

## STILLWATER AGREEMENT

This agreement regarding the management and distribution of Assets<sup>1</sup> is made as of December 23, 2013, by and between the following parties:

i. The Stillwater Class, which comprises (1) the members of the class action pending in the District Court for the Southern District of New York captioned *Goldberg, et al. v. Gerova Financial Group, Ltd., et al.*, 11-CV-07107 (the “Goldberg Action”) and (2) the members of the class action pending in the District Court for the Southern District of New York captioned *In re Stillwater Capital Partners Inc. Litigation*, 11-CV-2737 (the “Stillwater Action”);

ii. Stillwater Capital Partners, LLC, Stillwater Capital Partners, Inc. (collectively “Stillwater Capital Partners”), and their shareholders and members, Jack Doueck and Richard Rudy, and each of their spouses, beneficiaries, heirs and trusts (collectively, with Stillwater Capital Partners, the “Stillwater Defendants”);

iii. (1) Eden Rock Finance Fund, L.P., (2) Eden Rock Finance Master Limited, f/k/a Fortis Prime Fund Solutions Custodial Services (Ire) Ltd re KBC ac G1 (ERFF), (3) Eden Rock Unleveraged Finance Master Limited, f/k/a Fortis (Isle of Man) Nominees Limited (RE ERUFML) ((1), (2) and (3) shall collectively be referred to as “Eden Rock”), (4) ARP Structural Alpha Fund, f/k/a Fortis (Isle of Man) Nominees Limited a/c 80 000 323, (5) ARP Private Finance Fund, f/k/a Fortis (Isle of Man) Nominees Limited a/c 80 000 357 ((4) and (5) shall be collectively referred to as “ARP”), (6) Cannonball Fund Ltd., and (7) Cannonball Fund II Ltd. ((6) and (7) shall be collectively referred to as “Cannonball,” and, with Eden Rock and ARP, and any other creditors, the “Offshore Fund’s Creditors”);

iv. The Official Committee of Unsecured Creditors and its members (the “Committee”), duly appointed in the chapter 11 case styled, *In re Stillwater Asset Backed Offshore Fund Ltd.*, Case No. 12-14140 (ALG) (the “Offshore Bankruptcy”), pending in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”);

v. Fortis PFS Noms as Custodian to KBC ac SHK, the CRO, and Eden Rock Finance Master Limited, f/k/a Fortis Prime Fund Solutions Custodial Services (IRE) Ltd., Cannonball Fund II Limited, and ARP Private Finance Fund f/k/a Fortis (Isle of Man) Nominees Limited a/c 80 000 357, as members of the Committee (collectively, and with any other entities appointed to the Committee, the “Committee Members”);

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<sup>1</sup> All capitalized, undefined terms herein shall have the meanings assigned to them in the Global Settlement Agreement, dated December 23, 2013, and entered into contemporaneously with this agreement.

- vi. Stillwater Asset Backed Offshore Fund Ltd. (the “Offshore Fund”); and
- vii. Evan Blum of GlassRatner Advisory & Capital Group LLC, the future initial Manager (the “Manager”).

This agreement is being entered contemporaneously with the GSA, and shall work in tandem with the GSA, providing for the various management, distributions, allocation, and related rights and duties for carrying out the global settlement as detailed below and in the GSA. This agreement is being executed simultaneously with the execution of the GSA by and among the parties to this Stillwater Agreement, plaintiffs in the case pending in the District Court for the Southern District of New York captioned *Arar, et al. v. Gerova Financial Group, Ltd., et al.*, 11-CV-3081, on behalf of all members of the putative Open-Market Class, Gerova Financial Group, Ltd. and Gerova Holdings, Ltd. (collectively, “Gerova”), Charles Thresh, Michael Morrison, and John McKenna, the Joint Provisional Liquidators of Gerova, Gary T. Hirst, Michael Hlavsa, Joseph Bianco, Jason Galanis, Tore Nag, and Evan Blum, as Chief Restructuring Officer (the “CRO”) of the Offshore Fund. The terms of the GSA are incorporated herein. The terms of the Stillwater Agreement serve as a material inducement for the Offshore Fund, Offshore Fund’s Creditors, Committee, Committee Members, Stillwater Class, Manager and Stillwater Defendants to execute both the GSA and this Stillwater Agreement. The breach of any material term of either this agreement or the GSA, including, but not limited to, the (i) delivery by the Stillwater Defendants of \$5,400,000 into an escrow account established jointly by the CRO and Stillwater Capital Partners as described in paragraph 1 of this agreement, (ii) compliance by the Stillwater Defendants with the disbursement approvals described in paragraph 2(a) of this agreement, (iii) the cooperation required by the Stillwater Defendants pursuant to paragraph 2(b) of this agreement, (iv) the preservation of Assets required by the Stillwater Defendants pursuant to paragraph 2(c) of this agreement, (v) the termination of the Stillwater Defendants’ management of the Assets pursuant to paragraph 3 of this agreement, (vi) the payment of Administrative Expense Claims, as defined and provided for in paragraph 5(a) of this agreement, (vii) the payment of the sums due to the Stillwater Defendants under paragraph 5(c) of this agreement, and (viii) the payment of the sums due to the Creditors and Investors, as defined and provided for in paragraph 5(d) of this agreement, shall be deemed to be a breach of both agreements.

1. Agreement Date. On the Agreement Date, the Stillwater Defendants shall deliver \$5,400,000 (the “Required Net Cash Funding Minimum”) into an escrow account established jointly by the CRO and Stillwater Capital Partners (the “Required Net Cash Funding Minimum Account”) at an independent national banking institution such as Wilmington Trust which is acceptable to the Parties hereunder, which shall be released only upon the Effective Date as provided below. Upon the Effective Date, the afore-referenced Required Net Cash Funding Minimum shall be released and delivered to the CRO for distribution pursuant to the GSA and this agreement. In the event that the Effective Date does not occur and the GSA

is terminated, the Required Net Cash Funding Minimum shall be returned to the Stillwater Defendants.

- a. Downward Adjustment of Required Net Cash Funding Minimum. The Required Net Cash Funding Minimum shall be adjusted downward based upon disbursements to the extent and in the amount, if any, of disbursements that the CRO and Committee approve in writing or to the extent not objected to within five (5) business days of written notification thereof pursuant to the requirements under paragraphs 2(a)(ii) and (iii) below in excess of the Cumulative Monthly Expenditures Cap provided for under paragraph 2(a)(iii) (the “Downward Adjustment”); provided however, that any collections received on and after the Agreement Date shall offset any Downward Adjustment. For clarity, if there is a Downward Adjustment as a result of an approved expense after the Agreement Date in the amount of \$50,000, and an additional \$50,000 is collected at any time after the Agreement Date, there shall be no Downward Adjustment of the Required Net Cash Funding Minimum. Nothing herein shall be deemed to authorize expenditures of any funds outside of the express procedures and limitations itemized in paragraphs 2(a)(i), (ii) and (iii) below. Pursuant to paragraph 3 below, on the Effective Date, the Required Net Cash Funding Minimum shall be among the Assets transferred from the Required Net Cash Funding Minimum Account to the Structure.
  
