Affiliates to provide Investment Management Services for any additional funds PROVIDED, HOWEVER, that this clause (ii)(B) shall not be applicable to Clients (including Potential Clients who are also members of the Immediate Family of the Employee Stockholder or Non-Manager Member;

(iii) contact or communicate with, whether directly or indirectly, any Past, Present or Potential Clients in connection with Investment Management Services; PROVIDED, HOWEVER, that this clause (iii) shall not be applicable to Clients (including Potential Clients) who are also members of the Immediate Family of the Employee Stockholder or Non-Manager Member; or

(iv) (A) solicit or induce, or attempt to solicit or induce, directly or indirectly, any employee or agent of, or consultant to, the LLC, the WY LLC or any of their respective Controlled Affiliates to terminate its, his or her relationship therewith, (B) hire any employee, external researcher or similar agent or consultant, or former employee, external researcher or similar agent or consultant, of the LLC, the WY LLC or any of their respective Controlled Affiliates who was employed by or acted as an external researcher or similar agent or consultant of the LLC or the WY LLC (or either of their predecessors, FAID and FAI or any predecessor thereto) or their respective Controlled Affiliates at any time during the two (2) year period preceding such hiring of such Person, or (C) work in any enterprise involving Investment Management Services with any employee, external researcher or similar agent or consultant, or former employee, external researcher or similar agent or consultant, of the LLC, the WY LLC or any of their respective Controlled Affiliates who was employed by or acted as such an agent or consultant to the LLC or the WY LLC (or either of their predecessors, FAID and FAI or any predecessor thereto) or their respective Controlled Affiliates at any time during the two (2) year period preceding the termination of the Employee Stockholder's employment or Non-Manager Member's status as a member of the LLC, as applicable (excluding for all purposes of this sentence, secretaries and persons holding other similar positions);

PROVIDED, HOWEVER, that this Section 3.9(b) shall not prohibit any firm, corporation or other business organization of which such Non-Manager Member or Employee Stockholder (as applicable) is an employee (but of which he or she is not a holder of any equity or other



ownership interests therein, other than holdings of publicly traded stock which (in the aggregate with the holdings of his or her Affiliates and Immediate Family members) constitute less than five percent (5%) of the outstanding stock of such entity) from engaging in such activities so long as such Non-Manager Member or Employee Stockholder can affirmatively demonstrate that he or she did not cause or induce such activities, has no participation or other involvement in such activities whatsoever and does not assist or facilitate in such activities in any manner (whether through the provision of information or otherwise); and PROVIDED, FURTHER, that Section 3.9(b)(iv)(C) shall not prohibit a Non-Manager Member or Employee Stockholder (as applicable) from working at any firm, corporation or other business organization of which such Non-Manager Member or Employee Stockholder (as applicable) is an employee (but of which he or she is not a holder of any equity or other ownership interests therein, other than holdings of publicly traded stock which (in the aggregate with the holdings of his or her Affiliates and Immediate Family members) constitute less than five percent (5%) of the outstanding stock of such entity) provided that (I) such firm, corporation or other business organization has at least one hundred (100) employees as of the date such Non-Manager Member or Employee Stockholder (as applicable) becomes an employee thereof and (II) such Non-Manager Member or Employee Stockholder can affirmatively demonstrate that he or she does not personally work (directly or indirectly) with any employee, external researcher or similar agent or consultant (or former employee, external researcher or similar agent or consultant) described in Section 3.9(b)(iv)(C).

For purposes of this Section 3.9(b), (x) the term "Past Client" shall be limited to those Past Clients who were recipients of Investment Management Services from the LLC or the WY LLC (including either of their predecessors, FAI and FAID or any predecessor thereto) and/or their respective Controlled Affiliates at the date of termination of the Employee Stockholder's employment or Non-Manager Member's status as a member of the LLC (as applicable) or at any time during the two (2) years immediately preceding the date of such termination and (y) the term "Potential Client" shall be limited to those Persons to whom an offer (as described in the definition of "Potential Client") to provide

Investment Management Services was made within two (2) years prior to the date of termination of the Employee Stockholder's employment or Non-Manager Member's status as a member of the LLC (as applicable).

Notwithstanding the provisions of Sections 3.9(a) and 3.9(b), any Employee Stockholder may make passive personal investments in any enterprise (including, without limitation, any enterprise which is competitive with AMG, the LLC or the WY LLC) the shares or other equity interests of which are publicly traded, provided his holding therein together with any holdings of his Affiliates and members of his Immediate Family, are less than five percent (5%) of the outstanding shares or comparable interests in such entity.

(c) Each Member and each Employee Stockholder agrees that any and all presently existing investment advisory businesses of the LLC, the WY LLC and their respective Controlled Affiliates (including business of either of their predecessors, FAI and FAID, or any predecessor thereto), and all businesses developed by the LLC, the WY LLC, any of their respective Controlled Affiliates or any predecessor thereto, including by such Employee Stockholder or any other employee of the LLC, the WY LLC or any of their respective Controlled Affiliates or any predecessor thereto, including without limitation, all investment methodologies, all investment advisory contracts, fees and fee



schedules, commissions, records, data, client lists, agreements, trade secrets, and any other incident of any business developed by the LLC, the WY LLC, their respective Controlled Affiliates or any predecessor thereto, or earned or carried on by the Employee Stockholder for the LLC, the WY LLC, any of their respective Controlled Affiliates or any predecessor thereto, and all trade names, service marks and logos under which the LLC, the WY LLC or their respective Controlled Affiliates (or any predecessor thereto) do or have done business, and any combinations or variations thereof and all related logos, are and shall be the exclusive property of the LLC, the WY LLC or such Controlled Affiliate, as applicable, for its or their sole use, and (where applicable) shall be payable directly to the LLC, the WY LLC or such Controlled Affiliate (as applicable). In addition, each Member and each Employee Stockholder acknowledges and agrees that the investment performance of the accounts managed by the LLC, the WY LLC or any Controlled Affiliate of either of them (or any predecessor thereto, including without limitation FAID or FAI, and any predecessors thereto) was attributable to the efforts of the team of professionals of the LLC, the WY LLC, such Controlled Affiliate or such predecessor thereto, and not to the efforts of any single individual or subset of such team of professionals, and that therefore, the performance records of the accounts managed by the LLC, the WY LLC or any of their respective Controlled Affiliates (or any predecessor to any of them) are and shall be the exclusive property of the LLC, the WY LLC or such Controlled Affiliate, as applicable (and not of any other Person or Persons).

(d) Each Non-Manager Member and each Employee Stockholder acknowledges that, in the course of performing services hereunder and otherwise (including, without limitation, for the LLC's and the WY LLC's predecessors, FAID and FAI or any predecessor thereto), such Member or Employee Stockholder (as applicable) has had, and will from time to time have, access to information of a confidential or proprietary nature, including without limitation, all confidential or proprietary investment methodologies, trade secrets, proprietary or confidential plans, client identities and information, client lists, service providers, business operations or techniques, records and data ("Intellectual Property") owned or used in the course of business by the LLC, the WY LLC or their respective Controlled Affiliates. Each Non-Manager Member and each Employee Stockholder agrees always to keep secret and not ever publish, divulge, furnish, use or make accessible to anyone (otherwise than in the regular business of the LLC, the WY LLC and their respective Controlled Affiliates or as required by court order or by law (after consultation with outside counsel)) any Intellectual Property of the LLC, the WY LLC or any Controlled Affiliate of either of them unless such information can be shown to be publicly available other than by reason of a breach of this Section 3.9 by such Non-Manager Member or Employee Stockholder (as applicable). At the termination of the Employee Stockholder's services to the LLC, the WY LLC and their respective Controlled Affiliates or the Non-Manager Member's status as a member of the LLC and the WY LLC (as applicable), all data, memoranda, client lists, notes, programs and other papers, items and tangible media, and reproductions thereof relating to the foregoing matters in the Non-Manager Member's or Employee Stockholder's possession or control, shall be returned to the LLC or the WY LLC and remain in its possession. The Management Committee shall ensure that any Person who becomes a Non-Manager Member of the LLC or the WY LLC,

or who acquires a beneficial interest in an entity which is a Non-Manager Member of the LLC or the WY LLC, and has not entered into a



Non-Solicitation Agreement, shall not be provided access to any confidential or proprietary information of the LLC, the WY LLC or any of their respective Controlled Affiliates (except to the extent as may be otherwise required by applicable law).

(e) Each Non-Manager Member and each Employee Stockholder acknowledges that, in the course of entering into this Agreement, the Non-Manager Member or Employee Stockholder (as applicable) has had and, in the course of the operation of the LLC, the WY LLC and any Controlled Affiliates thereof, the Non-Manager Member or Employee Stockholder will from time to time have, access to Intellectual Property owned by or used in the course of business by AMG. Each Non-Manager Member and each Employee Stockholder agrees, for the benefit of the LLC, the WY LLC and their Members, and for the benefit of the Manager Member and AMG, always to keep secret and not ever publish, divulge, furnish, use or make accessible to anyone (otherwise than at the Manager Member's request or as required by court order or by law (after consultation with outside counsel)) any knowledge or information regarding Intellectual Property (including, by way of example and not of limitation, the transaction structures utilized by AMG) of AMG unless such information can be shown to be publicly available other than by reason of a breach of this Section 3.9 by such Non-Manager Member or Employee Stockholder (as applicable). At the termination of the Employee Stockholder's service to the LLC, the WY LLC and their respective Controlled Affiliates or the Non-Manager Member's status as a member of the LLC and the WY LLC (as applicable), all data, memoranda, documents, notes and other papers, items and tangible media, and reproductions thereof relating to the foregoing matters in the Non-Manager Member's or Employee Stockholder's possession or control shall be returned to AMG and remain in its possession.

(f) The provisions of this Section 3.9 shall not be deemed to limit any of the rights of the LLC, the WY LLC or the Members under any of the Employment Agreements or Non-Solicitation Agreements or under applicable law, but shall be in addition to the rights set forth in each of the Employment Agreements and Non-Solicitation Agreements, and those which arise under applicable law.

(g) Notwithstanding the foregoing provisions of this Section 3.9, the application of this Section 3.9 to any Non-Manager Member or Employee Stockholder may be modified or waived by a writing executed by the Manager Member and such Non-Manager Member or Employee Stockholder (as applicable) following consultation with the Management Committee.

SECTION 3.10. REMEDIES UPON BREACH.

(a) In the event that a Non-Manager Member or its related Employee Stockholder (i) breaches any of the provisions of Section 3.9 hereof (or otherwise violates any of the stated terms of any such provisions), (ii) breaches any of the provisions of Section 3.9 of the WY LLC Agreement (or otherwise violates any of the stated terms of any such provisions), or (iii) breaches any of the non-competition or non-solicitation provisions of the Employment Agreement or Non-Solicitation Agreement to which it or he is a party (or otherwise violates any of the stated terms of any such provisions) (in



each such case, including without limitation following the termination of his or her employment with the LLC and its Affiliates), and in any such case such breach or violation has resulted or is reasonably likely to result in harm that is not immaterial or insignificant to (x) AMG or any of its Controlled Affiliates (other than the LLC, the WY LLC and their respective Controlled Affiliates), or (y) the LLC, the WY LLC and their respective Controlled Affiliates (taken as a whole), then in any such case (A) such Non-Manager Member shall forfeit its right to receive any payment for its LLC Interests under Section 3.11 or Section 7.1 hereof, although it shall cease to be a Non-Manager Member in accordance with the provisions of Section 3.11 (PROVIDED that this clause (A) shall not apply, at any time or under any circumstances, to Subsequent Purchase LLC Points), (B) AMG (and any of its assignees thereunder) shall have no further obligations under any promissory note theretofore issued to such Non-Manager Member pursuant to Section 3.11, (C) the Manager Member (and

any of its assignees thereunder) shall have no further obligations under any Contingent Consideration theretofore issued to such Non-Manager Member pursuant to Section 3.11 or 7.1, and (D) the LLC shall be entitled to withhold any other payments to which such Non-Manager Member or its related Employee Stockholder otherwise would be entitled to offset damages resulting from such breach; PROVIDED, HOWEVER, that the LLC shall not be permitted to withhold any compensation, distribution or other payments that such Non-Manager Member or its related Employee Stockholder is otherwise entitled to receive out of the Operating Allocation or the Owners' Allocation absent either an admission of such breach by such Non-Manager Member or Employee Stockholder or the rendering of a settlement, judgment or arbitral decision establishing such breach.

(b) Each Non-Manager Member and each Employee Stockholder agrees that any breach of the provisions of Section 3.9 of this Agreement or of the provisions of the Employment Agreement or Non-Solicitation Agreement to which it is a party by such Non-Manager Member or Employee Stockholder (as applicable) could cause irreparable damage to the LLC and the other Members, and that the LLC (by action of the Management Committee) and the Manager Member shall have the right to an injunction or other equitable relief (in addition to other legal remedies) to prevent any violation of a Member's or Employee Stockholder's obligations hereunder or thereunder.

SECTION 3.11. PURCHASE PROVISIONS.

The Members of the LLC having agreed that it is in the best interests of the LLC not to have ex-employees who were (or were related persons of, as applicable) Non-Manager Members remain as Non-Manager Members (or have their related Non-Manager Members remain as Non-Manager Members, as applicable) following the termination of such employment, therefore the Members agree among themselves as follows:

(a) In the event that an Employee Stockholder's employment (i) by the LLC, if the LLC employs such Employee Stockholder, or (ii) by the WY LLC, if the WY LLC employs such Employee Stockholder, in either case terminates for any reason, then the Manager Member shall purchase, and such Employee Stockholder (or the Non-Manager Member of which such Employee Stockholder is an owner, if such



Employee Stockholder is not itself the Non-Manager Member) and each of its Permitted Transferees (such selling Persons, collectively, a "Selling Member") shall sell to the Manager Member (such purchases, collectively, a "Purchase", and the LLC Interests purchased pursuant thereto, collectively, the "Purchased Interest"), all of the LLC Interests held by the Selling Member for the Purchase Price (as defined in Section 3.11(c) hereof) and otherwise pursuant to the terms of this Section 3.11;

PROVIDED, HOWEVER, that, notwithstanding the fact that Foster Friess' employment by the LLC or the WY LLC (as applicable) has terminated for any reason prior to the consummation of the Subsequent Purchase, the Subsequent Purchase LLC Points shall not be purchased by the Manager Member from FAID pursuant to this Section 3.11 (but, for the avoidance of doubt, all of FAID's other LLC Interests shall be purchased in accordance with the provisions of this Section 3.11, subject to the immediately following proviso) until such time as it has become objectively determinable that AMG will not be required to consummate the Subsequent Purchase pursuant to Section 12 of the Purchase Agreement, at which time the Subsequent Purchase LLC Points shall be purchased by the Manager Member from FAID pursuant to this Section 3.11 (i) as if Foster Friess' employment by the LLC or the WY LLC (as applicable) had terminated on the date it became objectively determinable that AMG would not be required to consummate the Subsequent Purchase pursuant to Section 12 of the Purchase Agreement and (ii) with the Purchase Price and manner of payment for the purchase of the Subsequent Purchase LLC Points pursuant to this Section 3.11 to be determined based upon the manner in which Foster Friess' employment with the LLC or the WY LLC (as applicable) actually terminated;

and PROVIDED, FURTHER, that, notwithstanding the fact that Foster Friess' employment by the LLC or the WY LLC (as applicable) has terminated for any reason prior to three (3) months after the tenth (10th) anniversary of the Effective Time, any Series A LLC Points in the Purchase Reserve that continue at that time to be held by FAID shall not be purchased by the Manager Member from FAID pursuant to this Section 3.11 (but, for the avoidance of doubt, all of FAID's other LLC Interests shall be purchased in accordance with the provisions of this Section 3.11 (including without limitation any Series B-1 LLC Points then held by FAID, whether or not in

the Purchase Reserve), subject to the immediately preceding proviso) until three months after the tenth (10th) anniversary of the Effective Time, at which time any remaining LLC Points in the Purchase Reserve that continue at that time to be held by FAID shall be purchased by the Manager Member from FAID pursuant to this Section 3.11(i) as if Foster Friess' employment by the LLC or the WY LLC (as applicable) had terminated three (3) months after the tenth (10th) anniversary and (ii) with the Purchase Price and manner of payment for the purchase of such LLC Points pursuant to this Section 3.11 to be determined based upon the manner in which Foster Friess' employment with the LLC or the WY LLC (as applicable) actually terminated;

and PROVIDED, FURTHER, that, solely in the event that John Ragard's or William D'Alonzo's employment by the LLC or the WY LLC (as applicable) has terminated as a result of such Employee Stockholder's Retirement on the eleventh (11th) anniversary of the Effective Time, two-thirds of the aggregate number of LLC Points held by such



applicable Designated Initial Member and its Permitted Transferees shall not be purchased by the Manager Member from such Designated Initial Member and its Permitted Transferees pursuant to this Section 3.11 in connection with such Retirement (but, for the avoidance of doubt, all of such Designated Initial Member's and its Permitted Transferees' other LLC Interests shall be purchased in accordance with the provisions of this Section 3.11 in connection with such Retirement) until the thirteenth (13th) anniversary of the Effective Time, at which time all remaining LLC Interests of such Designated Initial Member and its Permitted Transferees shall be purchased by the Manager Member from such Designated Initial Member and its Permitted Transferees pursuant to this Section 3.11 (to the extent such LLC Interests have not previously been Put pursuant to Section 7.1 hereof) as if such applicable Employee Stockholder's employment by the LLC or the WY LLC (as applicable) had terminated by reason of his Retirement on the thirteenth (13th) anniversary of the Effective Time;

and PROVIDED, FURTHER, that, solely in the event that John Ragard's or William D'Alonzo's employment by the LLC or the WY LLC (as applicable) has terminated as a result of such Employee Stockholder's Retirement on the twelfth (12th) anniversary of the Effective Time, one-half of the aggregate number of LLC Points held by such applicable Designated Initial Member and its Permitted Transferees shall not be purchased by the Manager Member from such Designated Initial Member and its Permitted Transferees pursuant to this Section 3.11 in connection with such Retirement (but, for the avoidance of doubt, all of such Designated Initial Member's and its Permitted Transferees' other LLC Interests shall be purchased in accordance with the provisions of this Section 3.11 in connection with such Retirement) until the thirteenth (13th) anniversary of the Effective Time, at which time all remaining LLC Interests of such Designated Initial Member and its Permitted Transferees shall be purchased by the Manager Member from such Designated Initial Member and its Permitted Transferees pursuant to this Section 3.11 as if such applicable Employee Stockholder's employment by the LLC or the WY LLC (as applicable) had terminated by reason of his Retirement on the thirteenth (13th) anniversary of the Effective Time;

and PROVIDED, FURTHER, that, solely in the event that Carl Gates' employment by the LLC or the WY LLC (as applicable) has terminated as a result of such Employee Stockholder's Retirement prior to the fifth (5th) anniversary of the Effective Time, the LLC Interests held by such Employee Stockholder and his Permitted Transferees shall not be purchased by the Manager Member pursuant to this Section 3.11 in connection with such Retirement until the fifth (5th) anniversary of the Effective Time, at which time all LLC Interests of such Employee Stockholder and his Permitted Transferees shall be purchased by the Manager Member pursuant to this Section 3.11 as if such applicable Employee Stockholder's employment by the LLC or the WY LLC (as applicable) had terminated by reason of his Retirement on the fifth (5th) anniversary of the Effective Time, PROVIDED that, in the event that following the actual Retirement of such Employee Stockholder from employment with the LLC such Employee Stockholder (i) dies or (ii) experiences Permanent Incapacity, all remaining LLC Interests of such Employee Stockholder and its Permitted Transferees shall be purchased pursuant to this Section 3.11 promptly following the discovery by the Manager Member of such occurrence, with the Purchase Price and manner of payment for the purchase of such LLC Interests to be

determined as if such Employee Stockholder's employment with the LLC or the WY LLC (as applicable) had terminated as a result of death or Permanent Incapacity, respectively.