- b. Funds in Accounts Other than the Required Net Cash Funding Minimum Account. Pursuant to paragraph 3 below, all funds that are in any of the accounts that comprise part of the Assets, other than the Required Net Cash Funding Minimum Account, shall be transferred to the Structure on the Effective Date. However, the amount of up to \$500,000 from those accounts, other than from the Required Net Cash Funding Minimum Account, or any lesser amount if there is less than an aggregate amount of \$500,000 in those other accounts, shall be transferred to an escrow account held by Herrick Feinstein, as counsel for the Stillwater Defendants, which when released from escrow will be in full, or if less than \$500,000, in partial satisfaction of payment of the Initial Payment to Stillwater Defendants provided for in paragraph 5(c) below (the “Initial Payment to Stillwater Defendants Account”). Herrick Feinstein may release to the Stillwater Defendants the \$500,000 (or any lesser amount) from the Initial Payment to Stillwater Defendants Account in full or partial satisfaction of the Initial Payment to Stillwater Defendants five (5) days after the Effective Date (and conditioned upon such Effective Date occurring), and, in addition, solely upon (i) payment of the Administrative Expense Claim Payments provided for in paragraph 5(a) and (ii) the establishment of the Reserve provided for in paragraph 5(b), notice of which the Manager shall give to the Stillwater Defendants and the Committee simultaneously with the payment of the Administrative Expense Claim Payments and the establishment of the Reserve. Any

additional amounts due to the Stillwater Defendants to complete the Initial Payment to Stillwater Defendants provided for in paragraph 5(c) shall be paid to the Stillwater Defendants as provided for pursuant to paragraph 5(c).

2. Period between Agreement Date and Effective Date. From and after the Agreement Date, the Stillwater Defendants shall conform to the following:

a. Management.

i. Management Fee. The Stillwater Defendants may continue to manage the Stillwater Funds at the current monthly management fee rate of \$110,000 (the “Management Fee”) until the Effective Date.

ii. Approval for Disbursements over \$15,000. Excluding the Management Fee, the Stillwater Defendants must obtain written approval by the CRO, on advice and consent of the Committee, before making any single disbursement in the amount of at least \$15,000. If the Stillwater Defendants do not receive a response from the CRO within five (5) business days of their request, the Stillwater Defendants may make the disbursement.

iii. Approval for Disbursements after Cumulative Monthly Expenditures Exceeding \$45,000. Excluding the Management Fee, if the aggregate expenditures on a monthly basis exceed \$45,000 (the “Cumulative Monthly Expenditures Cap”), the Stillwater Defendants must obtain written approval by the CRO, on advice and consent of the Committee, before making any further disbursement in the amount of at least \$2,500. If the Stillwater Defendants do not receive a response from the CRO within five (5) business days of their request, the Stillwater Defendants may make the disbursement.

b. Cooperation. If none of the JPLs, Stillwater Class Plaintiffs, Committee, or CRO provide Termination Notice within seven (7) days after the completion of Confirmatory Discovery, the Stillwater Defendants shall then work with Evan Blum of GlassRatner Advisory & Capital Group LLC, the future initial Manager of the Structure upon the Effective Date, to transfer knowledge regarding the Assets, and to introduce the Manager to investors and creditors of, and third-parties dealing with, the Stillwater Funds, at no additional cost, up until the Effective Date.

c. Preservation of Assets. Maintain the Assets (not including the assets transferred from Gerova to Net Five) in their present condition consistent with the schedule of Assets annexed to the GSA as Appendix 2, subject to events that are not in the reasonable control of the Stillwater Defendants,

and refrain from undertaking any actions to transfer, sell, encumber, or otherwise materially diminish the Assets. However, the Stillwater Defendants can make decisions with respect to managing the Assets in the ordinary course of business, subject to the within provisions.

- i. Reporting. Report to the Manager periodically, but not less than monthly, regarding the status of the Assets, including giving receipts, providing bank statements, and itemizing disbursements during such period so as to reflect compliance with paragraphs 2(a)(i), (ii), and (iii). The Stillwater Defendants shall provide a weekly printout to the Manager of the bank balance. The foregoing shall be shared by the Manager with the Committee.
  - ii. Collections. Deposit and hold any receipts, receivables, or other consideration paid or payable on account of the Assets for distribution in accordance with this agreement, subject to paying expenses in the ordinary course within the terms of this agreement.
3. Upon Effective Date. From and after the Effective Date, the Stillwater Defendants' rights and obligations under the Investment Management Agreement, dated January 19, 2010, shall terminate. Concurrent with such termination, the terms of Management Agreement (the "Management Agreement") attached hereto as **Appendix 1**, and incorporated herein by reference as if part of the within agreement, shall commence.<sup>2</sup> Under the Management Agreement, a structure (the "Structure") shall be formed to hold all of the Assets and the Third Party Claims. In accordance with the GSA and the Management Agreement, upon the Effective Date, all of the Assets shall be and are transferred and/or assigned to the Structure. The Court Orders by the Bankruptcy Court and District Court approving the GSA and this agreement shall provide that such Assets shall be deemed to be held by the Structure free and clear of all claims, liens and contractually imposed restrictions, except for the rights to distributions under this agreement and the retention of liens afforded to any holders of allowed secured claims, if any.
  - a. Also upon the Effective Date, the Administrative Expense Claims (defined below in paragraph 5(a)) shall be transferred to the Structure for payment. The Manager shall manage the Structure, and shall have all rights and responsibilities to recover and manage the Assets, pursue the Third Party Claims, as permitted by this agreement, and distribute the Settlement Proceeds (defined below in paragraph 5) pursuant to the terms of the Management Agreement and under the oversight of the Oversight Committee as described below in paragraph 4.

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<sup>2</sup> The terms of the Management Agreement may be incorporated into a long form agreement creating the Structure, which agreement shall conform substantially to the terms of the Management Agreement and this agreement, but which may include additional or revised terms in order to comply with tax, accounting, corporate or other requirements.

- b. Also on the Effective Date, the Stillwater Funds and Stillwater Defendants (and all those acting in concert with them) shall be deemed to have automatically transferred their ownership interest in the Assets, including all of the assets of the Stillwater Funds, and any rights attendant thereto, to the Structure.
  - c. In addition, upon the Effective Date, the Stillwater Defendants shall promptly, but no less than 10 (ten) business days thereafter, or upon written direction of the Manager, such later date as the Manager directs, transfer to the Manager all books and records, in the possession, custody, or control of the Stillwater Defendants relating to the Assets. The reasonable and necessary costs of moving the afore-referenced books and records shall be borne by the Manager, provided however, that the Manager may leave any or all such books and records on site with the Stillwater Defendants for a period not to exceed sixty (60) days after the Effective Date, without charge, so long as beginning after sixty (60) days the Manager pays Stillwater \$1,200 per month as a storage fee. The Manager shall keep the books and records for a period of 6 years before destroying them, during which time the Manager will give the Stillwater Defendants access to such books and records upon reasonable request. The Manager may alternatively notify the Stillwater Defendants that such documents will be destroyed on 30 days' notice (and identify the documents set to be destroyed and the reason why they are no longer needed), in which case, Stillwater Defendants may, at their cost, pick up such documents and records within such time period, or the Manager may destroy such records.
  - d. Upon request by the Manager, the Stillwater Defendants shall assist and cooperate with the Manager to the extent reasonably required by the Manager without charge (i) up to the Effective Date, and (ii) after the Effective Date, provided such request does not exceed: 4 hours per month for the first two months after the Effective Date, 3 hours per month for the third and fourth month after the Effective Date, 2 hours per month for the fifth and sixth month after the Effective Date, and one hour per month for the sixth through twelfth months after the Effective Date. The Stillwater Defendants shall not be responsible for any action taken or not taken by the Manager after the Effective Date.
4. Formation of Oversight Committee. Upon the Effective Date, an Oversight Committee shall be formed consisting of five members, comprised of (i) three Committee Members, (ii) one Investor (defined below in paragraph 5(d)(iii)(1)(a)), to be named by the counsel for the Stillwater Class on the Agreement Date, and (iii) Evan Blum. The scope of the duties of the Oversight Committee is set forth in the Management Agreement. The Oversight Committee shall have no power or authority to make any decisions with respect to the Assets under this agreement until after the Effective Date.