(b) The closing of the Purchase will take place on a date set by the Manager Member (the "Purchase Closing Date") which shall be after the last day of the calendar quarter in which the applicable Employee Stockholder's employment with the LLC or the WY LLC (as applicable) terminated (or, if later, after the last day of the sixth (6th) full calendar month following the Effective Time), but which is not more than one hundred twenty (120) days after the date such termination of employment occurred (or, if later, not more than one hundred twenty (120) days after the last day of the sixth (6th) full calendar month following the Effective Time); PROVIDED, HOWEVER, that the Manager Member shall select the same date for the Purchase Closing Date hereunder as has been selected by the WY LLC Manager Member for the "Purchase Closing Date" under the WY LLC Agreement (as such term is defined in the WY LLC Agreement) for purposes of its repurchase of the Selling Member's (and/or its Affiliates', as applicable) WY LLC Interests; and PROVIDED, FURTHER, that the Manager Member shall be permitted in its sole discretion (but shall not be required) to delay the consummation of the Purchase hereunder (thereby delaying the Purchase Closing Date) until such time as the Selling Member (and/or its Affiliates, as applicable) simultaneously sells its WY LLC Interests to the Manager Member (or the WY LLC Manager Member) pursuant to the provisions of Section 3.11 of the WY LLC Agreement.

(c) The aggregate purchase price payable by the Manager Member (or its assignee) for a Purchase (the "Purchase Price") shall be determined as follows:

(i) Series A LLC Points shall be valued at the fair value thereof, which shall be conclusively determined as follows:

(A) the Book Value, multiplied by

(B) a fraction, the numerator of which is the number of Vested Series A LLC Points being purchased in the Purchase, and the denominator of which is the number of LLC Points outstanding on the date of the closing of the Purchase (before giving effect to any issuances or redemptions of LLC Points on such date)

; PROVIDED, HOWEVER, that, if the Purchase Price determined pursuant to this clause (i) exceeds the "Purchase Price" determined under clause (i) of Section 3.11(c) of the WY LLC Agreement (before application of the proviso to such clause (i) of Section 3.11(c) of the WY LLC Agreement) in connection with the corresponding purchase of WY LLC Points priced pursuant to such provision of the WY LLC Agreement, then the Purchase Price determined under this clause (i) shall be reduced by the amount of such excess;



(ii) Series B-1 LLC Points shall be valued at the fair value thereof, which shall be conclusively determined as follows:

(A) the Book Value thereof, multiplied by

(B) a fraction, the numerator of which is the number of Vested Series B-1 LLC Points being purchased in the Purchase, and the denominator of which is the number of LLC Points outstanding on the date of the closing of the Purchase (before giving effect to any issuances or redemptions of LLC Points on such date)

; PROVIDED, HOWEVER, that, if the Purchase Price determined pursuant to this clause (ii) exceeds the "Purchase Price" determined under clause (ii) of Section 3.11(c) of the WY LLC Agreement (before application of the proviso to such clause (ii) of Section 3.11(c) of the WY LLC Agreement) in connection with the corresponding purchase of WY LLC Points priced pursuant to such provision of the WY LLC Agreement, then the Purchase Price determined under this clause (ii) shall be reduced by the amount of such excess;

(iii) Series B-2 LLC Points shall be valued at the fair value thereof, which shall be conclusively determined as follows:

(A) the positive difference, if any, between (x) the Book Value thereof and (y) the Liquidation Preference, multiplied by

(B) a fraction, the numerator of which is the number of Vested Series B-2 LLC Points being purchased in the Purchase and the denominator of which is the number of LLC Points outstanding on the date of the closing of the Purchase (before giving effect to any issuances or redemptions of LLC Points on such date)

; PROVIDED, HOWEVER, that, if the Purchase Price determined pursuant to this clause (iii) exceeds the "Purchase Price" determined under clause (iii) of Section 3.11(c) of the WY LLC Agreement (before application of the proviso to such clause (iii) of Section 3.11(c) of the WY LLC Agreement) in connection with the corresponding purchase of WY LLC Points priced pursuant to such provision of the WY LLC Agreement, then the Purchase Price determined under this clause (iii) shall be reduced by the amount of such excess; and

(iv) Notwithstanding any other provision hereof to the contrary, Purchase Program Points (whether Series A LLC Points, Series B-1 LLC Points or Series B-2 LLC Points) shall be valued at the Fair Market Value of such LLC Points (the "Purchase Program Points FMV")

; PROVIDED, HOWEVER, that, if the Purchase Program Points FMV determined pursuant to this clause (iv) exceeds the "Purchase Program Points FMV"



determined under clause (iv) of Section 3.11(c) of the WY LLC Agreement (before application of the proviso to such clause (iv) of Section 3.11(c) of the WY LLC Agreement) in connection with the corresponding purchase of WY LLC Points priced pursuant to such provision of the WY LLC Agreement, then the Purchase Program Points FMV determined under this clause (iv) shall be reduced by the amount of such excess.

Sample calculations under Sections 3.11(c)(i), 3.11(c)(ii), 3.11(c)(iii) and 3.11(c)(iv) are attached as Schedule C hereto.

(d) The rights of the Manager Member and its assignees hereunder are in addition to and shall not affect any other rights which AMG, the Manager Member, the LLC or their assigns may otherwise have to purchase LLC Interests (including without limitation pursuant to any agreement entered into by a Non-Manager Member or an Additional Non-Manager Member which provides for the vesting of LLC Points).

(e) On the Purchase Closing Date, the Manager Member (or its assignee, as applicable) shall pay to the Selling Member the Purchase Price for the LLC Interests purchased in the manner set forth in this Section 3.11, and upon such payment the Selling Member shall cease to hold any LLC Interests, and such Selling Member automatically shall be deemed to have withdrawn from the LLC and shall cease to be a Member of the LLC and shall no longer have any rights hereunder; PROVIDED, HOWEVER, that the provisions of this Article III shall continue to be binding upon such Selling Member and any related Employee Stockholder as provided in Section 3.14 hereof; and PROVIDED, FURTHER, that, in the event that any Designated Initial Member or other Employee Stockholder (or its related Non-Manager Member, in the case of an Employee Stockholder that is not a natural person) continues to hold LLC Points pursuant to the provisos to Section 3.11(a) hereof following such time as its Purchased Interest has otherwise been purchased pursuant to this Section 3.11, such Designated Initial Member or Employee Stockholder (as applicable) shall continue to be a Member of the LLC until such time as it no longer holds such LLC Points (as a result of the purchase of such LLC Points in the Subsequent Purchase pursuant to the Purchase Agreement (in the case of Subsequent Purchase LLC Points), the purchase of such LLC Points subsequently pursuant to this Section 3.11 or pursuant to a Put under Section 7.1, or otherwise), and at that time such Designated Initial Member or Employee Stockholder (as applicable) automatically shall be deemed to have withdrawn from the LLC and shall cease to be a Member of the LLC and shall no longer have any rights hereunder (except as provided in the immediately preceding proviso). On the Purchase Closing Date, the Selling Member and the Manager Member (or its assignee) shall, if the Manager Member so requests, execute an agreement reasonably acceptable to the Manager Member (i) in which the

Selling Member (including each Person included therein) represents and warrants to the Manager Member (or its assignee), that it has sole record and beneficial title to the Purchased Interest, free and clear of any Liens other than those imposed by this Agreement, and (ii) addressing such other customary matters as to authority, enforceability and similar subjects as the Manager Member reasonably requests.



(f) Payment of the Purchase Price with respect to any Purchased Interest shall be made as follows:

(i) In the case of a Purchase of Series A LLC Points which are not Purchase Program Points,

(A) in the case of such a Purchase following a termination of the employment of the applicable Employee Stockholder with the LLC (if the LLC employed such Employee Stockholder) or the WY LLC (if the WY LLC employed such Employee Stockholder) in conjunction with a Removal Upon Instruction of the Management Committee, on the Purchase Closing Date by wire-transfer of immediately available funds to an account designated to the Manager Member by the Selling Member at least three (3) business days prior to the Purchase Closing Date;

(B) in the case of such a Purchase following a termination of the employment of the applicable Employee Stockholder resulting from the death of such Employee Stockholder, on the Purchase Closing Date either (in the sole discretion of the Manager Member) (I) by wire-transfer of immediately available funds in an amount equal to one hundred percent (100%) of the Purchase Price to an account designated to the Manager Member by the Selling Member at least three (3) business days prior to the Purchase Closing Date or (II) by (x) wire-transfer of immediately available funds in an amount equal to fifty percent (50%) of the Purchase Price to an account designated to the Manager Member by the Selling Member at least three (3) business days prior to the Purchase Closing Date and (y) delivery of AMG Shares having a value equal to fifty percent (50%) of the Purchase Price as determined under the procedures set forth in Section 7.1(i) hereof;

(C) in the case of such a Purchase following a termination of the employment of the applicable Employee Stockholder resulting from the Retirement or Permanent Incapacity of such Employee Stockholder, on the later to occur of (I) the Purchase Closing Date or (II) the date which is the first business day after the third anniversary of the Effective Time, in either such case either (in the sole discretion of the Manager Member) (x) by wire-transfer of immediately available funds in an amount equal to one hundred percent (100%) of the Purchase Price to an account designated to the Manager Member by the Selling Member at least three (3) business days prior to the date such payment is due, (y) by (1) wire-transfer of immediately available funds in an amount equal to fifty percent (50%) of the Purchase Price to an account designated to the Manager Member by the Selling Member at least three (3) business days prior to the Purchase Closing Date and (2) delivery of AMG Shares having a value equal to fifty percent (50%) of the Purchase Price as determined under the procedures set forth in Section 7.1(i) hereof, or (z) in the case of a Purchase of Series A LLC Points which are not Initial LLC Points, by delivery of a



promissory note of AMG, in the form attached hereto as Exhibit B, having an initial principal amount equal to the Purchase Price, the principal amount of which promissory note is payable in four (4) equal annual installments (subject to the terms and conditions of this Agreement and such promissory note), with the first installment payable on the date such promissory note is delivered pursuant hereto; or

(D) in the case of any other such Purchase (including without limitation a termination of the employment of the

applicable Employee Stockholder in conjunction with a Removal For Acting Contrary to the Best Interests of the LLC), on the later to occur of (I) the Purchase Closing Date or (II) the date which is the first business day after the second anniversary of the Effective Time, in either such case (x) 53.571% in Contingent Consideration and (y) 46.429% (in the sole discretion of the Manager Member) either (1) by wire-transfer of immediately available funds to an account designated to the Manager Member by the Selling Member at least three (3) business days prior to the date such payment is due, (2) by (R) wire-transfer of immediately available funds in an amount equal to 23.215% of the Purchase Price to an account designated to the Manager Member by the Selling Member at least three (3) business days prior to the Purchase Closing Date and (S) delivery of AMG Shares having a value equal to 23.214% of the Purchase Price as determined under the procedures set forth in Section 7.1(i) hereof, or (3) in the case of a Purchase of Series A LLC Points which are not Initial LLC Points, by delivery of a promissory note of AMG, in the form attached hereto as Exhibit B, having an initial principal amount equal to 46.429% of the Purchase Price, the principal amount of which promissory note is payable in four (4) equal annual installments (subject to the terms and conditions of this Agreement and such promissory note), with the first installment payable on the date such promissory note is delivered pursuant hereto;

(ii) In the case of a Purchase of Series B-1 LLC Points which are not Purchase Program Points or Series B-2 LLC Points which are not Purchase Program Points, on the later to occur of (A) the Purchase Closing Date or (B) the date which is the first business day after the third anniversary of the Effective Time, in either such case one hundred percent (100%) in Contingent Consideration;

(iii) In the case of a Purchase of Series A LLC Points or Series B LLC Points which are Purchase Program Points,

(A) in the case of any such Purchase where the Purchase Program Points FMV determined pursuant to Section 3.11(c)(iv) is less than or equal to the amount that would have been calculated under Section 3.11(c)(i) (in the case of Purchase Program Points which are Series A LLC Points), Section 3.11(c)(ii) (in the case of Purchase Program Points which are Series B-1 LLC Points) or Section 3.11(c)(iii) (in the



case of Purchase Program Points which are Series B-2 LLC Points) if such LLC Points had not been Purchase Program Points, then in the manner set forth in Section 3.11(f)(i) (in the case of Purchase Program Points which are Series A LLC Points) or Section 3.11(f)(ii) (in the case of Purchase Program Points which are Series B LLC Points); or

(B) in the case of any such Purchase where the Purchase Program Points FMV determined pursuant to Section 3.11(c)(iv) is greater than the amount that would have been calculated under Section 3.11(c)(i) (in the case of Purchase Program Points which are Series A LLC Points), Section 3.11(c)(ii) (in the case of Purchase Program Points which are Series B-1 LLC Points) or Section 3.11(c)(iii) (in the case of Purchase Program Points which are Series B-2 LLC Points) if such LLC Points had not been Purchase Program Points, then (I) that portion of the Purchase Program Points FMV equal to such calculation under Section 3.11(c)(i), Section 3.11(c)(ii) or Section 3.11(c)(iii) (as applicable) shall be paid in the manner set forth under Section 3.11(f)(i) (in the case of Purchase Program Points which are Series A LLC Points) or Section 3.11(f)(ii) (in the case of Purchase Points which are Series B LLC Points), and (II) the excess shall be paid one hundred percent (100%) in Contingent Consideration at the same time payment is made pursuant to clause (I) of this Section 3.11(f)(iii)(B).

(g) The Manager Member may (i) assign any or all of its rights and obligations under this Section 3.11, in one or more instances, to any other direct or indirect wholly-owned subsidiary of AMG or (ii) with the written consent of the Management Committee (excluding any member thereof whose interest is being repurchased), assign any or all of its rights and

obligations under this Section 3.11, in one or more instances, to the LLC; PROVIDED, HOWEVER, that no such assignment shall relieve the Manager Member of its obligation to make payment of a Purchase Price (to the extent not paid by any such assignee); and PROVIDED, FURTHER, that, in the event such assignee is a wholly-owned subsidiary of AMG and thereafter ceases to be so owned, such assignee shall reassign to the Manager Member (or another direct or indirect wholly-owned subsidiary of AMG) all LLC Interests so acquired.

(h) In the event that a Non-Manager Member, its related Employee Stockholder or any Permitted Transferee thereof holding LLC Interests or WY LLC Interests (or any other holder of LLC Interests or WY LLC Interests, other than the Manager Member or any Affiliate thereof) (i) has filed a voluntary petition under the bankruptcy laws or a petition for the appointment of a receiver or makes any assignment for the benefit of creditors, (ii) is subject involuntarily to such a petition or assignment or to an attachment or other legal or equitable interest with respect to any of its LLC Interests or WY LLC Interests or, in the case of an Employee Stockholder which is not a Non-Manager Member, its interests in the Non-Manager Member which it owns, and such involuntary petition or assignment or attachment is not discharged within sixty (60) days after its effective date, or (iii) otherwise is subject to a Transfer of any of its LLC Interests or WY LLC Interests or, in the case of an Employee Stockholder which is not a



Non-Manager Member, its interests in the Non-Manager Member which it owns, by court order or decree or by operation of law, then the Manager Member shall in its sole discretion be entitled to purchase (or permit its assignee to purchase) all of the LLC Interests and WY LLC Interests held by such Non-Manager Member (or other holder of LLC Interests or WY LLC Interests, other than the Manager Member or any Affiliate thereof) pursuant to the terms of this Section 3.11 (with respect to LLC Interests) and pursuant to the terms of Section 3.11 of the WY LLC Agreement (with respect to WY LLC Interests) as if such Non-Manager Member (or other holder of LLC Interests or WY LLC Interests) was a Selling Member (with respect to LLC Interests purchased hereunder) or a "Selling Member" under the terms of the WY LLC Agreement (with respect to WY LLC Interests purchased thereunder), with the purchase price for such purchase to be determined pursuant to Section 3.11(c)(ii) (in the case of purchased LLC Interests) and paid in accordance with Sections 3.11(f)(iii) and 3.11(g), and pursuant to the terms of Section 3.11(c)(ii) of the WY LLC Agreement (in the case of purchased WY LLC Interests) and paid in accordance with Sections 3.11(f)(iii) and 3.11(g) of the WY LLC Agreement, and the date of the closing to be determined by the Manager Member in its discretion. In order to give effect to clause (iii) of the prior sentence, if any of the interests of a Non-Manager Member in the LLC, or of an Employee Stockholder in a Non-Manager Member, become subject to Transfer (or purport to be or have been Transferred) by a court order or decree or by operation of law, the Non-Manager Member (or other holder of LLC Interests, other than the Manager Member or any Affiliate thereof) whose interests in the LLC, or the interests in which (as applicable), are subject to such Transfer shall cease to be a Member of the LLC, and the transferee by court order or decree or by operation of law shall not become a Member, and the Manager Member (or its assignee) shall have the right in its sole discretion to purchase from the Non-Manager Member which has ceased to be a Non-Manager Member (or other holder of LLC Interests) all of his, her or its interests in the LLC in the manner set forth in the preceding sentence (and the corresponding provisions of the WY LLC Agreement shall apply with respect to WY LLC Interests in such circumstances). In the event that the Manager Member in its sole discretion determines not to purchase (or permit another assignee of the Manager Member to purchase) the LLC Interests held by a Non-Manager Member (or other holder of LLC Interests, other than the Manager Member or any Affiliate thereof) pursuant to the foregoing provisions of this Section 3.11(i), the Manager Member shall assign its right to make such purchase to any one or more other Non-Manager Members who desire to make such purchase for their own accounts (and who the Management Committee shall have authorized in writing to make such purchase, with the Management Committee determining the respective percentages such other Non-Manager Members shall be permitted to purchase), and such other Non-Manager Member(s) shall be entitled to purchase such LLC Interests on the same terms that would have been applicable to the Manager Member had it elected to make such purchase pursuant to the foregoing provisions of this Section 3.11(i) (and the corresponding provisions of the WY LLC Agreement shall apply with respect to WY LLC Interests in such circumstances, provided that the same Person or Persons purchasing such LLC Interests shall also purchase the corresponding WY LLC Interests pursuant to the provisions of

the WY LLC Agreement).



(i) In the event that a Non-Manager Member (or other holder of LLC Interests, other than the Manager Member or any Affiliate thereof) is required to sell its LLC Interests pursuant to the provisions of this Section 3.11 and for any reason fails to execute and deliver the agreements required by this Section 3.11 and otherwise to consummate such sale in accordance with the provisions of this Section 3.11 (including without limitation as a result of being unable for any reason to comply with the requirements hereof), the Manager Member (or its assignee, as applicable) may deposit the Purchase Price therefor (including cash and/or promissory notes) with any bank doing business within fifty (50) miles of the LLC's principal place of business, or with the LLC's accounting firm, as agent for such Non-Manager Member (or such other holder of LLC Interests), to be held by such bank or accounting firm for the benefit of and for delivery to such Non-Manager Member (and the corresponding provisions of the WY LLC Agreement shall apply with respect to the sale of WY LLC Interests under Section 3.11 of the WY LLC Agreement). Upon such deposit by the Manager Member (or its assignee, as applicable) and upon notice thereof given to such Non-Manager Member (or such other holder of LLC Interests), such Non-Manager Member's (or such other holder's) LLC Interests automatically shall be deemed to have been sold, transferred, conveyed and assigned to the Manager Member (or its assignee, as applicable), such Non-Manager Member (or such other holder) shall cease to hold any LLC Interests, shall cease to be a Member of the LLC (if previously a Member) and shall have no further rights with respect thereto (other than the right to withdraw the payment therefor, if any, held by the agent described in the preceding sentence), and the Manager Member shall record such transfer on SCHEDULE A hereto.

SECTION 3.12. NO EMPLOYMENT OBLIGATION. Each Non-Manager Member and each Employee Stockholder acknowledges that neither this Agreement nor the provisions of any Non-Solicitation Agreement to which it is a party creates an obligation on the part of the LLC (if the LLC employs such Employee Stockholder) or the WY LLC (if the WY LLC employs such Employee Stockholder) to continue the employment of an Employee Stockholder or any other Person with the LLC or the WY LLC, and that such Employee Stockholder is an employee at will of the LLC or the WY LLC (as applicable) (except to the extent otherwise provided in any Employment Agreement to which such Employee Stockholder is a party).

SECTION 3.13. [INTENTIONALLY OMITTED].

SECTION 3.14. MISCELLANEOUS. Each Member and each Employee Stockholder agrees that the enforcement of the provisions of Sections 3.8, 3.9, 3.10 and 3.11 hereof, and the enforcement of the provisions of the Employment Agreements and Non-Solicitation Agreements, are necessary to ensure the protection and continuity of the business, goodwill and confidential business information of the LLC (and any Controlled Affiliates thereof) for the benefit of each of the Members. Each Member and each Employee Stockholder agrees that, due to the proprietary nature of the LLC's (and any of its Controlled Affiliates') business, the restrictions set forth in Section 3.9 hereof and in the Employment Agreements and the Non-Solicitation Agreements are reasonable as to duration and scope. If any provision contained in this Article III shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Article III. It is the intention of the parties hereto that if any of the restrictions or covenants contained herein is held to cover a



geographic area or to be for a length of time that is not permitted by applicable law, or is in any way construed to be too broad or to any extent invalid, such provision shall not be construed to be null, void and of no effect, but to the extent such provision would then be valid or enforceable under applicable law, such provision shall be construed and interpreted or reformed to provide for a restriction or covenant having the maximum enforceable geographic area, time period and other provisions as shall be valid and enforceable under applicable law. Each Member and Employee Stockholder acknowledges that the obligations and rights under Sections 3.8, 3.9, 3.10 and 3.11 and this Section 3.14 shall survive the termination of the employment of an Employee Stockholder with the LLC (and with the WY LLC and any applicable Controlled Affiliates thereof, to the extent any such Person employs such Employee Stockholder) and/or the withdrawal or removal of a Member from the LLC (and as a member of the WY LLC), regardless of the manner of such termination, withdrawal or removal, in accordance with the provisions hereof and of the

relevant Employment or Non-Solicitation Agreement. Moreover, each Member agrees that the remedies provided herein are reasonably related to the anticipated loss that the LLC (and any Controlled Affiliates thereof) and the Members (including, without limitation, the Manager Member, which would be purchasing LLC Interests from a Non-Manager Member) would suffer upon a breach of such provisions. Except as agreed to following the Effective Time by the Manager Member in advance in a writing making specific reference to this Article III, no Employee Stockholder or Non-Manager Member shall enter into any agreement or arrangement which is inconsistent with the terms and provisions hereof.

## ARTICLE IV - CAPITAL CONTRIBUTIONS; CAPITAL ACCOUNTS AND ALLOCATIONS; DISTRIBUTIONS.

SECTION 4.1. CAPITAL CONTRIBUTIONS.

(a) Prior to the commencement of business on the date of the Closing, FAID agrees to contribute to the LLC certain of its assets, properties, rights, powers, privileges and business (and the goodwill associated therewith) (and the LLC assumed certain of the liabilities of FAID), and the Members agree that such Capital Contributions had an aggregate value equal to the aggregate Preferred Capital Account Balances of the Manager Member and FAID (as a Non-Manager Member) set forth on SCHEDULE A hereto as of immediately following the Effective Time. Except as may be agreed to following the Effective Time in connection with the issuance of additional LLC Interests, as specifically set forth herein, or as may be required under applicable law, the Members shall not be required to make any further capital contributions to the LLC. No Member shall make any capital contribution to the LLC without the prior consent of the Manager Member.

(b) No Member shall have the right to withdraw any part of his, her or its (or his, her or its predecessors in interest) Capital Contribution until the dissolution and winding up of the LLC (except as distributions otherwise expressly provided for in this Article IV may represent returns of capital, in whole or in part). No Member shall be entitled to receive any interest on any Capital Contribution made by it (or its predecessors



in interest) to the LLC. No Member shall have any personal liability for the repayment of any Capital Contribution of any other Member.

SECTION 4.2. CAPITAL ACCOUNTS; ALLOCATIONS.

(a) There shall be established for each Member a Capital Account (a "Capital Account") which, in the case of each Member, shall initially be equal to the Capital Contribution of such Member as of immediately following the Effective Time as set forth on SCHEDULE A hereto.

(b) The Capital Account of each Member shall be adjusted in the following manner. Each Capital Account shall be increased by such Member's allocable share of income and gain, if any, of the LLC (as well as the Capital Contributions made by a Member after the Effective Time (including without limitation any Capital Contributions deemed to have been made to the LLC by the Manager Member pursuant to the operation of the last paragraph of Section 3.5(c) hereof)) and shall be decreased by such Member's allocable share of deductions and losses, if any, of the LLC and by the amount of all distributions made to such Member. The amount of any distribution of assets other than cash shall be deemed to be the Fair Market Value of such assets (net of any liabilities encumbering such property that the distributee Member is considered to assume or take subject to). Capital Accounts shall also be adjusted upon the issuance of additional LLC Interests as set forth in Section 5.5(c) and upon the transfer of LLC Interests as set forth in Section 5.1. To the extent not otherwise provided for in this Agreement, the Capital Accounts of the Members shall be adjusted and maintained in accordance with the rules of Treasury Regulations Section 1.704-1(b)(2)(iv), as the same may be amended or revised. Any references in any section of this Agreement to the Capital Account of a Member shall be deemed to refer to such Capital Account as the same may be credited or debited from time to time as set forth above.

(c) Subject to Sections 4.2(e), 4.2(g) and 4.5 hereof, all items of LLC income and gain shall be allocated among the Members' Capital Accounts at the end of every calendar quarter (or portion thereof, in the case of the first calendar quarter end following the Effective Time, if the Effective Time did not fall on the first day of a calendar quarter) as follows:

(i) first, items of income and gain (if any) shall be allocated to the Manager Member until the Manager Member has been allocated cumulative income and gain under this Section 4.2(c)(i) which, together with income and gain previously allocated to the Manager Member under Section 4.2(e)(i) hereof, equals the cumulative amount of losses and deductions allocated to the Manager Member under Sections 4.2(d)(ii), 4.2(d)(iii) and 4.2(f) in prior periods (if any);

(ii) second, solely to the extent (if any) that FAID's Capital Account balance is less than its then-applicable Preferred Capital Account Balance, items of income and gain (if any) shall be allocated to FAID until FAID has been allocated cumulative income and gain under this Section 4.2(c)(ii) which, together with income and gain previously allocated to FAID under Section 4.2(e)(i) hereof,



equals the cumulative amount of losses and deductions allocated to FAID under Sections 4.2(d)(i)(B), 4.2(d)(iii) and 4.2(f) in prior periods (if any); and

(iii) finally, all remaining items of LLC income and gain shall be allocated among the Non-Manager Members in accordance with (and in proportion to) each Non-Manager Member's respective number of Vested LLC Points on the first day of such calendar quarter.

(d) Subject to Sections 4.2(f), 4.2(g) and 4.5 hereof, all items of LLC loss and deduction shall be allocated among the Members' Capital Accounts at the end of every calendar quarter (or portion thereof, in the case of the first calendar quarter end following the Effective Time, if the Effective Time did not fall on the first day of a calendar quarter) as follows:

(i) first, all items of LLC loss and deduction for such calendar quarter shall be allocated: (A) first, among the Non-Manager Members in accordance with (and in proportion to) each Non-Manager Member's respective number of Vested LLC Points on the first day of such calendar quarter, until the aggregate amount of such items of loss and deduction allocated to the Non-Manager Members pursuant to this clause (A) equals the aggregate amount of allocations of income and gain to the Non-Manager Members pursuant to Section 4.2(c)(iii) for such calendar quarter and (B) second, among the Non-Manager Members in accordance with (and in proportion to) each Non-Manager Member's respective numbers of Vested LLC Points on the first day of such calendar quarter, until the Capital Accounts of all of the Non-Manager Members shall have been reduced to zero (0) (after giving effect to the allocations of income and gain for such calendar quarter under Section 4.2(c)); provided that no additional loss or deduction shall be allocated to any Non-Manager's Capital Account pursuant to this Section 4.2(d)(i) once such Capital Account has been reduced to zero (0) (but items of loss and deduction shall continue to be allocated to the Capital Accounts of the other Non-Manager Members pursuant to this Section 4.2(d)(i) until all such Non-Manager Members' Capital Accounts have been reduced to zero (0));

(ii) second, any remaining items of LLC loss and deduction for such calendar quarter not allocated to the Non-Manager Members under Section 4.2(d)(i) shall be allocated to the Manager Member until its Capital Account shall have been reduced to zero(0); and

(iii) finally, any remaining items of LLC loss and deduction for such calendar quarter not allocated to the Members under Sections 4.2(d)(i) and 4.2(d)(ii) shall be allocated among all Members in accordance with (and in proportion to) each Member's respective number of Vested LLC Points as of the first day of such calendar quarter.

(e) If the LLC has a net gain from the sale, exchange or other disposition of all, or substantially all (as determined by the Manager Member), of the

assets of the LLC and its Controlled Affiliates and the WY LLC and its Controlled Affiliates, then that net gain shall be allocated among the Members as follows:

(i) first, to the Manager Member until the Manager Member has been allocated cumulative gain which, together with income and gain previously allocated to the Manager Member under Section 4.2(c)(i) and this Section 4.2(e)(i), equals the cumulative amount of losses and deductions allocated to the Manager Member under Sections 4.2(d)(ii), 4.2(d)(iii) and 4.2(f) in prior periods;

(ii) second, solely to the extent (if any) that FAID's Capital Account balance is less than its then-applicable Preferred Capital Account Balance, to FAID until FAID has been allocated cumulative gain which, together with income and gain previously allocated to FAID under Section 4.2(c)(ii) and this Section 4.2(e)(ii), equals the cumulative amount of losses and deductions allocated to FAID under Sections 4.2(d)(i)(B), 4.2(d)(iii) and 4.2(f) in prior periods;

(iii) third, an aggregate amount of gain equal to the positive difference between (A) the Liquidation Preference and (B) the aggregate positive Capital Account balances of those Members holding Series A LLC Points and/or Series B-1 LLC Points as of the date of the transaction (or an allocable portion thereof, in the case of any Member holding both Series A LLC Points and/or Series B-1 LLC Points, on the one hand, and Series B-2 LLC Points, on the other hand, as of the date of such transaction) to those Members holding Vested Series A LLC Points and/or Vested Series B-1 LLC Points as of the date of the transaction in accordance with (and in proportion to) their respective number of Vested Series A LLC Points and Vested Series B-1 LLC Points as of the date of the transaction; PROVIDED, HOWEVER, that if any gain would be allocable to the Non-Manager Members holding Series A LLC Points (other than FAID) pursuant to this Section 4.2(e)(iii), any gain allocable to FAID pursuant to this Section 4.2(e)(iii) shall instead be allocated to the Non-Manager Members holding Series A LLC Points (other than FAID) in accordance with (and in proportion to) their respective number of Vested Series A LLC Points as of the date of the transaction until the ratio of (I) the aggregate Capital Account balances of the Non-Manager Members holding Series A LLC Points (other than FAID) arising as a result of allocations made pursuant to this Section 4.2(e)(iii) and 4.2(e)(iv), on the one hand, to (ii) the aggregate Preferred Capital Account Balances of the Manager Member and FAID, on the other hand, is equal to the ratio of (X) the Applicable Series A Aggregate Non-Manager Member Allocation Percentage, on the one hand, to (Y) the sum of the Applicable Manager Member Allocation Percentage plus the Applicable FAID Allocation Percentage, on the other hand;

(iv) fourth, with respect to each remaining dollar of gain, (A) to the Manager Member that percentage of such dollar of gain equal to the Applicable Manager Member Allocation Percentage and (B) to the Non-Manager Members (other than FAID) the remaining portion of such dollar of gain (with such portion to be allocated among the Non-Manager Members (other than FAID) in accordance with (and in proportion to) their respective number of Vested LLC



Points as of the date of the transaction), until the ratio of (I) the aggregate Capital Account balances of the Non-Manager Members (other than FAID) arising as a result of allocations made pursuant to Section 4.2(e)(iii) and this Section 4.2(e)(iv), on the one hand, to (II) the aggregate Preferred Capital Account Balances of the Manager Member and FAID, on the other hand, is equal to the ratio of (X) the Applicable Aggregate Non-Manager Member Allocation Percentage, on the one hand, to (Y) the sum of the Applicable Manager Member Allocation Percentage plus the Applicable FAID Allocation Percentage, on the other hand; and

(v) thereafter, among the Members in accordance with (and in proportion to) their respective number of Vested LLC Points as of the date of the transaction.

(f) If the LLC has a net loss from any sale, exchange or other disposition of all, or substantially all (as determined by the Manager Member), of the assets of the LLC and its Controlled Affiliates and the WY LLC and its Controlled Affiliates, then that net loss shall be allocated

among the Members in accordance with (and in proportion to) their respective number of Vested LLC Points as of the date of the transaction; provided that no additional losses shall be allocated to a Member once its Capital Account has been reduced to zero (0) (but losses shall continue to be allocated to the Capital Accounts of the other Members pursuant to this Section 4.2(f)) until all Members' Capital Accounts have been reduced to zero (0), and thereafter any remaining amount of such losses shall be allocated among all Members pursuant to this Section 4.2(f) in accordance with (and in proportion to) each Member's respective number of Vested LLC Points as of the date of the transaction.