5. Order of Distributions. The order of distributions of any proceeds from any and all Assets or Third Party Claims recovered and monetized into cash by the Structure pursuant to this Settlement net of direct costs of recovery (the “Settlement Proceeds”)<sup>3</sup> shall be in the following priorities:
- a. Administrative Expense Claims. Administrative expense claims of not more than \$1.25 million (“Administrative Expense Claims”), less \$300,000 (which shall be paid by the Stillwater Asset Backed Fund SPV, as described in paragraph 5(d)(iii)(2)(b)(i)) (the “SPV Administrative Expenses”), shall be paid within five days after the Effective Date before any other distributions are made.<sup>4</sup> Specifically, Administrative Expense Claims shall be funded from the first \$950,000 out of the Assets prior to any other distributions and the additional \$300,000 from the Stillwater Asset Backed Fund SPV as described below and shall be payable, subject to approval of the Bankruptcy Court pursuant to 11 U.S.C. Sections 330, 331, and 503. A schedule of the Administrative Expense Claims is attached hereto as Appendix 2, and may not be objected to by any Party to this agreement.
  - b. Reserve. A reserve (the “Reserve”) shall be established in the amount of \$1,000,000, for additional Administrative Expense Claims incurred until the Effective Date, as well and further fees incurred by the Structure in pursuing recovery and/or monetization of Assets and litigation against Third Parties and other parties. All holders of Administrative Expense Claims shall seek, to the extent they are required to do so, the aforementioned fees from the Bankruptcy Court pursuant to 11 U.S.C. Sections 330, 331, and 503, except that reasonable fees and expenses going forward after the confirmation and/or structured dismissal of the Offshore Bankruptcy and Effective Date, shall be paid as provided for under the Management Agreement without further order of the Court. This agreement shall not be contingent on the Bankruptcy Court’s award of Administrative Expense Claims to any party.

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<sup>3</sup> The payments described in subparagraphs 4(d)(i), (ii) and (iii) shall be made only from the Settlement Proceeds, and not from the Gervoa D&O Policy Consideration.

<sup>4</sup> Distributions of available cash shall be made at the sole discretion of the Manager, subject to input and approval, as applicable, by the Oversight Committee, and where required, further order of the Bankruptcy Court, as detailed in the Management Agreement, except the payments due to pay the Administrative Expense Claims, Reserve, and the Stillwater Defendants as set forth in sections 4(a), (b), and (c) are required payments and not subject to the discretion of the Manager. In addition, provided that there are sufficient sums available to fund and pay the \$950,000 Administrative Expense Claim payment and the \$1 million Reserve payment as provided for under 4(a) and (b), the Initial Payment to the Stillwater Defendants due under section 4(c) shall be made contemporaneously with the payment of the \$950,000 Administrative Expense Claim payment and the \$1 million Reserve under this GSA. Except as noted immediately above, under no circumstances shall the aforesaid Administrative Expense Claim payment be made unless the Initial Payment to the Stillwater Defendants is simultaneously made.

- c. Payments to Stillwater Defendants. In consideration for the Stillwater Defendants' agreement commencing on the Effective Date to (1) forgo, release, and abandon all unpaid and/or deferred management and/or incentive fees, (2) forego, release, and abandon all remaining responsibilities, rights, claims, and fees under the Investment Management Agreement dated January 19, 2010, (3) forego the recovery, management and distribution of the Assets and/or Settlement Proceeds under this agreement (other than as expressly provided for herein and by the Management Agreement), and (4) agree to the terms of the GSA and the Stillwater Agreement, the Stillwater Defendants shall receive a (1) \$500,000 payment (the "Initial Payment to Stillwater Defendants") to be made five (5) days after the Effective Date, which will be reduced by the amount in the Initial Payment to the Stillwater Defendants Account provided for in paragraph 1(b), (i) as long as there will be sufficient funds to pay the Administrative Expense Claims detailed above in paragraph 5(a) in full, (ii) after the Reserve has been established and funded pursuant to paragraph 5(b), and (iii) before Split Distributions (defined below in paragraph 5(d)) are made to the Stillwater Funds; (2) an additional \$300,000 payment (the "Second Payment to Stillwater Defendants") after the recovery of \$7.7 million, excluding any and all payment/recoveries from the Stillwater D&O Policy and Gerova D&O Policy (which are expressly excluded from the calculation of the threshold payments hereunder) and any direct out-of-pocket third-party costs of recovery of such assets (the "First Threshold Amount") of Settlement Proceeds by the Structure. The \$300,000 Second Payment to Stillwater Defendants shall be made from the next \$300,000 recovered after the recovery of \$7.7 million. As the \$300,000 Second Payment to the Stillwater Defendants is recovered it shall be paid out monthly on the first (1st) day of each month to the Stillwater Defendants from the proceeds collected in the prior month until the \$300,000 Second Payment to the Stillwater Defendants has been paid in full. By way of example, if in the month following the date when the Structure has collected \$7.7 million of Settlement Proceeds, the Structure collects an additional \$75,000 of Settlement Proceeds, then on the first day of the next month such \$75,000 shall be paid to the Stillwater Defendants; and (3) a final \$200,000 payment (the "Third Payment to Stillwater Defendants"), and with the Initial Payment to Stillwater Defendants and the Second Payment to Stillwater Defendants, collectively, the "Payments to Stillwater Defendants") commencing monthly, after the recovery of \$13.8 million (the "Second Threshold Amount") of Settlement Proceeds by the Structure from the next \$200,000 of Settlement Proceeds recovered by the Structure (above the Second Threshold Amount), shall be paid to the Stillwater Defendants on the first (1st) day of each month from the Settlement Proceeds collected in the prior month above the Second Threshold Amount, until the \$200,000 Third Payment to Stillwater Defendants is paid in full. Third Payment to Stillwater Defendants shall be paid with monthly payments as described



above as soon as the Second Threshold amount is met. The Payments to Stillwater Defendants under this paragraph is a material benefit for and inducement to the Stillwater Defendants' execution of both this Stillwater Agreement and the GSA.

d. Split Distributions.

- i. First Split Distribution. After (1) Administrative Expense Claims (less the SPV Administrative Expenses) detailed above in paragraph 5(a) have been paid in full, (2) the Reserve has been established and funded pursuant to paragraph 5(b), and (3) the Initial Payment to Stillwater Defendants has been made in full, \$5.25 million of available Settlement Proceeds shall be allocated *pari passu* among the Stillwater Funds in proportion to the percentages set forth hereunder and as detailed in **Appendix 3** (the "First Split Distribution") until the First Threshold Amount has been reached.<sup>5</sup> Notwithstanding the establishing of split distribution thresholds, to the extent that Settlement Proceeds are available, the Manager, in consultation with the Oversight Committee, shall make an initial interim distribution to the respective Creditors and Investors, as the case may be, of the Stillwater Funds, within 60 days of the Effective Date.
- ii. Second Split Distribution. After aggregate Settlement Proceeds up to an amount equal to the First Threshold Amount have been distributed, the Second Payment to the Stillwater Defendants shall be made from the next Settlement Proceeds recovered. After the Second Payment to the Stillwater Defendants has been made in full, up to an additional \$5.8 million of Settlement Proceeds (to the extent there are any Settlement Proceeds remaining after the Second Payment to the Stillwater Defendants is made in full) shall be allocated *pari passu* among the Stillwater Funds in accordance with the percentages set forth herein and as detailed in **Appendix 3** (the "Second Split Distribution") until the Second Threshold Amount has been reached. Notwithstanding the foregoing, to the extent that Settlement Proceeds are available, the Manager, in consultation with the Oversight Committee, may make such further distributions to the respective Creditors and Investors, as the case may be, of the Stillwater Funds, as soon as practicable.