(g) Upon the making of an indemnification payment pursuant to Article 13 of the Purchase Agreement (or offset of such a required payment against an amount owed to an indemnitor as permitted under the Purchase Agreement), which payment is treated as an adjustment to the DE LLC Closing Purchase Price, (i) the Manager Member's and FAID's respective Preferred Capital Account Balances and (ii) the Capital Account balances of each of the Members shall be adjusted on a pro forma basis to such levels as would have been in effect at the time of such indemnification payment if the DE LLC Closing Purchase Price had instead been reduced by the amount of such indemnification payment as of the Effective Time.

(h) Following (and not including) the date on which the Effective Time occurs, in the event that during any calendar quarter (or any fiscal year of the LLC) there is any change of Members or LLC Points held by the Members (whether as a result of the admission of an Additional Non-Manager Member, the redemption by the LLC of all (or any portion of) any Member's LLC Points, an issuance or transfer of any LLC Points or otherwise), such transfer shall be deemed to have occurred as of the end of the last day of the calendar quarter in which such change occurred; PROVIDED, HOWEVER, that allocations in respect of Subsequent Purchase LLC Points for periods prior to the Subsequent Closing shall be made to FAID (with FAID and the Manager Member to receive respective allocations in respect of such LLC Points for the calendar quarter in



which the Subsequent Closing occurs ratably based upon the number of days in such quarter that each of them held such LLC Points).

SECTION 4.3. DISTRIBUTIONS.

(a) Subject to Section 4.4 hereof, from and after the Effective Time, within thirty (30) days after the end of each calendar quarter, the LLC shall, to the extent cash is available therefor at the LLC or any of its Controlled Affiliates (and the LLC shall cause its Controlled Affiliates to distribute any such available cash to the LLC, to the extent required for distributions pursuant hereto and not in violation of any laws applicable to such Controlled Affiliates), and based on the unaudited financial statements for such calendar quarter prepared in accordance with Section 9.3 hereof (after approval of such financial statements by the Manager Member), distribute to each Non-Manager Member (and each Person who was a Non-Manager Member at any time during such calendar quarter) an amount equal to the allocation of income and gain to such Non-Manager Member pursuant to Section 4.2(c)(iii) for such calendar quarter and any previous calendar quarter to the extent not then distributed, less an amount equal to the allocation of losses and deductions to such Non-Manager Member pursuant to Sections 4.2(d)(i)(B) and 4.2(d)(iii) for such calendar quarter.

(b) Except to the extent distributions are provided for in Section 4.3(a) hereof, any other amounts or proceeds available for distribution to the Members (if any) (after taking into account the use or reservation of Operating Allocation pursuant to Section 3.5(c)) shall be distributed to the Members at such times as may be determined by the Manager Member, provided that any such distribution shall be made among the Members (i) if attributable to a sale of all, or substantially all (as determined by the Manager Member), of the assets of the LLC and its Controlled Affiliates and the WY LLC and its Controlled Affiliates, in the same manner and order as such distribution would have been made under Section 4.4 upon a dissolution, and (ii) if otherwise attributable, in accordance with (and in proportion to) their respective numbers of Vested LLC Points at the time of such distribution (PROVIDED, HOWEVER, that if a Member has made a Capital Contribution after the Effective Time (other than a Capital Contribution deemed to have been made by the Manager Member pursuant to the operation of the last paragraph of Section 3.5(c) hereof with respect to indemnification payments), the Manager Member may cause the LLC first to make a priority return of such Capital Contribution in the case of a distribution described in this clause (ii)).

(c) Notwithstanding any other provision of this Agreement, the LLC shall not make a distribution to any Member on account of its LLC Interest if such distribution would violate the Act or other applicable law.

SECTION 4.4. DISTRIBUTIONS UPON DISSOLUTION; ESTABLISHMENT OF A RESERVE UPON DISSOLUTION. Upon any dissolution of the LLC, the assets of the LLC shall first go toward the payment (or the making of reasonable provision for the payment) of all liabilities of the LLC owing to creditors, including without limitation the establishment of such reserves as the Manager Member (or if there is none, the Liquidating Trustee) deems necessary or advisable to provide for any liabilities or other obligations of the LLC. The Manager Member (or if there is



none, the Liquidating Trustee) may cause the LLC to pay any such reserves over to a bank (or other third party) to be held in escrow for the purpose of paying any such liabilities or other obligations. At the expiration of such period(s) as the Manager Member (or Liquidating Trustee, if there is no Manager Member) may deem necessary or advisable, any remaining amount of such reserves (if any), and any other assets available for distribution, or a portion thereof (as determined by the Manager Member or, if there is none, the Liquidating Trustee), shall be distributed among the Members in accordance with the positive balances (if any) in their respective Capital Accounts (as determined immediately prior to such distribution after taking into account all Capital Account adjustments for the period in which the dissolution occurs) until all such positive Capital Account balances have been reduced to zero. If any assets of the LLC are to be distributed in kind in connection with such liquidation, such assets shall be distributed on the basis of their Fair Market Values (net of any liabilities encumbering such assets) and, to the greatest extent practicable under the circumstances (as determined by the Manager Member or, if there is none, the Liquidating Trustee), shall be distributed pro-rata in accordance with the total amounts to be distributed to each Member. In the event that a distribution referenced in the preceding sentence is not distributed pro-rata, the Members understand and acknowledge that a Member may be compelled to accept a distribution of any asset in kind from the LLC despite the fact that the percentage of the asset distributed to such Member exceeds the percentage of that asset which is equal to the percentage in which such Member shares in distributions from the LLC. Immediately prior to the effectiveness of any such distribution-in-kind, each item of gain and/or loss that would have been recognized by the LLC had the property being distributed instead been sold by the LLC for its Fair Market Value shall be determined and allocated to those Persons who were Members immediately prior to the effectiveness of such distribution in accordance with Sections 4.2(e) and 4.2(f).

SECTION 4.5. PROCEEDS FROM CAPITAL CONTRIBUTIONS AND THE SALE OF SECURITIES; INSURANCE PROCEEDS; CERTAIN SPECIAL ALLOCATIONS.

(a) MINIMUM GAIN CHARGEBACK. Notwithstanding any other provision in this Article IV, if there is a net decrease in Partnership Minimum Gain or Partner Nonrecourse Debt Minimum Gain (determined in accordance with the principles of Treasury Regulations Sections 1.704-2(d) and 1.704-2(i)) during any taxable year, the Members shall be specially allocated items of LLC income and gain for such year (and, if necessary, subsequent years) in an amount equal to their respective shares of such net decrease during such year, determined pursuant to Treasury Regulations Sections 1.704-2(g)(2) and 1.704-2(i)(5). The items to be so allocated shall be determined in accordance with Treasury Regulations Section 1.704-2(f). This Section 4.5(a) is intended to comply with the minimum gain chargeback requirements in such Treasury Regulations Sections and shall be interpreted consistently therewith; including that no chargeback shall be required to the extent of the exceptions provided in Treasury Regulations Sections 1.704-2(f) and 1.704-2(i)(4).

(b) QUALIFIED INCOME OFFSET. In the event any Member unexpectedly receives any adjustments, allocations, or distributions described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6), items of LLC income and gain shall be specially allocated to such Member in an amount and manner sufficient to eliminate the



deficit balance in his Capital Account created by such adjustments, allocations or distributions as promptly as possible.

(c) GROSS INCOME ALLOCATION. In the event any Member has a deficit Capital Account at the end of any fiscal year which is in excess of the sum of (i) the amount such Member is obligated to restore, if any, pursuant to any provision of this Agreement, and (ii) the amount such Member is deemed to be obligated to restore pursuant to the penultimate sentences of Treasury Regulations Section 1.704-2(g)(1) and 1.704-2(i)(5), each such Member shall be specially allocated items of LLC income and gain in the amount of such excess as quickly as possible, provided that an allocation pursuant to this Section 4.5(c) shall be made only if and to the extent that a Member would have a deficit Capital Account in excess of such sum after all other allocations provided for in this Article IV have been tentatively made as if Section 4.5(b) and this Section 4.5(c) were not in this Agreement.

(d) NONRECOURSE DEDUCTIONS. Nonrecourse Deductions shall be allocated among the Members in accordance with their respective numbers of Vested LLC Points.

(e) PARTNER NONRECOURSE DEDUCTIONS. Partner Nonrecourse Deductions for any taxable period shall be allocated to the Member who bears the economic risk of loss with respect to the liability to which such Partner Nonrecourse Deductions are attributable in accordance with Treasury Regulations Section 1.704-2(j).

(f) CURATIVE ALLOCATIONS. The allocations set forth in Sections 4.5(a), (b), (c), (d), and (e) hereof (the "Regulatory Allocations") are intended to comply with certain requirements of the Treasury Regulations. It is the intent of the Members that, to the extent possible, all Regulatory Allocations shall be offset either with other Regulatory Allocations or with special allocations of other items of LLC income, gain, loss or deduction pursuant to this Section 4.5(f), and to the extent Regulatory Allocations are necessary, it is the intent of the Members that they be made in as consistent a manner with the provisions of Section 4.2 hereof as practicable, subject to compliance with the Treasury Regulations. Therefore, notwithstanding any other provision of this Article IV (other than the Regulatory Allocations), the Manager Member shall make such offsetting special allocations of LLC income, gain, loss or deduction in whatever manner it determines appropriate so that, after such offsetting allocations are made, each Member's Capital Account is, to the extent possible, equal to the Capital Account balance such Member would have had if the Regulatory Allocations were not a part of this Agreement and all LLC items were allocated pursuant to Section 4.2. In exercising its discretion under this Section 4.5(f), the Manager Member shall take into account future Regulatory Allocations under Section 4.5(a) that, although not yet made, are likely to offset other Regulatory Allocations previously made under Sections 4.5(d) and (e).

(g) Capital Contributions (other than any Capital Contributions deemed to have been made to the LLC by the Manager Member pursuant to the operation of the last paragraph of Section 3.5(c) hereof) made by any Member after the Effective Time, and any proceeds from the issuance of securities by the LLC, may in the sole



discretion of the Manager Member be used for the benefit of the LLC (including without limitation provision for the purchase or redemption of any LLC Interests to be purchased or redeemed by the LLC), or may be distributed by the LLC to the Members in the sole discretion of the Manager Member, in which case any such proceeds shall be allocated and distributed among the Members in accordance with their respective Vested LLC Points immediately prior to the date of such contribution or issuance of securities (it being understood that in the event the proceeds are a promissory note or other receivable, any such distribution shall only occur (if at all) upon receipt by the LLC of cash in respect thereof).

(h) All items of depreciation or amortization (as calculated for book purposes in accordance with GAAP, consistently applied) on account of the tangible items of property of the LLC at the Effective Time shall be allocated to the Non-Manager Members pursuant to Section 4.2(d)(i); in no event shall items of intangible property resulting from the purchases of LLC Interests occurring pursuant to the Purchase Agreement and the Management Owner Purchase Agreement be depreciated or amortized for Capital Account purposes under this Agreement (but any items of depreciation or amortization (as calculated for book purposes in accordance with GAAP, consistently applied) on account of intangible items of property of the LLC otherwise existing as of immediately prior to the Effective Time shall be specially allocated to the Manager Member and the Non-Manager Members in accordance with (and in proportion to) the amounts

of their respective Preferred Capital Account balances). All items of depreciation or amortization (as calculated for book purposes in accordance with GAAP, consistently applied) on account of property (whether tangible or intangible) purchased out of the Operating Allocation (or with the proceeds of any Working Capital Loans) shall be allocated to the Non-Manager Members pursuant to Section 4.2(d)(i). All items of depreciation or amortization (as calculated for book purposes in accordance with GAAP, consistently applied) or deduction on account of property (whether tangible or intangible) purchased out of funds received from FAI, FAID, either of the Charities or any of the Management Owners by reason of indemnification obligations under the Purchase Agreement or the Management Owner Purchase Agreement (as applicable) shall be specially allocated to the Manager Member.

SECTION 4.6. TAX ALLOCATIONS. For income tax purposes only, each item of income, gain, loss and deduction of the LLC shall be allocated among the Members in the same manner as the corresponding items of income, gain, loss and deduction and specially allocated items are allocated for Capital Account purposes, provided that in the case of any LLC asset the Carrying Value of which differs from its adjusted tax basis for federal income tax purposes, income, gain, loss and deduction with respect to such asset shall be allocated solely for income tax purposes in accordance with the traditional method of allocation pursuant to Treasury Regulations Section 1.704-3(b) so as to take account of the difference between the Carrying Value and the adjusted basis of such asset.

SECTION 4.7. OTHER ALLOCATION PROVISIONS. The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulations Section 1.704-1(b) and shall be interpreted and applied in a manner consistent with such regulations. Sections 4.2(c) to 4.2(f), and Sections 4.5 and 4.6 may



be amended at any time by the Manager Member if necessary, in the opinion of tax counsel to the LLC or the Manager Member, to comply with such regulations, so long as any such amendment (a) does not materially change the relative economic interests of the Members and (b) to the extent practicable in the Manager Member's reasonable judgment, applies consistently to all Non-Manager Members.

SECTION 4.8. WITHHOLDING. The Manager Member is authorized to cause the LLC to withhold from distributions to a Member, or with respect to allocations to a Member, and to pay over to a federal, state or local government, any amounts required to be withheld pursuant to the Code or any other provisions of federal, state or local law. Any amounts so withheld shall be treated as distributed to such Member pursuant to this Article IV for all purposes of this Agreement and, if withheld from amounts allocated but not distributed, shall be offset against the next amounts otherwise distributable to such Member.

## ARTICLE V - TRANSFER OF LLC INTERESTS BY NON-MANAGER MEMBERS; RESIGNATION, REDEMPTION AND WITHDRAWAL BY NON-MANAGER MEMBERS; ADMISSION OF ADDITIONAL NON-MANAGER MEMBERS.

SECTION 5.1. TRANSFERABILITY OF INTERESTS. No interest of a Non-Manager Member (or transferee thereof) in the LLC (including without limitation LLC Interests) may, directly or indirectly, be sold, assigned, transferred, gifted or exchanged, nor may any Non-Manager Member (or transferee thereof) offer to do any of the foregoing (each, a "Transfer"), nor may any direct or indirect interest in any Non-Manager Member be, directly or indirectly, Transferred by any holder thereof, nor may any stockholder or other holder of an ownership interest in any Non-Manager Member which is not a natural person offer to do any of the foregoing, and no Transfer by a Non-Manager Member (or transferee thereof) or holder of an ownership interest in a Non-Manager Member shall be binding upon the LLC or any Non-Manager Member, in each case unless (i) such Transfer is expressly permitted by this Article V and (ii) the Management Committee and the Manager Member each receive an executed copy of the documents effecting such Transfer and such documents are in compliance with the requirements of this Article V and otherwise in form and substance satisfactory to the Management Committee and the Manager Member (each acting reasonably); PROVIDED, HOWEVER, that the provisions of this Article V shall not be applicable to the Subsequent Purchase (which shall be expressly permitted hereunder). The transferee of an interest in the LLC may become a substitute Non-Manager Member, and a Non-Manager Member which is not a natural person may remain a Member of the LLC following the Transfer of an ownership interest in such Non-Manager Member, in each case only upon the terms and conditions set forth in Section 5.2. If a transferee of an interest of a Non-Manager Member in the LLC does not become (and until any such transferee becomes) a substitute Non-Manager Member, or if a Non-Manager Member in which an ownership interest has been Transferred does not remain a Member of the LLC following such Transfer, in either case in

accordance with the provisions of Section 5.2, such Person shall not be entitled to exercise or receive any of the rights, powers or benefits of a Non-Manager Member other than the right to receive allocations of income, gain, loss and deduction and distributions which the assigning Non-Manager Member has Transferred to such Person. Each Employee Stockholder



and Non-Manager Member agrees to comply, and to cause its owners and transferees to comply (as applicable), with the provisions of this Article V.

A Non-Manager Member's LLC Interests or, in the case of a Non-Manager Member which is not a natural person, direct ownership interests in such Non-Manager Member (but in no event indirect ownership interests in such Non-Manager Member without the prior written consent of both the Management Committee and the Manager Member granted after the Effective Time in their respective sole discretion) may be Transferred solely:

(a) (i) with the prior written consent of the Management Committee and the Manager Member granted after the Effective Time or (ii) with respect to Program LLC Points held by FAID as of the Effective Time, Transfers of such Program LLC Points made pursuant to the terms of the Equity Purchase Program;

(b) upon (i) the death of such Non-Manager Member (in the case of a Non-Manager Member who is a natural person), with respect to LLC Interests held by such Non-Manager Member, or (ii) upon the death of a direct holder of ownership interests in such Non-Manager Member (in the case of a Non-Manager Member which is not a natural person), with respect to the direct ownership interests in such Non-Manager Member held by such deceased holder, in either such case such specified ownership interests may be Transferred by will or the laws of descent and distribution, without the consent of the Manager Member but subject in all cases to the provisions of Section 3.11 hereof, which shall continue to be binding upon the LLC Interests of such Non-Manager Member (and the holders thereof) notwithstanding such death; PROVIDED, HOWEVER, that no Transfer of LLC Points (or an interest in a Non-Manager Member holding LLC Points) shall be permitted pursuant to this Section 5.1(b) unless accompanied by a simultaneous Transfer by the same transferor (or by its Affiliated "Non-Manager Member" under the WY LLC Agreement, as applicable) to the same transferee of an equal number of WY LLC Points (or an equal proportionate direct interest in such "Non-Manager Member" under the WY LLC Agreement holding such WY LLC Points, as applicable); or

(c) (i) an Employee Stockholder who is a Non-Manager Member may Transfer his or her LLC Interests, or (ii) direct ownership interests in a Non-Manager Member which is not a natural person may be Transferred by its related Employee Stockholder, in either such case to members of such Employee Stockholder's Immediate Family (or trusts for their benefit and of which the exclusive beneficial owner is such Employee Stockholder and/or any such Immediate Family members), provided that any such trust does not require or permit distribution of such interests other than (A) to such Employee Stockholder or its related original Non-Manager Member that is a party hereto or (B) to such Immediate Family members who are beneficiaries thereof with such distribution being contingent upon the compliance by such Immediate Family members with the documentation and other requirements of this Agreement applicable to transferees of LLC Interests), without the consent of the Management Committee or the Manager Member but subject in all cases to the provisions of Section 3.11 hereof, which shall continue to be binding upon the LLC Interests of such Non-Manager Member (and the holders thereof) notwithstanding such Transfer; PROVIDED, HOWEVER, that no Transfer of LLC Points (or an interest in a Non-Manager Member holding LLC Points) shall be



permitted pursuant to this Section 5.1(c) unless accompanied by a simultaneous Transfer by the same transferor (or by its Affiliated "Non-Manager Member" under the WY LLC Agreement, as applicable) to the same transferee of an equal number of WY LLC Points (or an equal proportionate direct interest in such "Non-Manager Member" under the WY LLC Agreement holding such WY LLC Points, as applicable);

provided that in the case of (b) or (c) above, (i) the transferee first enters into an agreement with the LLC in form and substance reasonably satisfactory to the Manager Member (including without limitation with respect to any subsequent distribution of LLC Interests to beneficiaries being contingent upon them

entering into such an agreement with the LLC, in the case of a transferee that is a trust or similar vehicle) agreeing to be bound by the provisions of this Agreement (and if such transferee is not already a party to a Non-Solicitation Agreement and becomes (or any related Person thereof, in the event such transferee is not a natural person, becomes) an employee of the LLC, the transferee (and each such related person) enters into a Non-Solicitation Agreement), and (ii) whether or not the transferee enters into such an agreement, such LLC Interests and ownership interests in such Non-Manager Member (as applicable) shall thereafter remain subject to this Agreement (and the transferee (and any related person thereof, in the event such transferee is not a natural person) shall become subject to the transferring Employee Stockholder's Non-Solicitation Agreement if such transferee (or a related person thereof) becomes an employee of the LLC). LLC Points which are Transferred pursuant to Section 5.1(a)(i) shall thereafter have such Put rights under Article VII of this Agreement as may be agreed to in writing following the Effective Time by the Manager Member in its sole discretion in connection with such Transfer.

Notwithstanding the foregoing, without the prior written consent of the Manager Member granted after the Effective Time, no Non-Manager Member's interest in the LLC may be Transferred (and no ownership interest in a Non-Manager Member which is not a natural person may be Transferred) (i) if after giving effect to such Transfer, the total number of Members of the LLC would be deemed to exceed one hundred (100) (as determined in accordance with Treasury Regulations ss. 1.7704-1(h)), unless either (A) such Transfer is a Transfer described in Treasury Regulations ss. 1.7704-1(e) or (B) such Transfer is pursuant to a Put right under Article VII and the sum of the percentage interests in profits or capital of the LLC Transferred during the taxable year of the LLC (other than in Transfers described in Treasury Regulations ss. 1.7704-1(e)) would, taking the Transfer in question into account and assuming the maximum exercise of the Non-Manager Members' Put rights under Article VII, exceed ten percent (10%) of the total interests in profits or capital of the LLC, or (ii) if such Transfer (A) is required to be registered under the Securities Act, or (B) is not required to be registered under the Securities Act by reason of Regulation S thereunder, but would have been required to be registered under the Securities Act if the Transfer had been made within the United States, or if such Transfer would otherwise violate the securities or other laws of any jurisdiction.



For all purposes of this LLC Agreement, any Transfers of LLC Interests shall be deemed to occur as of the end of the last day of the calendar quarter in which any such Transfer would otherwise have occurred. Upon any Transfer of LLC Interests in accordance with the provisions hereof, the Manager Member shall make the appropriate revisions to SCHEDULE A hereto.

Each time LLC Interests (including without limitation additional LLC Points) are Transferred (including without limitation pursuant to a Put) or Purchased, the Manager Member may in its sole discretion elect to revalue the Capital Accounts of all the Members. If the Manager Member so elects, then the Capital Accounts of all the Members shall be adjusted as follows: (i) The Manager Member shall determine the proceeds which would be realized if the LLC sold all its assets at such time for a price equal to the Fair Market Value of such assets, and (ii) the Manager Member shall allocate amounts equal to the gain or loss which would have been realized upon such a sale to the Capital Accounts of all the Members immediately prior to such Transfer in accordance with Sections 4.2(e) and 4.2(f) hereof.

No interests of a Non-Manager Member in the LLC (including without limitation LLC Interests) may be pledged, hypothecated, optioned or encumbered, nor may any direct or indirect ownership interests in a Non-Manager Member be pledged, hypothecated, optioned or encumbered, nor may any offer to do any of the foregoing be made, without the prior written consent of the Management Committee and the Manager Member granted after the Effective Time in their respective reasonable discretion.

SECTION 5.2. SUBSTITUTE NON-MANAGER MEMBERS. No transferee of interests of a Member in the LLC (including without limitation LLC Interests) shall become a Member, and no Non-Manager Member in which any direct or indirect ownership interests have been Transferred shall remain a Member of the LLC, in either case except in accordance with this Section 5.2. The Management Committee may, with the prior written consent of the Manager Member granted after the Effective Time, admit as a substitute or additional Non-Manager Member (with respect to all or a portion of the LLC Interests held by a Person) any Person that acquires an LLC Interest by Transfer from a Non-Manager Member in accordance with Section 5.1 hereof. The Manager Member may, with the prior written consent of the Management Committee (such consent not to be unreasonably withheld), admit as a substitute or additional Non-Manager Member (with respect to all or a portion of

the LLC Interests held by a Person) any Person that acquires an LLC Interest from the Manager Member in accordance with Section 6.1 hereof. The Management Committee may, with the prior written consent of the Manager Member granted after the Effective Time, permit any Non-Manager Member in which ownership interests have been Transferred to remain a Member of the LLC (and such Non-Manager Member otherwise automatically shall cease to be a Member of the LLC). The admission of a transferee as a substitute or additional Non-Manager Member shall, in all events, be conditioned upon the execution of an instrument satisfactory in form and substance to the Management Committee and the Manager Member, whereby such transferee becomes a party to this Agreement as a Non-Manager Member, as well as compliance by such transferee with the provisions of Section 3.8 hereof. Upon the admission of a substitute Non-Manager Member in accordance with this Section 5.2, the Manager Member shall make the appropriate revisions to SCHEDULE A hereto.

SECTION 5.3. ALLOCATION OF DISTRIBUTIONS BETWEEN TRANSFEROR AND TRANSFEREE; SUCCESSOR TO CAPITAL ACCOUNTS. Upon the Transfer of LLC Interests in accordance with this



Article V, distributions pursuant to Article IV after the date of such Transfer shall be made to the Person owning the LLC Interest at the date of distribution, unless the transferor and transferee otherwise agree and so direct the LLC and the Manager Member in a written statement signed by both the transferor and transferee; PROVIDED, HOWEVER, that distributions in respect of allocations made with regard to Subsequent Purchase LLC Points for periods prior to the Subsequent Closing shall be made to FAID. Subject to Sections 5.9(c) and 5.9(d) hereof, in connection with a Transfer by a Member of LLC Interests, the transferee shall succeed to a pro-rata (based on the percentage of such Person's LLC Interests Transferred) portion of the transferor's Capital Account, unless the transferor and transferee otherwise agree and so direct the LLC and the Manager Member in a written statement signed by both the transferor and transferee and consented to in writing by the Management Committee and the Manager Member following the Effective Time.

SECTION 5.4. RESIGNATION, REDEMPTIONS AND WITHDRAWALS. No Non-Manager Member shall have the right to resign as a Member, to cause the redemption of its interest in the LLC in whole or in part, or otherwise to withdraw as a Member of the LLC, except (a) with the written consent of the Management Committee and the Manager Member granted after the Effective Time, (b) as is expressly provided for in Section 3.11 hereof in connection with a Purchase or (c) as is expressly provided for in Section 7.1 hereof. Upon any resignation, redemption or withdrawal as a Member, the Non-Manager Member shall only be entitled to the consideration (if any) provided for by Section 3.11 or Section 7.1 hereof upon the purchase of its LLC Interest, if and to the extent that one of such Sections provides for such a purchase (and shall in no event be entitled to a withdrawal, redemption or distribution of its Capital Account in whole or in part). Upon the resignation, redemption or withdrawal, in whole or in part, by a Non-Manager Member, the Manager Member shall make the appropriate revisions to SCHEDULE A hereto.

SECTION 5.5. ISSUANCE OF ADDITIONAL LLC INTERESTS.

(a) Except as provided in Section 5.2, additional Non-Manager Members (together with any Person admitted as a substitute or additional Non-Manager Member pursuant to Section 5.2 hereof, the "Additional Non-Manager Members") may be admitted to the LLC, and such Additional Non-Manager Members may be issued LLC Interests, only upon the prior written consent of the Manager Member and the Management Committee granted after the Effective Time (and then upon such terms and conditions as may be established jointly by the Manager Member and the Management Committee, including without limitation upon such Additional Non-Manager Member's execution of an instrument in form and substance satisfactory to the Manager Member whereby such Person becomes a party to this Agreement as a Non-Manager Member as well as such Person's compliance with the provisions of Section 3.8 hereof). Unless the Manager Member and the Management Committee each shall have otherwise granted their prior written consent after the Effective Time, any issuance of LLC Points pursuant to this Section 5.5(a) shall be accompanied by a simultaneous issuance of the same number of WY LLC Points by the WY LLC to the same Person (or to its Affiliated "Non-Manager Member" under the WY LLC Agreement, as applicable) receiving LLC Points in such issuance by the LLC.



(b) Existing Non-Manager Members may be issued additional LLC

Points by the LLC only upon the prior written consent of the Manager Member and the Management Committee granted after the Effective Time (and then upon such terms and conditions as may be established jointly by the Manager Member and the Management Committee). The Manager Member or its Affiliates may only be issued additional LLC Points (or other LLC Interests) upon the approval of the Management Committee. Unless the Manager Member and the Management Committee each shall have otherwise granted their prior written consent after the Effective Time, any issuance of LLC Points pursuant to this Section 5.5(b) shall be accompanied by a simultaneous issuance of the same number of WY LLC Points by the WY LLC to the same Person (or to its Affiliated "Non-Manager Member" under the WY LLC Agreement, as applicable) receiving LLC Points in such issuance by the LLC.

(c) Each time additional LLC Interests are issued (including, without limitation, additional LLC Points), the Capital Accounts of all the Members shall be adjusted as follows: (i) the proceeds which would be realized if the LLC sold all its assets at such time for a price equal to the Fair Market Value of such assets shall be determined as provided in the definition of Fair Market Value, and (ii) the Manager Member shall allocate amounts equal to the gain or loss which would have been realized upon such a sale to the Capital Accounts of all the Members immediately prior to such issuance in accordance with Sections 4.2(e) and 4.2(f) hereof.

(d) Upon the issuance of additional LLC Interests in accordance with the provisions of this Article V, the Manager Member shall make the appropriate revisions to SCHEDULE A hereto.

(e) Notwithstanding anything in this Agreement to the contrary, (i) no additional LLC Interests may be issued if, giving effect to such issuance, the total number of Members would be deemed to exceed one hundred (100) as determined in accordance with Treasury Regulation Section 1.7704-1 (h), and (ii) no LLC Interests may be issued (A) in a transaction that is required to be registered under the Securities Act, or (B) in a transaction that is not required to be registered under the Securities Act by reason of Regulation S thereunder unless the offering and sale of the LLC Interests would not have been required to be registered under the Securities Act if the LLC Interests had been offered and sold within the United States, or in any transaction that would otherwise violate the securities or other laws of any jurisdiction.

(f) Until the earlier to occur of (i) the date of the consummation of the Subsequent Purchase pursuant to Section 12 of the Purchase Agreement or (ii) such time as it has become objectively determinable that AMG will not be required to consummate the Subsequent Purchase pursuant to Section 12 of the Purchase Agreement, any issuance of LLC Points by the LLC shall require the prior written approval of FAID (such approval not to be unreasonably withheld).

SECTION 5.6. ADDITIONAL REQUIREMENTS FOR TRANSFER OR FOR ISSUANCE. As additional conditions precedent to the validity of (x) any Transfer of a Non-Manager Member's interest in the LLC (or, in the case of a Non-Manager Member which is not a natural person, direct or



indirect ownership interests in such Non-Manager Member) (pursuant to Section 5.1), or (y) the issuance of additional LLC Interests (pursuant to Section 5.5 above), such Transfer or issuance (as applicable) shall not: (i) cause the LLC to become subject to registration as an "investment company" under the 1940 Act, and the rules and regulations of the SEC thereunder, (ii) result in the assignment or termination of any contract to which the LLC (or any Controlled Affiliate thereof) is a party and which individually or in the aggregate are material (it being understood and agreed that any contract pursuant to which the LLC or a Controlled Affiliate thereof provides Investment Management Services is material), or (iii) result in the treatment of the LLC as an association taxable as a corporation or as a "publicly traded partnership" for federal or state income tax purposes.

The Manager Member or the Management Committee in its discretion may require reasonable evidence as to the foregoing, including, without limitation, a favorable opinion of counsel in form and substance reasonably acceptable to the Manager Member and the Management Committee (as applicable), the expense of which shall be borne by the parties to such transaction (and to the extent the LLC is such a party, shall be paid from the Operating Allocation).

To the fullest extent permitted by law, any Transfer or issuance that violates the provisions of this Article V shall be null and void.

SECTION 5.7. REGISTRATION OF LLC INTERESTS. The LLC Interests constitute "securities," as such term is defined in 6 DEL. C. SS. 8-102(15), governed by Article 8 of the Uniform Commercial Code as in effect in the State of Delaware (6 DEL. C. SS. 8-101, ET SEQ.). The LLC shall maintain a record of the ownership of LLC Interests which shall be set forth on Schedule A hereto (and which shall be updated from time to time to reflect transfers of ownership of LLC Interests in accordance with the provisions of this Agreement). Subject to restrictions on the transferability of LLC Interests as set forth herein, LLC Interests shall be transferred by delivery to the LLC of an instruction by the registered owner of an LLC Interest requesting registration of transfer of such LLC Interest and the recording of such transfer in the records of the LLC.

SECTION 5.8. REPRESENTATION OF MEMBERS. The Manager Member and each Non-Manager Member (including any Additional Non-Manager Member) hereby represents and warrants to the LLC and each other Member, and acknowledges (as applicable), that (a) it has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of an investment in the LLC and making an informed investment decision with respect thereto, (b) it is able to bear the economic and financial risk of an investment in the LLC for an indefinite period of time, (c) it is acquiring an interest in the LLC for investment only and not with a view to, or for resale in connection with, any distribution to the public or public offering thereof, (d) the equity interests in the LLC have not been registered under the securities laws of any jurisdiction and cannot be disposed of unless they are subsequently registered and/or qualified under applicable securities laws and the provisions of this Agreement have been complied with, and (e) the execution, delivery and performance of this Agreement, and of each other agreement referenced herein to which such Member is a party, by such Member have been duly authorized in all necessary respects, do not require it to obtain any consent or approval that has not been obtained and do not contravene or result in a default under any provision of any existing law or regulation applicable to it, any provision of its charter, by-laws or other



governing documents or any agreement or instrument to which it is a party or by which it is bound, and this Agreement and each such other agreement referenced herein to which such Member is a party has been duly executed and delivered by such Member and is enforceable against such Member in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability.

SECTION 5.9. CONVERSION OF LLC POINTS.

(a) Each Series B LLC Point automatically shall convert ("Convert") into one Series A LLC Point as follows:

(i) In the case of a Series B LLC Point which is issued and outstanding as of the Effective Time, such Series B LLC Point shall convert into one (1) Series A LLC Point on a date which is five (5) years from the Effective Time;

(ii) In the case of a Series B LLC Point which is sold and transferred to a Non-Manager Member pursuant to the Equity Purchase Program, such Series B LLC Point shall convert into one (1) Series A LLC Point on the date which is five (5) years from the date of such sale and transfer pursuant to the Equity Purchase Program);

(iii) In the case of a Series B LLC Point which is sold and transferred to a Non-Manager Member pursuant to the provisions of Section 6.1 hereof, or which is sold and transferred to such Non-Manager Member pursuant to the provisions of Section 5.5 hereof, such Series B LLC Point shall convert into one (1) Series A LLC Point on the date which is five (5) years from the date of such sale and transfer; and

(iv) In the case of a Series B LLC Point which is purchased by the Manager Member (or its assignee) (whether pursuant to the provisions of Section 3.11 or otherwise), such Series B LLC Point shall convert into one (1) Series A LLC Point immediately following the consummation of such purchase by the Manager Member (or its assignee).

(b) In addition to the foregoing, each Series B LLC Point which is held by a Non-Manager Member who (i) dies (or whose related

Employee Stockholder dies, in the case of a Non-Manager Member which is not itself an Employee Stockholder), (ii) has his or her (or whose related Employee Stockholder, in the case of a Non-Manager Member which is not itself an Employee Stockholder, has his or her) employment with the LLC terminate as a result of Permanent Incapacity, or (iii) is removed as a Member of the LLC pursuant to a Removal Upon the Instruction of the Management Committee, shall automatically Convert into one (1) Series A LLC Point as of immediately prior to such event. In addition to the foregoing, each Series B LLC Point which is held by a Non-Manager Member who is an Initial Member shall automatically immediately Convert into one (1) Series A LLC Point as of immediately following a



delivery by the Manager Member of a written notice expressly exercising its rights pursuant to Section 3.2(b)(v) of this Agreement.

(c) In connection with any sale and transfer by the Manager Member (or any of its Affiliates or their respective assignees) of Series A LLC Points to any Person, the Manager Member may determine in its sole discretion to convert such Series A LLC Points into an equal number of Series B-2 LLC Points effective as of immediately prior to such sale and transfer, and (unless the Manager Member shall otherwise elect in writing after the Effective Time in its sole discretion) no portion of the Capital Account of such transferor Member shall be transferred to the Person receiving such Series B-2 LLC Points.