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<sup>5</sup> The Stillwater Asset Backed Fund SPV shall pay from its proceeds from the First Split Distribution, *prior to* allocating such proceeds among its Creditors and Investors, the lesser of a) its proceeds from the First Split Distribution and b) \$300,000, to satisfy the SPV Administrative Expenses.

iii. Third Split Distribution. After aggregate Settlement Proceeds up to an amount equal to the Second Threshold Amount have been distributed (and to the extent there are any Settlement Proceeds remaining after the Second Split Distribution has been made), the Third Payment to Stillwater Defendants shall be made. After the Third Payment to the Stillwater Defendants has been made in full, any remaining Settlement Proceeds shall be allocated *pari passu* among the Stillwater Funds in accordance with the percentages set forth herein and as detailed in **Appendix 3** (the “Third Split Distribution” and together with the First Split Distribution and the Second Split Distribution, the “Split Distributions”, each a “Split Distribution”). An illustrative example is reflected in the waterfall set forth in **Appendix 4**.

1. Allocations of Split Distributions in Stillwater Funds Aside from Offshore Fund and the Stillwater Asset Backed Fund SPV. Within each of the Stillwater Funds except for the Offshore Fund and the Stillwater Asset Backed Fund SPV, the distributions for which are described below in paragraph 5(d)(iii)(2), (i) Creditors of each such Stillwater Fund (defined herein in paragraph 5(d)(iii)(1)(a))(excluding the Offshore Fund and the Stillwater Asset Backed Fund SPV), shall receive the lesser of (a) 75% of each Split Distribution due to such Stillwater Fund and (b) the total claims held by such Creditors (the “Creditor Portion”), to be distributed on a *pro rata* basis; and (ii) Investors of each such Stillwater Fund (defined herein in paragraph 5(d)(iii)(1)(a)) except for the Offshore Fund and the Stillwater Asset Backed Fund SPV, shall receive the portion of each Split Distribution due to such Stillwater Fund less the Creditor Portion, to be distributed on a *pro rata* basis.

a. Creditors and Investors in Stillwater Funds Aside from Offshore Fund and the Stillwater Asset Backed Fund SPV. “Creditor” shall include as to a Stillwater Fund excluding the Offshore Fund and the Stillwater Asset Backed Fund SPV (1) an investor in such Stillwater Fund who redeemed by the applicable suspension dates but who did not receive the Distributions-in-Kind (the “DIKs”) or the Payments-in-Kind (the “PIKs”) and (2) an investor in such Stillwater Fund who was offered the DIKs, but did not elect to trade the DIKs for shares in Gerova. “Investor” of a Stillwater Fund except for the Offshore Fund and the Stillwater Asset Backed Fund SPV, shall mean (1) an investor

in such Stillwater Fund who did not redeem by the applicable suspension dates, (2) an investor in such Stillwater Fund who elected to trade its DIKs for shares in Gerova, and (3) an investor in such Stillwater Fund who received the PIKs.

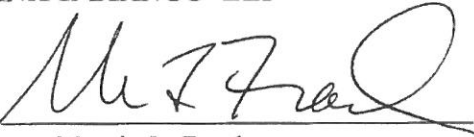
2. Allocations of Split Distribution in the Offshore Fund and the Stillwater Asset Backed Fund SPV.

- a. Split Distributions to Offshore Fund. In accordance with the absolute priority rule established by 11 U.S.C. § 1129(b)(2)(B)(ii), the entire amount of the Settlement Proceeds distributed to the Offshore Fund shall be allocated only to the Creditors (defined below in paragraph 5(d)(iii)(2)(b)(ii)) of the Offshore Fund, but excluding any of the Stillwater Defendants, insiders of any of the Stillwater Funds, and Gerova and any insiders of Gerova, and other Named Defendants, whether through a direct or indirect claim.
- b. Split Distributions to Stillwater Asset Backed Fund SPV. Stillwater Asset Backed Fund SPV shall transfer 80% of any and all proceeds received from any Split Distribution (after payment of the SPV Administrative Expenses as described herein) to the Creditors of the Offshore Fund and 20% to the Investors (defined below in paragraph 5(d)(iii)(2)(b)(ii)) of the Stillwater Asset Backed Fund SPV, but excluding any of the Stillwater Defendants, insiders of any of the Stillwater Funds, and Gerova and any insiders of Gerova, and other Named Defendants, whether through a direct or indirect claim.
  - i. SPV Administrative Expenses. \$300,000 of the Bankruptcy Court-approved Administrative Expense Claims incurred in the Offshore Bankruptcy will be paid out of the Assets distributed to the Stillwater Asset Backed Fund SPV on a *pro rata* basis to each professional listed on **Appendix 2**.
  - ii. Creditors and Investors in the Offshore Fund and the Stillwater Asset Backed Fund SPV. With respect to the Offshore Fund and the Stillwater Asset Backed Fund SPV,

“Creditor” shall include (i) the Creditors listed in the Offshore Fund’s amended schedules of assets and liabilities dated June 18, 2013 which claimants are undisputed (the “Scheduled Claimants”), and (ii) Allowed Claims (as defined in the Bankruptcy Code) of investors who redeemed by applicable suspension dates and who did not elect to trade DIKs for Gerova shares. Claims asserted against any of the other Stillwater Funds and claimants that received (whether accepted or not) PIKs are not creditors of Offshore Fund and the Stillwater Asset Backed Fund SPV. With respect to the Offshore Fund and the Stillwater Asset Backed Fund SPV, “Investors” include (i) investors who elected to trade DIKs for shares in Gerova; (ii) investors who received PIKs; and (iii) investors who did not redeem by suspension dates.

6. The Manager shall serve upon the Oversight Committee and Stillwater Defendants by email to attention of their counsel, (1) within 25 days after the end of each month, a monthly report setting forth in detail all receipts and collections, as well any claimed offsetting expenses, by the Manager (whether direct or indirect) of property during the prior month; at a minimum such report shall provide the details of: (i) cash flows in and out, including sources of such flows and (ii) any expense used to offset the amount of Settlement Proceeds; and (2) within 25 days after the end of each quarter, a quarterly report that shall provide information as feasible regarding the status of all Assets by category and legal actions commenced by the Structure relating to the Assets. All such communications and documents shall be confidential and may not be released to any persons or entity other than the receiving party.
7. If the conditions for the Effective Date of the GSA do not occur in accordance with paragraph 8 of the GSA, and/or the GSA is terminated in accordance with paragraph 22 of the GSA, this agreement shall be immediately rendered null and void.
8. This Stillwater Agreement and the GSA are deemed to be interrelated agreements so that a breach of any term and provision of this Stillwater Agreement shall be deemed to be a breach of the GSA and a breach of the GSA shall be deemed to be a breach of this Stillwater Agreement.

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By: Patricia Ward Niels Jensen  
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PATRICIA WARD      NIELS JENSEN  
ARPLP                      ARPLP  
manages                      manages  
Authorized                      Authorized  
Signature                      Signature  
CANNONBALL FUND LTD.