(d) Upon any sale and transfer of a Purchase Program Point that is a Series B-1 LLC Point or Series A LLC Point to a Non-Manager Member pursuant to the Equity Purchase Program, such Series B-1 LLC Point or Series A LLC Point (as applicable) shall automatically immediately convert into one (1) Series B-2 LLC Point as of immediately prior to such sale and transfer (and, in the event of any such Purchase Program Point that was held by another Member as of immediately prior to such sale and transfer pursuant to the Equity Purchase Program, no portion of the Capital Account of such transferor Member shall be transferred to the Non-Manager Member purchasing such Purchase Program Point).

SECTION 5.10. PURCHASE PROGRAM POINTS. FAID hereby agrees that all of the Purchase Program Points held by FAID as of the Effective Time (which 5,000 Purchase Program Points constitute the entire Purchase Reserve as of the Effective Time) shall be subject to subsequent sale and transfer in accordance with the terms and conditions of the Equity Purchase Program (as the same may be amended from time to time with the prior written consent of the Manager Member, FAID and the Management Committee granted after the Effective Time), and acknowledges and agrees that no consent or other approval of FAID shall be required for any such sale and transfer pursuant to the Equity Purchase Program. With respect to each Purchase Program Point held by FAID as of the Effective Time, each of FAID and Foster Friess (as its related Employee Stockholder) covenants and agrees that, from and after the Effective Time until the earliest of (i) such time as such Purchase Program Point has been sold and transferred by FAID pursuant to the Equity Purchase Program, (ii) such time as such Purchase Program Point has been purchased by the Manager Member (or its assignee) pursuant to Section 3.11 hereof or (iii) three months following the tenth (10th) anniversary of the Effective Time, FAID shall remain in existence and shall not Transfer (including without limitation pursuant to the exercise of a Put, and notwithstanding the Conversion of such Purchase Program Point to a Series A LLC Point) such Purchase Program Point (other than pursuant to a sale and transfer made under the Equity Purchase Program), except to the extent that FAID, the Management Committee and the Manager Member otherwise agree in writing after the Effective Time (and, for the avoidance of doubt, the other Transfer restrictions set forth in this Agreement shall thereafter continue to apply to any subsequent Transfer of such LLC Point). Unless the Manager Member and the Management Committee each shall have otherwise granted their prior written consent after the Effective Time, any sale and transfer of Purchase Program Points pursuant to the Equity Purchase Program shall be accompanied by a simultaneous sale and transfer of the same number of "Purchase Program Points" (as such term is defined in the WY LLC Agreement) pursuant to



the "Equity Purchase Program" of the WY LLC to the same Person (or to its Affiliated "Non-Manager Member" under the WY LLC Agreement, as applicable) purchasing such Purchase Program Points pursuant to the Equity Purchase Program of the LLC.

ARTICLE VI - TRANSFER OF LLC INTERESTS BY THE

SECTION 6.1. TRANSFERABILITY OF INTEREST.

(a) Except as set forth in this Section 6.1, without the prior written approval of the Management Committee, (i) none of AMG's direct or indirect interest in the LLC (including, without limitation, any interest which has been Transferred to the Manager Member) may be Transferred (other than as a result of any merger, consolidation, leveraged recapitalization, sale of all or substantially all of its assets or similar transaction of AMG (regardless of how structured), which shall in no event be subject to the restrictions set forth in this Section 6.1 or require the consent of the Management Committee or any Member of the LLC) and (ii) the LLC may not undergo any merger, consolidation, conversion, leveraged recapitalization, sale of all or substantially all of its assets or similar transaction (any of which transactions described in this clause (ii) shall also require the prior written consent of the Manager Member granted after the Effective Time); PROVIDED, HOWEVER, (A) it is understood and agreed that, in connection with the operation of the business of AMG and the Manager Member (including, without limitation, the financing of its interest herein and direct or indirect interests in additional investment management companies), AMG's direct or indirect interests in the LLC may be pledged and encumbered and lien holders of AMG's interests shall have and be able to exercise the rights of secured creditors with respect to such interests, (B) AMG may, with the prior written approval of the Management Committee (such approval not to be unreasonably withheld), Transfer some (but not a majority) of its LLC Points to a Person who is not a Member but who is an Officer or employee of the LLC (or any Controlled Affiliate thereof) or who becomes an Officer or employee of the LLC (or any Controlled Affiliate thereof) or a Person majority owned by any such Person, (C) AMG may, with the prior written approval of the Management Committee (such approval not to be unreasonably withheld), Transfer some (but not a majority) of its LLC Points to existing Non-Manager Members, and (D) AMG may Transfer all or any portion of its LLC Interests to other direct or indirect wholly-owned subsidiaries of AMG (which shall thereafter be subject to the provisions of this Agreement applicable to the Manager Member).

Notwithstanding anything else set forth herein, AMG may, with the prior written approval of the Management Committee, Transfer all of its direct and indirect interests in the LLC to a bona fide third party purchaser in a single transaction or a series of related transactions (whether structured as an equity sale, a merger, a consolidation or otherwise), and, in any such case, each of the Non-Manager Members shall be required to Transfer, in the same transaction or transactions, all their interests in the LLC (and to



enter into such customary documentation in connection therewith as is entered into by AMG); PROVIDED, however, that the aggregate purchase price (including all forms of consideration, including without limitation amounts to be received in the form of equity participation rights) to be received by the Members (other than bona fide compensation for future services to be performed following such transaction by any Member) shall be allocated among the Members in the same manner as the purchase price would have been distributed pursuant to Section 4.4 following a sale of all or substantially all of the assets of the LLC and its Controlled Affiliates and the WY LLC and its Controlled Affiliates (with any net gain or loss from such transaction first having been allocated among the Members in accordance with Section 4.2(e) or 4.2(f) as applicable).

Until the earlier to occur of (i) the date of the consummation of the Subsequent Purchase pursuant to Section 12 of the Purchase Agreement or (ii) such time as it has become objectively determinable that AMG will not be required to consummate the Subsequent Purchase pursuant to Section 12 of the Purchase Agreement, any transaction requiring the prior written approval of the Management Committee under this Section 6.1(a) shall also require the prior written approval of FAID (other than a Transfer by AMG described in clause (B) of the proviso to the first paragraph of this Section 6.1(a), which shall not require the approval of FAID).

Upon any of the foregoing transactions, the Manager Member shall make the appropriate revisions to SCHEDULE A hereto.

(b) In the case of a Transfer upon foreclosure pursuant to a pledge of or lien on AMG's direct or indirect interest in the LLC pursuant

to Section 6.1(a)(A), each transferee shall sign a counterpart signature page to this Agreement agreeing thereby to become either a Non-Manager Member or the Manager Member (provided, however, that once one such other transferee elects to become the Manager Member, no transferee (other than a subsequent transferee of such new Manager Member) may elect to be a Manager Member hereunder. If the transferees pursuant to Section 6.1(a)(A) receive all of the Manager Member's LLC Interests and none of such transferees elects to become the Manager Member, then the Manager Member shall be deemed to have withdrawn from the LLC. If, however, one of the transferees elects to become the Manager Member and executes a counterpart signature page to this Agreement agreeing thereby to become the Manager Member, then notwithstanding any other provision hereof to the contrary, the old Manager Member shall thereupon be permitted to withdraw from the LLC as Manager Member.

(c) In the case of a Transfer pursuant to the second paragraph of Section 6.1(a), the old Manager Member shall be deemed to have withdrawn and its transferee shall be deemed to have become the new Manager Member hereunder.

SECTION 6.2. RESIGNATION, REDEMPTION, AND WITHDRAWAL. To the fullest extent permitted by law, except as set forth in Section 6.1, without the prior written consent of the Management Committee, the Manager Member shall not have the right to resign or withdraw from the LLC as Manager Member. With the prior written consent of the Management Committee, the Manager Member may resign or withdraw as Manager Member upon prior



written notice to the LLC. Without the prior written consent of the Management Committee, the Manager Member shall have no right to have all or any portion of its interest in the LLC redeemed. Any resigned, withdrawn or removed Manager Member shall retain its interest in the capital of the LLC and its other economic rights under this Agreement as a Non-Manager Member having the number of LLC Points held by the Manager Member prior to its resignation, withdrawal or removal (except as otherwise may be agreed to in writing following the Effective Time by such Manager Member in connection with such resignation, withdrawal or removal). If a Manager Member who has resigned, withdrawn or been removed no longer has any economic interest in the LLC, then upon such resignation, withdrawal or removal such Person shall cease to be a Member of the LLC.

## ARTICLE VII - PUT OF LLC INTERESTS.

SECTION 7.1. NON-MANAGER MEMBER PUTS.

(a) Each Non-Manager Member may, at such Non-Manager Member's option and subject to the terms and conditions set forth in this Section 7.1, cause the Manager Member (or its assignee) to purchase portions of the Vested Series A LLC Points held by such Non-Manager Member (a "Put").

(b) For so long as a Non-Manager Member (or, in the case of a Non-Manager Member which is not a natural person, its related Employee Stockholder) remains employed by the LLC or the WY LLC (as applicable), such Non-Manager Member may (subject to the other terms and conditions set forth in this Section 7.1) cause the Manager Member (or its assignee) to purchase up to ten percent (10%) of the Series A LLC Points that are Initial LLC Points of such Non-Manager Member (together with any such Series A LLC Points that are Initial LLC Points which previously could have been sold to the Manager Member by such Non-Manager Member pursuant to this Section 7.1(b) but were not previously sold) from such Non-Manager Member (and/or any Permitted Transferees of such Non-Manager Member) on the last business day of the month of March, starting with the last business day of the first month of March that is at least five (5) years following the Effective Time (each a "Put Purchase Date"); PROVIDED, HOWEVER, that only up to an aggregate of fifty percent (50%) of a Non-Manager Member's Series A LLC Points that are Initial LLC Points may be sold by such Non-Manager Member pursuant to this Section 7.1(b); and PROVIDED, FURTHER, that the Manager Member shall in no event be required to purchase in excess of 10% of the total outstanding LLC Points of the LLC during any single calendar year pursuant to this Section 7.1 (measured as of the applicable Put Purchase Date before giving effect to any Puts in that calendar year), and in the event a greater number of LLC Points have purported to be Put pursuant to this Section 7.1 during any single calendar year, the number of LLC Points that are actually Put by Non-Manager Members pursuant to this Section 7.1 in such calendar year shall be reduced to a number that is equal to 10% of the total outstanding LLC Points of the LLC (as of such Put Purchase Date before giving effect to any Puts in that calendar year), with such reduction borne pro rata by the Non-Manager Members exercising Puts in that calendar year in

proportion to the number of



LLC Points they have attempted to Put in such calendar year pursuant to this Section 7.1, and the remainder of such purported Puts in such calendar year shall be deemed to have been irrevocably withdrawn for such calendar year; and PROVIDED, FURTHER, that for purposes of the percentage limitations set forth in this Section 7.1(b), the number of Initial LLC Points held by FAID shall be reduced by the number of Purchase Program Points existing as of immediately following the Effective Time (but, for the avoidance of doubt, such Purchase Program Points shall nonetheless be deemed to be "outstanding LLC Points" for purposes of determining the number of outstanding LLC Points under this Agreement); and PROVIDED, FURTHER, that, notwithstanding any of the other timing and volume limitations and notice requirements set forth in this Section 7.1 to the contrary, in the event that any LLC Points held by either William D'Alonzo or John Ragard (and their respective Permitted Transferees) were not purchased pursuant to Section 3.11 hereof in connection with the Retirement of such applicable Employee Stockholder on the eleventh (11th) anniversary of the Effective Time as a result of the operation of the third proviso to Section 3.11(a) hereof, such Designated Initial Member shall be permitted to Put one-half (1/2) of the remaining Vested Series A LLC Points held by it and its Permitted Transferees on the twelfth (12th) anniversary of the Effective Time by written notice of such Put to the Manager Member delivered not later than one month prior to the twelfth (12th) anniversary of the Effective Time (and such written notice shall constitute the Put Notice for such Put, the twelfth (12th) anniversary shall constitute the Put Purchase Date for such LLC Points, the Put Price shall be determined in accordance with Section 7.1(e) hereof and the manner of payment shall be determined in accordance with Section 7.1(f) hereof)). Notwithstanding any other provision set forth herein, a Non-Manager Member may only exercise its rights under this Section 7.1(b) if the Non-Manager Member simultaneously causes the WY LLC Manager Member to purchase an equal number of Initial WY LLC Points pursuant to the provisions of Section 7.1(b) of the WY LLC Agreement (and the Manager Member shall be permitted in its sole discretion (but shall not be required) to delay the consummation of the purchase of LLC Points pursuant to this Section 7.1(b) until such time as such Non-Manager Member (or its Affiliated "Non-Manager Member" under the WY LLC Agreement, as applicable) simultaneously sells such Initial WY LLC Points to the WY LLC Manager Member pursuant to the provisions of Section 7.1(b) of the WY LLC Agreement).

(c) For so long as a Non-Manager Member (or, in the case of a Non-Manager Member which is not a natural person, its related Employee Stockholder) remains employed by the LLC or the WY LLC (as applicable), such Non-Manager Member may (subject to the other terms and conditions set forth in this Section 7.1) cause the Manager Member (or its assignee) to purchase up to ten percent (10%) of any Vested Series A LLC Points resulting from the Conversion of Series B-2 LLC Points sold and transferred to such Non-Manager Member pursuant to the Equity Purchase Program (each such sale and transfer of Series B LLC Points to a Non-Manager Member pursuant to the Equity Purchase Program being referred to herein as a "Purchase Program Sale") from such Non-Manager Member (and/or any Permitted Transferees of such Non-Manager Member) on any Put Purchase Date starting on the first Put Purchase Date which is at least five (5) years following the date of such Purchase Program Sale, PROVIDED that, in the case of any Non-Manager Member who was expressly identified on Annex B to the Equity Purchase Agreement as of the Effective Time as a designated



future purchaser of an expressly specified number of Series B-2 LLC Points pursuant to the Equity Purchase Program and who in fact purchased all or a portion of such identified Series B-2 LLC Points pursuant to the Equity Purchase Program in a Purchase Program Sale, on the first Put Purchase Date which is at least five (5) years following the date of such Purchase Program Sale such Non-Manager Member may cause the Manager Member (or its assignee) to purchase up to fifty percent (50%) of any Vested Series A LLC Points resulting from the Conversion of such Series B-2 LLC Points sold and transferred to such Non-Manager Member in such Purchase Program Sale (subject to the second proviso contained in Section 7.1(b)); PROVIDED, HOWEVER, that only up to an aggregate of fifty percent (50%) of the Series A LLC Points resulting from the Conversion of Series B LLC Points sold and transferred to a Non-Manager Member in a particular Purchase Program Sale

may be sold by such Non-Manager Member pursuant to this Section 7.1(c); and PROVIDED, FURTHER, that any such sale pursuant to this Section 7.1(c) shall be subject to the second proviso contained in Section 7.1(b). Notwithstanding any other provision set forth herein, a Non-Manager Member may only exercise its rights under this Section 7.1(c) if the Non-Manager Member simultaneously causes the WY LLC Manager Member to purchase an equal number of Vested WY LLC Points (acquired pursuant to the same Purchase Program Sale as those Vested LLC Points being sold by such Non-Manager Member pursuant to this Section 7.1(c)) pursuant to the provisions of Section 7.1(c) of the WY LLC Agreement (and the Manager Member shall be permitted in its sole discretion (but shall not be required) to delay the consummation of the purchase of LLC Points pursuant to this Section 7.1(c) until such time as such Non-Manager Member (or its Affiliated "Non-Manager Member" under the WY LLC Agreement, as applicable) simultaneously sells such Vested WY LLC Points to the WY LLC Manager Member pursuant to the provisions of Section 7.1(c) of the WY LLC Agreement).

(d) If a Non-Manager Member desires to exercise its rights under Section 7.1(b) or 7.1(c) above, it and its Employee Stockholder shall give the Manager Member, AMG, each other Employee Stockholder and the LLC irrevocable written notice (a "Put Notice") on or prior to the preceding October 1 (the "Notice Deadline"), stating that it is electing to exercise such rights, the number of Vested Series A LLC Points (the "Put LLC Points") to be sold in the Put, to what extent such Put is a Put of (A) Initial LLC Points ("Initial Put LLC Points") or (B) Series A LLC Points resulting from the Conversion of Series B-2 LLC Points received upon a Purchase Program Sale) ("Purchase Program Put LLC Points") and, if Purchase Program Put LLC Points are to be included in such Put, what Purchase Program Sale they are associated with. Puts in any given calendar year for which Put Notices are received before the Notice Deadline for that calendar year shall be completed as follows: AMG shall purchase from each Non-Manager Member (and/or its Permitted Transferees, as applicable) that number of Put LLC Points as is equal to the sum of (i) the number of Initial Put LLC Points to be sold by such Non-Manager Member (and/or its Permitted Transferees, as applicable) and designated as such in such Non-Manager Member's Put Notice, up to the maximum number of Initial Put LLC Points permitted by Section 7.1(b) to be Put by such Non-Manager Member in that year, and (ii) the number of Purchase Program Put LLC Points to be sold by such Non-Manager Member (and/or its Permitted Transferees, as applicable) and designated as such in such Non-Manager Member's Put Notice, up to the



maximum number of Purchase Program Put LLC Points permitted by Section 7.1(c) to be Put by such Non-Manager Member in that year.