**EDEN ROCK UNLEVERAGED FINANCE MASTER LIMITED, F/K/A FORTIS (ISLE OF MAN) NOMINEES LIMITED (RE ERUFML)**


By: \_\_\_\_\_  
Print Name and Title:

By: \_\_\_\_\_  
Print Name and Title:

ARP PRIVATE FINANCE FUND, F/K/A  
FORTIS (ISLE OF MAN) NOMINEES  
LIMITED A/C 80 000 357

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Print Name and Title:  
PATRICIA WARD  
ARPLP  
manager,  
Authorized  
Signatory

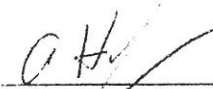
  
NIELS JENSEN  
ARPLP  
manager,  
Authorized  
Signatory

By: \_\_\_\_\_  
Print Name and Title:

ARP PRIVATE FINANCE FUND, F/K/A  
FORTIS (ISLE OF MAN) NOMINEES  
LIMITED A/C 80 000 357

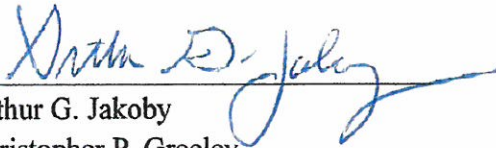
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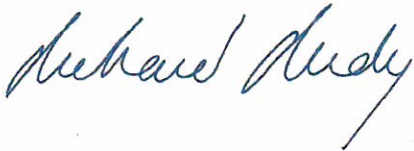
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Richard Rudy

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Jack Doueck

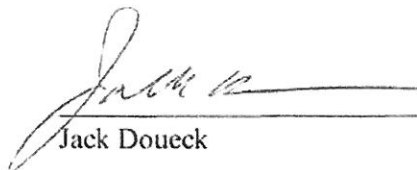
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\_\_\_\_\_  
Richard Rudy

  
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Jack Doueck

## APPENDIX 1

### SUMMARY OF MANAGEMENT AGREEMENT

#### I. STRUCTURE

##### Section 1.1 Purpose

The undersigned parties (the “Parties”) agree to the formation of a structure (the “Structure”) for the primary purpose of recovering, collecting, holding, administering, distributing and liquidating the Assets (defined below) assigned and transferred to the Structure pursuant to the Global Settlement Agreement dated December 23, 2013 (the “GSA”) and the Stillwater Agreement dated December 23, 2013 (the “Stillwater Agreement”), including, but not limited to, tangible and intangible assets and claims assigned and transferred from the various Stillwater Funds,<sup>1</sup> Gerova, and/or Net Five Holdings, LLC, together with Planet Five Development Group, LLC and any and all of their related entities (collectively, “Net Five”), cash and non-cash proceeds recovered from or income earned on any of those assets, the Gerova D&O Policy Payment to the Stillwater Class and distributed as part of the Stillwater Agreement, the Stillwater D&O Policy distributed as part of the GSA, and the Reserve established under the Stillwater Agreement (collectively, all of the forgoing, the “Assets;” however, the description of Assets as detailed in the GSA shall control), for the benefit of the Beneficiaries (defined below in section 1.2). The Parties agree to the terms hereunder, and also agree that the within terms may be further memorialized in such corporate documents as may be required to effectuate the purposes and intent of this Agreement. The Assets generally fall into the following categories:

<sup>1</sup> All capitalized, undefined terms herein shall have the meanings assigned to them in the GSA or the Stillwater Agreement, as the case may be.

(1) real estate investments and related claims and causes of action (the “Real Estate Assets”), (2) law loans, non-real estate litigation claims, investments in fund of funds, corporate loans, life insurance investments, and related claims and causes of action (collectively, the “Non-Real Estate Assets”).

The Structure has no objective to continue or engage in the conduct of a trade or business except to the extent reasonably necessary to, and consistent with, the sole purpose of the Structure. The Assets shall be held for the exclusive and sole benefit of the Beneficiaries and shall only be used to fund distributions to such Beneficiaries in accordance with the Structure and to fund payment of costs, fees, and expenses incurred in connection with the administration of the Structure.

**Section 1.2**                      **Beneficiaries**

The Beneficiaries shall comprise every party receiving distributions under the GSA and Stillwater Agreement, except for the Participating Putative Members in the Open-Market Class, counsel for the Open-Market Class, and Gerova’s estate. The Participating Putative Class Members in the Goldberg Class and the Stillwater Class include the Creditors and Investors of each of the Stillwater Funds, and together with any and all Creditors, Investors, and any other beneficiary expressly detailed in the GSA and the Stillwater Agreement, including the Stillwater Defendants, shall comprise Beneficiaries and recover pursuant to the distributions set forth in the GSA and Stillwater Agreement. The professionals referred to in the GSA and Stillwater Agreement, aside from counsel for the Open-Market Class, also comprise Beneficiaries, and shall recover pursuant to the terms of the GSA and Stillwater Agreement.

**II.                      MANAGER AND REAL ESTATE MANAGER**

**Section 2.1**                      **Manager**



Evan Blum of Glass Ratner Advisory & Capital Group shall be the initial Manager of the Structure for a ninety (90) day period commencing upon the Effective Date (the “Initial Management Period”). Upon the expiration of the Initial Management Period, Evan Blum’s term shall and hereby does expire, and the Oversight Committee shall select a new Manager by supermajority vote, with the rights, powers, and duties expressly provided hereunder. Notwithstanding the foregoing, as of the Effective Date, the Oversight Committee shall engage a party (which may, but need not, include Evan Blum) to oversee all matters related to the Real Estate Assets (the “Real Estate Manager”). The scope of any such appointment shall be limited to the Real Estate Assets, and more particularly directed and approved by supermajority vote of the Oversight Committee. Continuation of Evan Blum as Manager, the appointment of a replacement Manager, and/or the appointment of a Real Estate Manager, must be approved by supermajority vote of the Oversight Committee pursuant to sections 3.4 and 3.5.

**Section 2.2 Authority of the Manager**

**1. General Powers of the Manager:**

Without limitation, the Manager’s rights and authority include all of the following general powers to be rendered under the oversight of, and subject to consultation and approval by, the Oversight Committee, as provided for pursuant to Section 3.4 below:

- (a) conduct the day-to-day operations of the Structure and interact with relevant third-parties;
- (b) establish and administer bank accounts for the Structure;
- (c) collect, receive, control, manage and dispose of all Non-Real Estate Assets, including, cash, receivables, and any and all other property pursuant to the GSA and Stillwater

Agreement for the benefit of the Beneficiaries as provided for under the GSA and Stillwater Agreement, and administer the winding-up of the affairs of the Structure;

(d) act as custodian of the Non-Real Estate Assets and liquidate and reduce such Non-Real Estate Assets to cash at such time as the Manager deems appropriate to accomplish the purpose of the Structure, in accordance with the terms of the GSA and Stillwater Agreement;

(e) calculate and pay all distributions required or permitted to be made under the Stillwater Agreement;

(f) in the event that the Structure shall be a “trust,” employ, supervise and cause the Structure to pay professionals to represent the Manager in his capacity as Manager, and not individually, in carrying out his duties under this Agreement (the “Manager’s Professionals”), and waive any conflicts of interest as deemed necessary or appropriate in his discretion. A law firm or other professional shall not be disqualified from being employed by the Manager because of its current or prior retention as counsel to the Manager, Creditors’ Committee, creditors (including petitioning creditors), Oversight Committee, or any of its members;

(g) in the event that the structure shall be an “LLC” or other “corporate entity”, employ, supervise and cause the Structure to pay attorneys, accountants, financial advisors and other professionals or other persons retained to represent the interests of and serve on behalf of the Structure (the “Structure’s Professionals”), and waive any conflicts of interest as deemed necessary or appropriate in his discretion. A law firm or other professional shall not be disqualified from being employed by the Structure because of its current or prior retention as counsel or professional to the Manager, Creditors’ Committee, creditors (including petitioning creditors), Oversight Committee or any of its members;

(h) retain, commit and cause the Structure to pay Foley & Lardner LLP to represent the Structure and/or Manager as the case may be, as general counsel with respect to litigation and general matters regarding the Non-Real Estate Assets, and such other special counsel, as may be determined to be necessary in furtherance of carrying out all rights, powers, and duties hereunder with respect to the Non-Real Estate Assets (collectively, the “Non-Real Estate Counsel”);

(i) retain, commit and cause the Structure to pay, other professionals identified and agreed to by the Oversight Committee to represent the Manager or Structure as the case may be, on a contingency, success, or other fee basis, in selling, transferring, liquidating, or otherwise administering Non-Real Estate Assets (the “Non-Real Estate Specialists,” and with the Non-Real Estate Counsel, the “Non-Real Estate Professionals”) which shall be compensated from the Reserve and Assets;

(j) file such tax returns as may be required by federal, state or local taxing authorities and consistent with the treatment of the Structure for federal income tax purposes;

(k) object to or seek to recharacterize, reclassify or subordinate claims filed against the Offshore Fund, and defend, compromise and/or settle any claims without the necessity of approval of the Bankruptcy Court, and/or seek court approval for any claims settlements, to the extent thought appropriate by the Manager or to the extent such approval is required by prior order of the Bankruptcy Court;

(l) seek estimation of contingent or unliquidated claims;

(m) prosecute, settle, dismiss, abandon or otherwise dispose of any and all causes of action or any and all other matters relating to the Non-Real Estate Assets, including, without limitation, all causes of action arising under state and federal law, and the Bankruptcy Code

(including, pursuant to Bankruptcy Code Sections 510(c), 544, 545, 547, 548, 549, 550 and 553);

(n) enter into any agreement or execute any document and perform all of the obligations of the Structure or the Manager thereunder;

(o) pay all expenses and make other necessary payments relating to the Non-Real Estate Assets;

(p) utilize the Assets to purchase or create and carry all appropriate insurance policies and pay all insurance premiums and costs he deems necessary or advisable to insure the acts and omissions of the Manager;

(q) require a provision in all contracts relating to the Structure that the Manager and Structure, any employees engaged by any of the foregoing, together with the Manager's/Structure's professionals, shall not have any personal liability, and that the person contracting with the Structure is to look solely to the Structure and the Assets for satisfaction;

(r) seek the examination of any person or entity, including under the Bankruptcy Code and Rules (including, but not limited to examinations under Federal Rule of Bankruptcy Procedure 2004);

(s) perform any and all acts necessary or appropriate for the conservation and protection of the Non-Real Estate Assets;

(t) invest cash in accordance with § 345 of the Bankruptcy Code or similar protected vehicle and as deemed appropriate by the Manager; and

(u) such other actions as may be reasonably required in furtherance of the Manager's duties and responsibilities under the GSA and Stillwater Agreement.

**2. Manager's Duties with Respect to the Non-Real Estate Assets:**

Without limitation, and in addition to the Manager's General Powers provided above, the Manager shall have the following duties with respect to the Non-Real Estate Assets, to be rendered under the oversight of, and subject to consultation and approval of, the Oversight Committee, as provided for pursuant to Section 3.4 below:

(a) retain Foley & Lardner to represent the Structure and/or Manager as the case may be, as general and litigation counsel in connection with the Non-Real Estate Assets and any other special counsel, if any, as deemed necessary and appropriate in supplement of general counsel appointed hereunder;

(b) monitor and oversee performance of the Non-Real Estate Assets, and conference and correspond with counterparties, parties-in-interest, and committees related to the Non-Real Estate Assets;

(c) analyze the current status of, and value, the Non-Real Estate Assets;

(d) do and perform any and all acts he deems necessary or appropriate to maintain any Non-Real Estate Assets pending disposition or distribution;

(e) sell, transfer, liquidate, or otherwise convert any Non-Real Asset into cash;

(f) abandon any Non-Real Estate Asset as he deems appropriate;

(g) investigate, prosecute, litigate, settle, or collect on actions in the name of the Structure as the Manager deems appropriate to enforce or pursue any agreements, causes of action, claims or rights relating to or forming a part of the Non- Real Estate Assets;

(h) cancel, terminate, modify or amend any agreements forming a part of any Non-Real Estate Assets, and to execute new agreements;

(i) maintain appropriate books and records (including financial books and records and incorporating the books and records on the Real Estate Assets provided by the Real Estate Manager); and

(j) provide reports to the Oversight Committee regarding his analysis with respect to the Non-Real Estate Assets and any pending or contemplated litigation and any other matters requested by the Oversight Committee relating to the Manager's administration of the Non-Real Estate Assets and otherwise provide notice to and keep the Oversight Committee informed regarding the Manager's administration of the Structure and Non-Real Estate Assets.

### **Section 2.3 Authority of the Real Estate Manager**

#### **1. General Powers of the Real Estate Manager:**

Without limitation, the Real Estate Manager's rights and authority include all of the following general powers to be rendered under the oversight of, and subject to consultation and approval by, the Oversight Committee, as provided for pursuant to Section 3.5 below:

(a) collect, receive, control, manage and dispose of all Real Estate Assets for the benefit of the Beneficiaries as provided for under the GSA and Stillwater Agreement;

(b) act as custodian of the Real Estate Assets and liquidate and reduce such Real Estate Assets to cash at such time as the Real Estate Manager deems appropriate to accomplish the purpose of the Structure, in accordance with the terms of the GSA and Stillwater Agreement;

(c) retain, commit and cause the Structure to pay Foley & Lardner LLP to represent the Structure and/or the Real Estate Manager as the case may be, as general counsel with respect to litigation and general matters regarding the Real Estate Assets, and such other special counsel, as may be determined to be necessary in furtherance of carrying out all rights, powers,

and duties hereunder with respect to the Real Estate Assets (collectively, the “Real Estate Counsel”);

(d) retain, commit and cause the Structure to pay, other professionals identified and agreed to by the Oversight Committee to represent the Real Estate Manager or Structure as the case may be, on a contingency, success, or other fee basis, in selling, transferring, liquidating, or otherwise transferring Real Estate Assets (the “Real Estate Specialists,” and with the Real Estate Counsel, the “Real Estate Professionals”), which shall be compensated from the Reserve and Assets;

(e) prosecute, settle, dismiss, abandon or otherwise dispose of any and all causes of action or any and all other matters relating to the Real Estate Assets, including, without limitation, all causes of action arising under state and federal law, and the Bankruptcy Code (including, pursuant to Bankruptcy Code Sections 510(c), 544, 545, 547, 548, 549, 550 and 553);

(f) enter into any agreement or execute any document and perform all of the obligations of the Structure or the Real Estate Manager thereunder with respect to the Real Estate Assets;

(g) pay all expenses and make other necessary payments relating to the Real Estate Assets;

(h) seek the examination of any person or entity, including under the Bankruptcy Code and Rules (including, but not limited to examinations under FRBP 2004);

(i) pay over to the Manager for deposit and/or distribution as provided for under this Agreement and the Stillwater Agreement, any cash or other consideration collected or recovered in furtherance of the Real Estate Manager’s powers and duties hereunder;

(j) coordinate with the Manager in obtaining any appropriate insurance policies and with respect to payment of all insurance premiums and costs necessary or advisable to insure the Real Estate Assets and the acts and omissions of the Real Estate Manager and the Real Estate Professionals;

(k) require a provision in all contracts relating to the Structure that the Real Estate Manager and Structure, any employees engaged by any of the foregoing, together with the Real Estate Manager's/Structures' Real Estate Professionals, shall not have any personal liability, and that the person contracting with the Structure is to look solely to the Structure and the Assets for satisfaction; and

(l) perform any and all acts necessary or appropriate for the conservation and protection of the Real Assets.