(e) The aggregate purchase price payable by the Manager Member (or its assignee) upon the purchase of Put LLC Points pursuant to a Put (the "Put Price") on a Put Purchase Date shall be an amount equal to the aggregate fair market value of the LLC Points purchased pursuant to a Put hereunder, which shall be conclusively determined as follows:

(i) In the case of Put LLC Points other than Purchase Program Put LLC Points, an amount equal to the product of

(A) the Book Value thereof, multiplied by

(B) a fraction, the numerator of which is the number of Put LLC Points to be purchased from such Non-Manager Member on such Put Purchase Date pursuant to such Put, and the denominator of which is the number of LLC Points outstanding on such Put Purchase Date (before giving effect to any issuances or redemptions of LLC Points on such Date)

; PROVIDED, HOWEVER, that, if the Put Price determined pursuant to this clause (i) exceeds the "Put Price" determined under clause (i) of Section 7.1(e) of the WY LLC Agreement (before application of the proviso to such clause (i) of Section 7.1(e) of the WY LLC Agreement) in connection with the corresponding purchase of WY LLC Points priced pursuant to such provision of the WY LLC Agreement, then the Put Price determined under this clause (i) shall be reduced by the amount of such excess; and

(ii) In the case of Purchase Program Put LLC Points, an amount equal to their Purchase Program Points FMV

; PROVIDED, HOWEVER, that, if the Purchase Program Points FMV determined pursuant to this clause (ii) exceeds the "Purchase Program Points FMV" determined under clause (ii) of Section 7.1(e) of the WY LLC Agreement (before application of the proviso to such clause (ii) of Section 7.1(e) of the WY LLC Agreement) in connection with the corresponding purchase of WY LLC Points priced pursuant to such provision of the WY LLC Agreement, then the Purchase Program Points FMV determined under this clause (ii) shall be reduced by the amount of such excess.

(f) In the case of any purchase pursuant to a Put, the Put Price shall be paid by the Manager Member (or, if the Manager Member shall have assigned its obligation to any other Person pursuant to paragraph (g) below, such other Person) on the relevant Put Purchase Date as follows, in each case against delivery of such documents or instruments of transfer as may reasonably be requested by the Manager Member (including representations and warranties from the transferring Non-Manager Member and any Permitted Transferees thereof which are selling Put LLC Points pursuant to such



Put that they have sole record and beneficial title to the Put LLC Points, free and clear of any Liens other than those imposed by this Agreement and addressing such other customary matters as to authority, enforceability and similar subjects as the Manager Member reasonably requests):

(i) In the case of a purchase of Put LLC Points other than Purchase Program Put LLC Points, either (in the sole discretion of the Manager Member) (A) by certified check issued to the Non-Manager Member exercising such Put in the amount of the entire Put Price, or (B) by (I) certified check issued to the Non-Manager Member exercising such Put in an amount equal to fifty percent (50%) of the Put Price and (II) delivery of AMG Shares having a value equal to fifty percent (50%) of the Put Price as determined pursuant to the procedures set forth in Section 7.1(e)(i) ; or

(ii) In the case of a purchase of Purchase Program Put LLC Points,

(A) in the case of any such purchase where the Purchase Program Points FMV determined pursuant to Section 7.1(e)(ii) is less than or equal to the amount that would have been calculated under Section 7.1(e)(i) if such Put LLC Points had not been Purchase Program Put LLC Points, then in the manner set forth under Section 7.1(f)(i); or

(B) in the case of any such purchase where the Purchase Program Points FMV determined pursuant to Section 7.1(e)(ii) is greater than the amount that would have been calculated under Section 7.1(e)(i) if such Put LLC Points had not been Purchase Program Put LLC Points, then (I) that portion of the Purchase Program Points FMV equal to such calculation under Section 7.1(e)(i) shall be paid in the manner set forth under Section 7.1(f)(i), and (II) the excess shall be paid one hundred percent (100%) in Contingent Consideration at the same time payment is made pursuant to clause (I) of this Section 7.1(f)(ii)(B).

(g) The Manager Member may (i) assign any or all of its rights and obligations under this Section 7.1, in one or more instances, to any other direct or indirect wholly-owned subsidiary of AMG or (ii) with the written consent of the Management Committee, assign any or all of its rights and obligations under this Section 7.1, in one or more instances, to the LLC; PROVIDED, HOWEVER, that if the Manager Member assigns any or all its rights and obligations under this Section 7.1 to the LLC, then the Manager Member shall assign the identical and proportional rights and obligations under the WY LLC Agreement to the WY LLC; and PROVIDED, FURTHER, that, in the event such assignee is a wholly-owned subsidiary of AMG and thereafter ceases to be so owned, such assignee shall reassign to the Manager Member (or another direct or indirect wholly-owned subsidiary of AMG) all LLC Interests so acquired; and PROVIDED, FURTHER, that no such assignment shall relieve the Manager Member of its obligation to make payment of a Put Price (to the extent not paid by any such assignee).

(h) In the case of any Put, as of the applicable Put Purchase Date, each Non-Manager Member (and each of its applicable Permitted Transferees) selling Put LLC Points shall cease to hold the Put LLC Points purchased on the Put Purchase Date and shall cease to hold a pro-rata portion of such Non-Manager Member's (and each such Permitted Transferee's) Capital Account (which shall have been transferred to the Manager Member or its assignee making such purchase of Put LLC Points, or canceled by the LLC if the LLC is the assignee making such purchase) and shall no longer have any rights with respect to such portion of its LLC Interests.

(i) In the event that the Manager Member elects pursuant to the provisions of this Section 7.1 or pursuant to the provisions of Section 3.11 hereof (as applicable) to pay a portion of the Put Price or the Purchase Price under Section 3.11 hereof (as applicable) by the delivery of AMG Shares, the Manager Member shall give irrevocable written notice of such election to the Non-Manager Member exercising the Put (or the Selling Member pursuant to Section 3.11 hereof, as applicable) not less than twenty three trading days prior to the date on which such AMG Shares are required to be delivered pursuant to this Section 7.1 or Section 3.11 hereof (as applicable), and the number of AMG Shares required to be delivered by the Manager Member shall be equal to the quotient obtained by dividing (A) that portion of the Put Price under this Section 7.1 or the Purchase Price under Section 3.11 hereof (as applicable) to be paid in AMG Shares by (B) the Average AMG Stock Price, where:

(i) The "Average AMG Stock Price" is defined to mean the average (arithmetic mean) Stock Price of AMG Shares during the twenty consecutive trading days ending on (and including) the third complete trading day immediately prior to the date on which such AMG Shares are required to be delivered hereunder; and

(ii) the "Stock Price" is defined to mean, for any trading day, the closing price for one AMG Share, which shall be the last sale price or, in the case no such sale takes place on such trading day, the average of the closing bid and asked prices, in either case as reported in the principal consolidated transaction reporting system with respect to securities listed on the principal national securities exchange or other market on which AMG Shares is listed or admitted to trading; or, if not listed or admitted to trading on any national securities exchange, the last quoted price (or, if not so quoted, the average of the last quoted high bid and low asked prices) in the over-the-counter market, as reported by NASDAQ or such other system then in use; or, if on any such trading day no bids are quoted by any such organization, the average of the closing bid and asked prices as furnished by a professional market maker making a market in such security reasonably selected by the Board of Directors of AMG.

In the event that there is a stock split (or reverse stock split), stock dividend or other similar event during the relevant measuring periods under the foregoing calculations, equitable and appropriate adjustments shall be made in the application of the foregoing calculations of AMG's Average Stock Price to take account of such event.



ARTICLE VIII - DISSOLUTION AND TERMINATION.

SECTION 8.1. NO DISSOLUTION. The LLC shall not be dissolved by any admission of Additional Non-Manager Members, substitute Non-Manager Members or substitute Manager Members, or by the death, retirement, withdrawal, resignation, removal or bankruptcy of any Member from the LLC.

SECTION 8.2. EVENTS OF DISSOLUTION. The LLC shall be dissolved and its affairs wound up upon the occurrence of any of the following events (provided, however, that, unless the Manager Member and the Management Committee have otherwise consented in writing following the Effective Time, the LLC shall not be voluntarily dissolved or wound up unless the WY LLC is simultaneously dissolved and wound up):

(a) any date approved by the written consent of both the Management Committee and the Manager Member granted after the Effective Time (in their respective sole discretion); or

(b) at any time there are no Members of the LLC, unless the LLC is continued in accordance with the Act; or

(c) upon the entry of a decree of judicial dissolution

under ss.18-802 of the Act.

SECTION 8.3. NOTICE OF DISSOLUTION. Upon the dissolution of the LLC, the Manager Member shall promptly notify the other Members of such dissolution.

SECTION 8.4. LIQUIDATION. Upon the dissolution of the LLC, the Manager Member, or if there is none, a Person or Persons approved by the holders of more than fifty percent (50%) of the Vested LLC Points then outstanding (including those held by the Person that was the Manager Member) shall carry out the winding up of the LLC (in such capacity, the "Liquidating Trustee"), and shall immediately commence to wind up the LLC's affairs; PROVIDED, HOWEVER, that a reasonable time shall be allowed for the orderly liquidation of the assets of the LLC and the satisfaction of liabilities to creditors so as to enable the Members to minimize the normal losses attendant upon a liquidation. The Members shall continue to share in allocations and distributions during liquidation in the same proportions, as specified in Article IV hereof, as before liquidation. The proceeds of liquidation shall be distributed as set forth in Section 4.4 hereof.

SECTION 8.5. TERMINATION. The LLC shall terminate when all of the assets of the LLC, after payment of or due provision for all debts, liabilities and obligations of the LLC, shall have been distributed to the Members in the manner provided for in Section 4.4 and the Certificate shall have been canceled in the manner required by the Act.



SECTION 8.6. CLAIMS OF THE MEMBERS. The Members and former Members shall look solely to the LLC's assets for the return of their Capital Contributions and Capital Accounts, and if the assets of the LLC remaining after payment of or due provision for all debts, liabilities and obligations of the LLC are insufficient to return such Capital Contributions or Capital Accounts, the Members and former Members shall have no recourse against the LLC or any other Member (including, without limitation, the Manager Member).

## ARTICLE IX - RECORDS AND REPORTS.

SECTION 9.1. BOOKS AND RECORDS. The Management Committee shall (and each of the Non-Manager Members and Employee Stockholders shall use its reasonable best efforts to) cause the LLC to keep complete and accurate books of account with respect to the operations of the LLC, prepared in accordance with GAAP. Such books shall reflect that the interests in the LLC have not been registered under the Securities Act, and that the interests may not be sold or transferred without registration under the Securities Act or exemption therefrom and without compliance with Article V or Article VI of this Agreement. Such books shall be maintained at the principal office of the LLC in Greenville, Delaware or at such other place as the Management Committee shall determine (with the prior written consent of the Manager Member granted after the Effective Time).

SECTION 9.2. ACCOUNTING. The LLC's books of account shall be kept on the accrual method of accounting (consistently applied), or on such other method of accounting as the Manager Member may from time to time determine with the advice of the Independent Public Accountants, and shall be closed and balanced at the end of each LLC fiscal year and shall be maintained for each fiscal year in a manner consistent with GAAP and with the principles and/or policies of AMG applied consistently with respect to its Controlled Affiliates. The taxable year of the LLC shall be the twelve months ending December 31, or such other taxable year as the Manager Member may designate with the advice of the Independent Public Accountants.

SECTION 9.3. FINANCIAL AND COMPLIANCE REPORTS. The Management Committee shall use its reasonable best efforts (and each of the Non-Manager Members and Employee Stockholders shall use its reasonable efforts) to cause the LLC to furnish to the Manager Member each of the following:

(a) Within ten (10) days after the end of each month and each fiscal quarter, information regarding the consolidated assets under management of the LLC, the WY LLC and any of their respective Controlled Affiliates (including the components of any changes from the information provided with respect to the prior period, information regarding net client cash flows and information regarding market appreciation and depreciation in client portfolios), and an unaudited financial report of the LLC (consolidated with any Controlled Affiliates thereof) prepared in accordance with GAAP using the accrual method of accounting consistently applied (except that the financial report may (i) be subject to normal year-end audit adjustments which are neither individually nor in the aggregate material and (ii) not contain all notes thereto which may be required in accordance with GAAP to be included in audited financial statements),

which unaudited financial report shall have been certified by the most senior financial officer of the LLC to have been so prepared and shall include the following:

(i) statements of operations, changes in members' capital and cash flows for such month or quarter, together with a cumulative income statement from the first day of the then-current fiscal year to the last day of such month or quarter; and

(ii) a balance sheet as of the last day of such month or quarter.

(b) Within thirty (30) days after the end of each fiscal year of the LLC, audited financial statements of the LLC (consolidated with any Controlled Affiliates thereof), which shall include statements of operations, changes in members' capital and cash flows for such year and a balance sheet as of the last day thereof, each prepared in accordance with GAAP, using the accrual method of accounting, consistently applied, certified by the Independent Public Accountants.

(c) If requested by the Manager Member, within twenty-five (25) days after the end of each calendar quarter, the LLC's (and any Controlled Affiliates' thereof) operating budget for each of the next four (4) fiscal quarters, in such form and containing such estimates as may be requested by the Manager Member from time to time.

(d) If requested by the Manager Member, copies of all financial statements, reports, notices, press releases and other documents released to the public during such period.

(e) As promptly as is reasonably possible following request by the Manager Member from time to time, such other financial, operations, performance or other information or data as may be requested.

SECTION 9.4. MEETINGS.

(a) The Management Committee and the Officers shall hold such regular meetings at the LLC's principal place of business with representatives of the Manager Member as may be reasonably requested by the Manager Member from time to time. These meetings shall be attended (either in person or by telephone) by such members of the Management Committee, Officers and other employees of the LLC as may be requested by the Manager Member or any of the Officers.

(b) At each meeting described in Section 9.4(a), the Officers and other employees of the LLC shall discuss such matters regarding the LLC and its performance, operations and/or budgets as may be reasonably requested by the Manager Member, and each of the attendees (whether in person or by telephone) at such meeting shall have the right to submit proposals and suggestions regarding the LLC, and the attendees at the meeting shall, in good faith, discuss and consider such proposals and suggestions.



SECTION 9.5. TAX MATTERS.

(a) The Manager Member shall cause to be prepared and filed on or before the due date (or any extension thereof) federal, state, local and foreign tax or information returns required to be filed by the LLC (or any Controlled Affiliate thereof), and shall provide to the other Members, as soon as reasonably practicable following the close of each taxable year of the LLC, any information in the Manager Member's possession which is necessary to allow the other Members to timely prepare and file any federal, state or local income tax returns (including IRS Schedule K-1). The Manager Member, to the extent that funds are available at the LLC (or at any Controlled Affiliates thereof), shall cause the LLC (or such Controlled Affiliate thereof) to pay any taxes payable by the LLC (or such Controlled Affiliate) (it being understood that the expenses of preparation and filing of such tax returns, and the amounts of such taxes, are to be treated as operating expenses of the LLC to be paid from the Operating Allocation), provided that the Manager Member shall not be required to cause the LLC (or any Controlled Affiliate thereof) to pay any tax so long as the LLC (or such Controlled Affiliate thereof) is in good

faith and by appropriate legal proceedings contesting the validity, applicability or amount thereof and such contest does not materially endanger any right or interest of the LLC (or such Controlled Affiliate) and adequate reserves therefor have been set aside by the LLC (or such Controlled Affiliate). Neither the LLC nor any Employee Stockholder or Non-Manager Member shall do anything or take any action which would be inconsistent with the foregoing or with the Manager Member's actions as authorized by the foregoing provisions of this Section 9.5(a).

(b) The Manager Member shall be the tax matters partner for the LLC pursuant to Sections 6221 through 6233 of the Code.

(c) The Manager Member shall, in its sole discretion, make or cause to be made by the LLC (and any Controlled Affiliates thereof) any and all elections for federal, state, local and foreign tax matters, including any election to adjust the basis of the LLC's (or a Controlled Affiliate's) property pursuant to Section 754 of the Code or any comparable provision of state, local or foreign law.

## ARTICLE X - LIABILITY, EXCULPATION AND INDEMNIFICATION.

SECTION 10.1. LIABILITY. Except as otherwise provided by the Act, the debts, obligations and liabilities of the LLC (or of any Controlled Affiliate thereof), whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the LLC (or such Controlled Affiliate), and no Covered Person shall be obligated personally for any such debt, obligation or liability of the LLC (or any Controlled Affiliate thereof) solely by reason of being a Covered Person.

SECTION 10.2. EXCULPATION.

(a) No Covered Person shall be liable to the LLC, any Controlled Affiliate thereof or any other Covered Person for any loss, damage or claim incurred by



reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the LLC or any Controlled Affiliate thereof and in a manner reasonably believed to be within the scope of authority conferred on such Covered Person by this Agreement, except that a Covered Person shall be liable for any such loss, damage or claim incurred by reason of any action or inaction of such Covered Person which constituted fraud, gross negligence, willful misconduct or a breach of this Agreement or, in the case of a Non-Manager Member or Employee Stockholder, the Employment Agreement and/or Non-Solicitation Agreement to which he, she or it is a party.

(b) A Covered Person shall be fully protected in relying in good faith upon the records of the LLC (or of any Controlled Affiliate thereof) and upon such information, opinions, reports or statements presented to the Covered Person by any Person as to matters the Covered Person 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 LLC (or any Controlled Affiliate thereof).

SECTION 10.3. FIDUCIARY DUTY.

(a) To the extent that, at law or in equity, a Covered Person has duties (including fiduciary duties) and liabilities relating thereto to the LLC, any Controlled Affiliate thereof or any Member, a Covered Person acting under this Agreement shall not be liable to the LLC, any Controlled Affiliate thereof or any Member for its good faith reliance on the provisions of this Agreement. The provisions of this Agreement, to the extent that they restrict the duties and liabilities of a Covered Person otherwise existing at law or in equity, are agreed by the parties hereto to replace such other duties and liabilities of such Covered Person.

(b) Whenever in this Agreement the Manager Member is permitted or required to make a decision (i) in its "discretion" or "sole discretion" or under a grant of similar authority or latitude (or where no express standard is provided herein for such decision), the Manager Member shall be entitled to consider such interests and factors as it desires, including its own interests, and to reach any decision it may select regardless of the reasons therefor, or (ii) in its "good faith", "reasonable discretion" or under another express standard, the Manager Member shall act under such express standard and shall not be subject to any other or different standard imposed by this Agreement or other applicable law.