**2. Real Estate Manager's Duties with Respect to the Real Estate Assets:**

The Real Estate Manager shall have the following duties with respect to the Real Estate Assets, to be rendered under the oversight of, and subject to consultation and approval of, the Oversight Committee, as provided for pursuant to Section 3.5 below:

(a) retain Foley & Lardner LLP to represent the Structure and/or Real Estate Manager, as applicable, as general and litigation counsel with respect to the Real Estate Assets and any additional special counsel, if any, as deemed necessary or appropriate in supplement to general counsel appointed hereunder;

(b) act as custodian of the Real Estate Assets and liquidate and reduce such Real Estate Assets to cash at such time as the Real Estate Manager deems appropriate to accomplish the purpose of the Structure, in accordance with the terms of the Stillwater Agreement;



(c) collect, receive, control, manage and dispose of all Real Estate Assets pursuant to the GSA and Stillwater Agreement for the benefit of the Beneficiaries as provided for under the GSA and Stillwater Agreement;

(d) pay over to the Manager for deposit and/or distribution as provided for under this Agreement and the Stillwater Agreement, any cash or other consideration collected or recovered in furtherance of the Real Estate Manager's powers and duties hereunder;

(e) maintain appropriate books and records (including financial books and records) and provide such books and records to the Manager so that the Manager can compile complete books and records for the Structure;

(f) provide reports to the Oversight Committee regarding his analysis with respect to the Real Assets and any pending or contemplated litigation and any other matters requested by the Oversight Committee relating to the Real Estate Manager's administration of the Real Estate Assets and otherwise provide notice to and keep the Oversight Committee informed regarding the Real Estate Manager's administration of the Real Estate Assets;

(g) prosecute, settle, dismiss, abandon or otherwise dispose of any and all causes of action or any and all other matters relating to the Real Estate Assets, including, without limitation, all causes of action arising under state and federal law, and the Bankruptcy Code (including, pursuant to Bankruptcy Code Sections 510(c), 544, 545, 547, 548, 549, 550 and 553);

(h) analyze the current status of, performance of and value of the Real Estate Assets;

(i) do and perform any and all acts the Real Estate Manager deems necessary or appropriate to maintain the Real Estate Assets, including, pending sale, disposition, or distribution;

(j) make recommendations to sell, transfer, liquidate, or otherwise convert the Real Estate Assets into cash;

(k) make recommendations to abandon the Real Estate Assets as the Real Estate Manager deems appropriate; and

(l) investigate, prosecute, litigate, settle, or collect on actions in the name of the Structure as the Real Estate Manager deems appropriate to enforce or pursue any agreements, causes of action, claims or rights relating to or forming a part of the Real Estate Assets, including, but not limited to claims and causes of action against Net Five and its officers, directors, affiliates, related parties, and insiders, parties acting in concert with any of the foregoing parties, and immediate, mediate, and subsequent transferees of assets and property transferred or belonging to Net Five (including, but not limited to any avoidance actions under state law and pursuant to Chapter 5 of the Bankruptcy Code and/or any and all claims arising out of or related to causes of action and claims assigned to the Structure under the GSA);

(m) cancel, terminate, modify, or amend any agreements forming a part of any Real Estate Assets, and to execute new agreements.

**Section 2.4                      Limitations on the Manager and the Real Estate Manager**

Notwithstanding anything in this Agreement to the contrary, the Manager and/or the Real Estate Manager, in his/their capacity as such, shall not do or undertake any of the following: (i) guaranty any debt; (ii) loan Assets; (iii) purchase Assets from the Structure; (iv) transfer Assets to another structure with respect to which the Manager and/or the Real Estate Manager serves as manager; or (v) invest Assets other than in accordance with § 345 of the Bankruptcy Code.

**Section 2.5                      Management Fee**

In consideration for services, the Manager and the Real Estate Manager shall be compensated as may be agreed and directed by supermajority vote of the Oversight Committee, provided that such compensation shall not exceed \$20,000 per month in the aggregate to the Manager and to the Real Estate Manager (the monthly compensation shall be split between the Manager and the Real Estate Manager as agreed upon by supermajority vote of the Oversight Committee), plus additional deferred and contingent or success-based compensation as may be agreed and directed by supermajority vote of the Oversight Committee. For clarity, deferred compensation and/or contingent or success-based compensation may exceed the afore-referenced caps. In addition, in the event that the fees on a monthly basis do not meet the foregoing caps, any such remaining cap room shall be carried forward to the next months such that the Manager and the Real Estate Manager, as the case may be, may be compensated in excess of the referenced caps up to the amount of any carry-forward cap room from prior months where the cap was not reached. The Manager and the Real Estate Manager shall also be entitled to reimbursement of reasonable out-of-pocket expenses. The Manager and the Real Estate Manager shall provide monthly invoices to the Oversight Committee, and such fees and expenses shall be payable absent objection against payment of such fees and expenses within 30 days of service. If any portion of the monthly invoice is subject to objection, the undisputed portion shall be paid and the parties shall confer in good faith to resolve any remaining objections. If the parties cannot reach resolution within 30 days of the written objection, they shall bring the dispute before the Bankruptcy Court for the Southern District of New York. The specifics of the compensation described in this paragraph, including the monthly compensation of \$20,000, along with the deferred and contingent or success-based compensation, shall be unanimously

agreed upon by the Creditors' Committee and Fred Fox, as Class Counsel, as soon as practical after execution of this Agreement and prior to the Effective Date.

**Section 2.6**                    **Resignation of Manager or Real Estate Manager**

The Manager or the Real Estate Manager, as the case may be, may resign by giving not less than 30 days' written notice to the Oversight Committee. Upon the resignation of the Manager or the Real Estate Manager, as the case may be, a replacement Manager or Real Estate Manager, as the case may be, shall be appointed by a supermajority vote of the Oversight Committee as provided below in sections 3.4 and 3.5. In the event of an impasse with respect to the appointment of a Manager or a Real Estate Manager, any such dispute shall be submitted to non-binding mediation with Michael Young, as mediator. In the event that the impasse is not resolved within 21 days thereafter, the petitioning creditors and class counsel shall each designate one disinterested party (which party may not include, amongst other things, any current Manager, Real Estate Manager, or member of the Oversight Committee), who shall promptly designate a replacement Manager or Real Estate Manager, as the case may be, by unanimous agreement. The resigning Manager or Real Estate Manager, as the case may be, shall reasonably cooperate with the Oversight Committee and any new Manager or Real Estate Manager appointed hereunder to ensure an orderly transition of managers hereunder.