SECTION 10.4. INDEMNIFICATION. To the fullest extent permitted by applicable law, a Covered Person shall be entitled to indemnification from the LLC for any loss, damage or claim (including any amounts paid in settlement of any such claims) including expenses, fines, penalties and counsel fees and expenses incurred by such Covered Person ("Losses") by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the LLC (or any Controlled Affiliate thereof) and in a manner reasonably believed to be within the scope of authority conferred on such Covered Person by this Agreement, except that no Covered Person shall be entitled to be indemnified in respect of any Losses incurred by such Covered Person by reason of any action or inaction of such Covered Person which constituted fraud, gross negligence, willful misconduct or a breach of this Agreement, the Purchase



Agreement or, in the case of the Non-Manager Member or Employee Stockholder, the Employment Agreement and/or Non-Solicitation Agreement to which he, she or it is a party; PROVIDED, HOWEVER, that any indemnity under this Section 10.4 shall be provided out of and to the extent of LLC assets only, and no Member or Covered Person shall have any personal liability to provide indemnity on account thereof.

SECTION 10.5. NOTICE; OPPORTUNITY TO DEFEND AND EXPENSES.

(a) Promptly after receipt by any Covered Person from any third party of notice of any demand, claim or circumstance that, immediately or with the lapse of time, would reasonably be expected to give rise to a claim or the commencement (or threatened commencement) of any action, proceeding or investigation (an "Asserted Liability") that could reasonably be expected to result in any Losses with respect to which the Covered Person might be entitled to indemnification from the LLC under Section 10.4, the Covered Person shall give written notice thereof (the "Claims Notice") to the Management Committee and the Manager Member; PROVIDED, HOWEVER, that a failure to give such notice shall not prejudice the Covered Person's right to indemnification hereunder except to the extent that the LLC, a Controlled Affiliate thereof or the Manager Member is actually prejudiced thereby. The Claims Notice shall describe the Asserted Liability in such reasonable detail as is practicable under the circumstances, and shall, to the extent practicable under the circumstances, indicate the amount (estimated, if necessary) of the Loss that has been or may be suffered by the Covered Person.

(b) The LLC may elect to compromise or defend, at its own expense and by its own counsel, any Asserted Liability; PROVIDED, HOWEVER, that if the named parties to any action or proceeding include (or could reasonably be expected to include) both the LLC (or a Controlled Affiliate thereof) and a Covered Person, or more than one Covered Persons, and the LLC is advised by counsel that representation of both parties by the same counsel would be inappropriate under applicable standards of professional conduct, the Covered Person may engage separate counsel at the expense of the LLC. If the LLC elects to compromise or defend such Asserted Liability, it shall within twenty (20) business days (or sooner, if the nature of the Asserted Liability so requires) notify the Covered Person of its intent to do so, and the Covered Person shall cooperate, at the expense of the LLC, in the compromise of, or defense against, such Asserted Liability. If the LLC elects not to compromise or defend the Asserted Liability, fails to notify the Covered Person of its election as herein provided, contests its obligation to provide indemnification under this Agreement, or fails to make or ceases making a good faith and diligent defense, the Covered Person may pay, compromise or defend such Asserted Liability all at the expense of the Covered Person (in accordance with the provisions of Section 10.5(c) below). Except as set forth in the preceding sentence, neither the LLC nor the Covered Person may settle or compromise any claim over the objection of the LLC or the Manager Member; PROVIDED, HOWEVER, that consent to settlement or compromise shall not be unreasonably withheld. In any event, the LLC and the Covered Person may participate at their own expense, in the defense of such Asserted Liability. The Covered Person shall in any event make available to the LLC any books, records or



other documents within its control that are necessary or appropriate for such defense, all at the expense of the LLC.

(c) If the LLC elects not to compromise or defend an Asserted

Liability, fails to notify the Covered Person of its election as above provided or fails to defend the Asserted Liability diligently and in good faith, then, to the fullest extent permitted by applicable law, expenses (including legal fees) incurred by a Covered Person in defending any Asserted Liability, shall, from time to time, be advanced by the LLC prior to the final disposition of such claim, demand, action, suit or proceeding upon receipt by the LLC of an undertaking by or on behalf of the Covered Person to repay such amount if it shall be determined that the Covered Person is not entitled to be indemnified as authorized in Section 10.4 hereof. The LLC may, if the Manager Member deems it appropriate, require any Covered Person for whom expenses are advanced to deliver adequate security to the LLC for his or her obligation to repay such indemnification.

SECTION 10.6. MISCELLANEOUS.

(a) The right of indemnification hereby provided shall not be exclusive of, and shall not affect, any other rights to which a Covered Person may be entitled at law, under other agreements or otherwise. Nothing contained in this Article X shall limit any lawful rights to indemnification existing independently of this Article X.

(b) The indemnification rights provided by this Article X shall also inure to the benefit of the heirs, executors, administrators, successors and assigns of a Covered Person and any officers, directors, members, partners, shareholders, employees and Affiliates of such Covered Person (and any former officer, director, member, partner, shareholder or employee of such Covered Person, if the Loss was incurred while such Person was an officer, director, member, partner, shareholder or employee of such Covered Person). The Management Committee or the Manager Member may extend the indemnification called for by Section 10.4 to non-employee agents of the LLC (or any Controlled Affiliate thereof), the Manager Member or any of its Affiliates acting on behalf of the LLC (or any Controlled Affiliate thereof) (provided that no such indemnification shall cover any loss, damage or claim incurred by reason of any action or inaction of such indemnified Person which constituted fraud, gross negligence, willful misconduct or a breach of any agreement with the LLC or any of its Affiliates to which he, she or it is a party).

## ARTICLE XI - MISCELLANEOUS.

SECTION 11.1. NOTICES. All notices, requests, elections, consents or demands permitted or required to be made under this Agreement ("Notices") shall be in writing, signed by the Person or Persons giving such notice, request, election, consent or demand and shall be delivered personally or by confirmed facsimile, or sent by registered, certified mail or commercial courier to the Members at their addresses set forth on the signature pages hereof or on SCHEDULE A hereto, or to the LLC as described in the next sentence (as applicable), or at such other addresses as may be supplied by written notice given in conformity with the terms of this Section 11.1. All



Notices to the LLC shall be made to the Manager Member at the address set forth on the signature pages hereof or on SCHEDULE A hereto, with a copy (which shall not constitute notice) to the Management Committee at the principal offices of the LLC. The date of any such personal or facsimile delivery, or the date of delivery by an overnight courier, or the date five (5) days after the date of mailing by registered or certified mail, as applicable, shall be the date of such notice having been delivered hereunder.

SECTION 11.2. SUCCESSORS AND ASSIGNS. Subject to the restrictions on Transfer set forth herein, this Agreement shall be binding upon and shall inure to the benefit of the Members, their respective successors, successors-in-title, heirs and assigns, and each and every successors-in-interest to any Member, whether such successor acquires such interest by way of gift, purchase, foreclosure or by any other method, and each shall hold such interest subject to all of the terms and provisions of this Agreement.

SECTION 11.3. AMENDMENTS. Amendments may be made to this Agreement with (i) the prior written consent of the Manager Member granted after the Effective Time and (ii) the prior written consent of the Management Committee; PROVIDED, HOWEVER, that, without the vote, consent or approval of any other Member, the Manager Member shall make such updates and additions to SCHEDULE A hereto as are required by the provisions hereof; and, PROVIDED FURTHER, that, without the vote, consent or approval of any other Member, the Manager Member may amend this Agreement to correct any printing, stenographic or clerical errors; and PROVIDED, FURTHER, that any amendment to this Agreement (A) imposing any obligation on a Non-Manager Member to contribute capital to the LLC shall be

effective only with such Non-Manager Member's consent, (B) reducing the required percentage of LLC Points held by Members (or any group of Members) for any consent or vote in this Agreement shall be effective only with the consent or vote of Members (or such group) having the percentage of LLC Points held by Members theretofore required, and (C) that materially and adversely affects a particular Non-Manager Member differently from some other Non-Manager Members (other than a difference solely as a result of the different proportional LLC Interests of the Members or the different Officer or other employment roles held by different Non-Manager Members) shall be effective only with the prior written consent of such Non-Manager Member (unless such change is expressly provided for by this Agreement).

SECTION 11.4. NO PARTITION. No Member, nor any successor-in-interest to any Member, shall have the right while this Agreement remains in effect to have the property of the LLC partitioned, or to file a complaint or institute any proceeding at law or in equity to have the property of the LLC partitioned, and each Member, on behalf of itself, its successors, representatives, heirs and assigns, hereby waives any such right. It is the intent of the Members that during the term of this Agreement, the rights of the Members and the Employee Stockholders, and their respective successors-in-interest, as among themselves, shall be governed by the terms of this Agreement, and that the right of any Member or successors-in-interest to assign, Transfer, sell or otherwise dispose of his interest in the LLC shall be subject to the limitations and restrictions of this Agreement.

SECTION 11.5. NO WAIVER; CUMULATIVE REMEDIES. The failure of any Member to insist upon strict performance of a covenant hereunder or of any obligation hereunder, irrespective of the length of time for which such failure continues, shall not be a waiver of such Member's right



to demand strict compliance in the future. No consent or waiver, express or implied, to or of any breach or default in the performance of any obligation hereunder, shall constitute a consent or waiver to or of any other breach or default in the performance of the same or any other obligation hereunder. 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 its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

SECTION 11.6. DISPUTE RESOLUTION. All disputes arising in connection with this Agreement shall be resolved by binding arbitration in accordance with the applicable rules of the American Arbitration Association. The arbitration shall be held in Wilmington, Delaware before a single arbitrator selected in accordance with Section 12 of the American Arbitration Association Commercial Arbitration Rules who shall have substantial business experience in the investment advisory industry, and shall otherwise be conducted in accordance with the American Arbitration Association Commercial Arbitration Rules. The parties covenant that they will participate in the arbitration in good faith and that they will share equally its costs except as otherwise provided herein. The provisions of this Section 11.6 shall be enforceable in any court of competent jurisdiction, and the parties shall bear their own costs in the event of any proceeding to enforce this Agreement except as otherwise provided herein. The arbitrator shall assess costs and expenses (including the reasonable legal fees and expenses of the prevailing party or parties and any expenses incurred in connection with compelling arbitration) in favor of the prevailing party or parties against the other party or parties to such proceeding. Any party unsuccessfully refusing to comply with an order of the arbitrators shall be liable for costs and expenses, including attorney's fees, incurred by the other party in enforcing the award.

SECTION 11.7. PRIOR AGREEMENTS SUPERSEDED. This Agreement, together with the schedules and exhibits hereto, supersede the prior understandings and agreements among the parties with respect to the subject matter hereof and thereof, provided that the Purchase Agreement, the Employment Agreements, the Non-Solicitation Agreements and the other written agreements expressly contemplated hereby to be in effect as of the Effective Time shall not be superseded and shall survive in accordance with their respective terms.

SECTION 11.8. CAPTIONS. Titles or captions of Articles or Sections contained in this Agreement are inserted as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.

SECTION 11.9. COUNTERPARTS. This Agreement may be executed in a number of counterparts, all of which together shall for all purposes constitute one Agreement, binding on all the Members notwithstanding that all Members have not signed the same counterpart.

SECTION 11.10. APPLICABLE LAW; JURISDICTION. This Agreement and the rights and obligations of the parties hereunder shall be governed by and interpreted, construed and enforced in accordance with the laws of the State of Delaware, without applying the choice of law or conflicts of law provisions thereof. Each of the parties hereby consents to personal jurisdiction, service of process and venue in the federal or state courts sitting in Wilmington, Delaware for any claim, suit or proceeding arising under this Agreement to enforce any arbitration award or obtain equitable relief and hereby irrevocably agrees that all claims in respect of such action or



proceeding may be heard and determined in such state court or, to the extent permitted by law, in such federal court (subject to the provisions of Section 11.6 hereof). To the extent permitted by law, each of the parties hereby irrevocably consents to the service of process in any such action or proceeding by the mailing by certified mail of copies of any service or copies of the summons and complaint and any other process to such party at the address specified in Section 11.1 hereof. The parties agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions.

SECTION 11.11. INTERPRETATION. All terms herein using the singular shall include the plural; all terms using the plural shall include the singular; in each case, the term shall be as appropriate to the context of each sentence. Throughout this Agreement, nouns, pronouns and verbs shall be construed as masculine, feminine and neuter, whichever shall be applicable. Any reference to the Code, the Act or other statutes or laws will include all amendments, modifications, or replacements of the specific sections and provisions concerned. The parties intend that this Agreement and the provisions contained herein shall not be construed or interpreted for or against any party hereto because that party drafted or caused that party's legal representative to draft any of its provisions.

SECTION 11.12. SEVERABILITY. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

SECTION 11.13. CREDITORS. None of the provisions of this Agreement shall be for the benefit of or, to the extent permitted by law, enforceable by any creditor of (i) any Member, (ii) any Employee Stockholder or (iii) the LLC, other than a Member who is also a creditor of the LLC.

SECTION 11.14. REFERENCES TO THIS AGREEMENT. Numbered or lettered articles, sections and subsections herein contained refer to articles, sections and subsections of this Agreement unless otherwise expressly stated. References to paragraphs refer to paragraphs in the same Section unless otherwise expressly stated. References to clauses refer to clauses in the same paragraph unless otherwise expressly stated.

SECTION 11.15. EXHIBITS, SCHEDULES AND ANNEXES. All Exhibits, Schedules and Annexes attached to this Agreement are incorporated and shall be treated as if set forth herein. Only the Manager Member, the CEO and the members of the Management Committee shall have the right to review SCHEDULE A hereto and ANNEX B to the Equity Purchase Program, and each of the Non-Manager Members and Employee Stockholders (in his or her capacity as a Non-Manager Member or Employee Stockholder, as applicable) expressly waives his or her rights under the Act (including without limitation under Section 18-305 thereof) to review SCHEDULE A hereto and ANNEX B to the Equity Purchase Program (and acknowledges and agrees that such waiver is reasonable in light of the interests of the LLC and its Members). Each Non-Manager Member shall have the right to receive a copy of this Agreement and the Exhibits, Schedules and Annexes attached hereto, provided that SCHEDULE A hereto and ANNEX B to the Equity Purchase Program will be redacted as to names, LLC Points, Capital Contributions, the LLC Points which have not yet vested and the vesting schedule with respect to such LLC Points, and other financial information of the other Members, and such Non-Manager Member shall have the right to



review only that information regarding such Non-Manager Member's own LLC Points, Capital Contribution, LLC Points which have not yet vested and the vesting schedule with respect to such LLC Points, as well as the total number of outstanding LLC Points and Program LLC Points available for issuance pursuant to the Equity Purchase Program and the total amount of capital contributed by the

Members in the aggregate. Notwithstanding the foregoing, the Management Committee may in its sole discretion furnish to any one or more Non-Manager Members (and to the exclusion of any one or more other Non-Manager Members) such additional information relating to SCHEDULE A hereto and ANNEX B to the Equity Purchase Program as the Management Committee (in its sole discretion) determines from time to time.

SECTION 11.16. ADDITIONAL DOCUMENTS AND ACTS. Each Non-Manager Member and Employee Stockholder agrees to execute and deliver such additional documents and instruments and to perform such additional acts as may be reasonably requested by the Manager Member to effectuate, carry out and perform all of the terms, provisions, and conditions of this Agreement and the actions contemplated hereby.

SECTION 11.17. MANAGERS. The members of the Management Committee and the Officers of the LLC shall be deemed to be "managers" within the meaning of Section 303 of the Act and shall have the protections of such Section (provided that, for the avoidance of doubt, no such Person shall be deemed a "manager" within the meaning of the Act for any other purpose hereunder).

SECTION 11.18. GUARANTY OF AMG. AMG hereby unconditionally and irrevocably guarantees the timely performance by the Manager Member of its obligations under Sections 3.11 and 7.1 hereof; PROVIDED, HOWEVER, that the guaranty set forth in this Section 11.18 may be terminated with the prior written consent of the Management Committee, PROVIDED, FURTHER, HOWEVER, that such guaranty may not be terminated if the Manager Member has exercised any of its rights under Section 3.2(b)(v) hereof.

[INTENTIONALLY LEFT BLANK]



IN WITNESS WHEREOF the Initial Non-Manager Members and the Manager Member have executed and delivered this Amended and Restated Limited Liability Company Agreement as of the day and year first above written.

MANAGER MEMBER:

FA (DE) ACQUISITION COMPANY, LLC

By: AFFILIATED MANAGERS GROUP, INC.,
its Manager Member

By: /s/ Seth W. Brennan
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Name: Seth W. Brennan
Title: Executive Vice President

AFFILIATED MANAGERS GROUP, INC.,
solely with respect to its obligations under
Section 11.18 of this Agreement:

By: /s/ Seth W. Brennan
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Name: Seth W. Brennan
Title: Executive Vice President

NON-MANAGER MEMBERS:

FRIESS ASSOCIATES OF DELAWARE, INC.

By: /s/ Foster S. Friess
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Name: Foster S. Friess
Title: President

FOSTER S. FRIESS, as the related Employee
Stockholder of Friess Associates of Delaware, Inc.

/s/ Foster S. Friess
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Foster S. Friess

/s/ Lynda J. Campbell
- ----------
Lynda J. Campbell

/s/ William F. D'Alonzo
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William F. D'Alonzo

/s/ Nathan Dougall
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Nathan Dougall

/s/ William Dugdale
- ----------
William Dugdale

/s/ Jon S. Fenn
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Jon S. Fenn

/s/ Carl S. Gates
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Carl S. Gates

/s/ Christopher G. Long
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Christopher G. Long

/s/ Francis Okoniewski
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Francis Okoniewski

/s/ John P. Ragard
- ----------
John P. Ragard

/s/ Ethan Steinberg
- ----------
Ethan Steinberg