**Section 2.7**                    **Termination of Manager or Real Estate Manager**

The Oversight Committee shall have the authority to continue or replace, as the case may be, the Manager after the Initial Management Period and to appoint a successor Manager by a supermajority vote. The Oversight Committee shall also have the authority to remove the successor Manager by a supermajority vote and appoint a subsequent Manager by a supermajority vote. In both cases, the outgoing Manager shall not vote with respect to the

removal of himself as Manager. The Oversight Committee shall also have the authority to remove the Real Estate Manager and appoint a successor Real Estate Manager by a supermajority vote. The Real Estate Manager shall not vote with respect to the removal of himself as Real Estate Manager. In the event of an impasse with respect to the appointment of a Manager or a Real Estate Manager, any such dispute shall be submitted to non-binding mediation with Michael Young, as mediator. In the event that the impasse is not resolved within 21 days thereafter, the petitioning creditors and class counsel shall each designate one disinterested party (which party may not include, amongst other things, any current Manager, Real Estate Manager, or member of the Oversight Committee), which parties shall promptly designate a replacement Manager or Real Estate Manager, as the case may be, by unanimous agreement. The outgoing Manager or Real Estate Manager, as the case may be, shall reasonably cooperate with the Oversight Committee and any new Manager or Real Estate Manager appointed hereunder to ensure an orderly transition of managers hereunder.

### **III. OVERSIGHT COMMITTEE**

#### **Section 3.1                    Establishment of the Oversight Committee**

There is hereby established an Oversight Committee (the “Oversight Committee”), which shall have the responsibilities and duties, and shall consider certain actions, all as specified in this Agreement. The Manager shall report to the Oversight Committee in connection with the Manager’s administration of the Non-Real Estate Assets, carrying out its powers and duties hereunder, and the prosecution and settlement of any non-real estate matters engaged in by the Structure and consistent with the GSA, Stillwater Agreement, and this Agreement. The Real Estate Manager shall report to the Oversight Committee in connection with the Real Estate Manager’s administration of the Real Estate Assets, carrying out its powers and duties

hereunder, and the prosecution and settlement of any real estate matters engaged in by the Structure and consistent with the GSA, Stillwater Agreement, and this Agreement.

**Section 3.2                      Composition of the Oversight Committee**

The Oversight Committee shall monitor and oversee the Manager's administration of the Structure. The Oversight Committee shall also monitor and oversee the performance of the Manager and the Real Estate Manager, and shall provide advice to the Manager and the Real Estate Manager. The Oversight Committee shall be comprised of three members of the Official Unsecured Creditors' Committee in the Stillwater Offshore Fund's bankruptcy case, one Investor to be named by the Plaintiffs' counsel for the Stillwater Class, and Evan Blum. If Evan Blum shall be replaced as Manager hereunder, the new Manager appointed by supermajority of the Oversight Committee shall replace Evan Blum on the Oversight Committee.

**Section 3.3                      Rights, Obligations, and Duties of the Oversight Committee**

Notwithstanding anything contained herein, the powers of the Manager and the Real Estate Manager shall be exercised subject to the required approvals and in consultation with the Oversight Committee provided for under this Section 3. The Oversight Committee shall have the following rights, obligations and duties:

- (a) to engage Foley & Lardner LLP and Kaplan Fox & Kilsheimer LLP as co-counsel to the Oversight Committee.
- (b) to articulate the Oversight Committee's position in the event the Manager or the Real Estate Manager brings a dispute with the Oversight Committee to the court for resolution, or the Oversight Committee concludes it should bring a dispute with the Manager or Real Estate Manager to the court for resolution;
- (c) to adopt bylaws (the "Bylaws") in its normal course;

(d) to modify, by supermajority vote, any of the monetary limitations hereunder, including with respect to caps on compensation and limitations with respect to taking on debt, paying operating expenses, and/or with respect to prosecution and settlement of any matters hereunder.

**Section 3.4 Responsibilities of Oversight Committee with Respect to General Powers of the Manager**

(a) A supermajority vote by the Oversight Committee is required before the Manager performs the following actions in dispatch of his General Powers and Duties under Sections 2.2.1 and 2.2.2:

(i) sets aside a Reserve (defined below in section 5.1) out of the Assets in excess of \$1,000,000 for the payment of: (a) unpaid liabilities of the Structure; (b) contingencies; and (c) the expenses of administering the Assets;

(ii) incurs debt in excess of \$50,000 (not including the debts of the Manager's Professionals, the Manager's/Structure's Non-Real Estate Professionals, and counsel for the Oversight Committee (the "Oversight Committee's Counsel"), which shall be compensated as set forth in section 4);

(iii) pays any liability of the Structure or the Stillwater Funds in excess of \$150,000 (not including the debts of the Non-Real Estate Professionals, which shall be compensated as set forth in section 4);

(iv) sells, transfers, liquidates, converts, or compromises any of the Non- Real Estate Assets with a value of over \$100,000 into cash;

(v) abandons any Non-Real Estate Asset with a value of over \$100,000;

(vi) approves any adjustments to the dollar thresholds provided for under "iv" and "v" above;

(vii) retains Non-Real Estate Professionals (aside from Foley & Lardner LLP, which shall be engaged by the Manager in connection with litigation relating to the Non-Real Estate Assets) to represent the Manager or Structure, as the case may be, in selling, transferring, liquidating, or otherwise transferring Non-Real Estate Assets;

(viii) terminates the Structure upon the Manager's determination that the distribution of the Assets is completed.

(ix) The Oversight Committee shall have the authority to remove the Manager after the Initial Management Period and appoint a successor Manager by a supermajority vote. The Manager shall not vote with respect to the continuation and/or removal of himself as Manager.

(x) The Oversight Committee shall have the authority to remove the successor Manager by a supermajority vote and appoint a subsequent Manager by a supermajority vote. The outgoing Manager shall not vote with respect to the removal of himself as Manager.

(b) A majority vote by the Oversight Committee is required before the Manager performs the following actions in dispatch of his General Powers and Duties under Sections 2.2.1 and 2.2.2:

(i) establishes an annual budget for the expenditures of the Structure, and makes available to the members of the Oversight Committee and other interested parties reports from time to time and annual unaudited financial statements;

(ii) distributes Assets to the Beneficiaries as they become available;

(iii) casts any vote (by proxy or otherwise) on behalf of the Stillwater Funds and/or the Structure of all shares of stock and all securities held by the Structure; and

(iv) causes the Structure to make or revoke any of the elections available under any applicable tax laws or regulations.



**Section 3.5 Responsibilities of Oversight Committee with Respect to the Real Estate Manager**

A supermajority vote by the Oversight Committee shall be required before the Real Estate Manager performs the following actions in dispatch of his General Powers and Duties under Sections 2.3.1 and 2.3.2:

(a) settles or collects on actions brought in the name of the Structure or Real Estate Manager, as the case may be, regarding any claims or rights relating to or forming a part of the Real Estate Assets;

(b) prosecutes or litigates actions against any party other than Net Five brought in the name of the Structure or Real Estate Manager, as the case may be, regarding any claims or rights relating to or forming a part of the Real Estate Assets;

(c) sells, transfers, liquidates, converts, or compromises any of the Real Estate Assets with a value of over \$100,000;

(d) abandons any Real Estate Asset with a value of over \$100,000;

(e) approves any adjustments to the dollar thresholds provided for under “c” and “d” above;

(f) retains Real Estate Professionals (aside from Foley & Lardner LLP, which shall be engaged by the Real Estate Manager in connection with litigation relating to the Real Estate Assets) to represent the Real Estate Manager or Structure, as the case may be, in selling, transferring, liquidating, or otherwise transferring Real Estate Assets; and

(g) incurs debt in excess of \$50,000 (not including the debts of the Real Estate Professionals, which shall be compensated as set forth in section 4);

(h) The Oversight Committee shall have the authority to appoint a Real Estate Manager, and to remove the Real Estate Manager and appoint a successor Real Estate Manager, by a supermajority vote. The Real Estate Manager shall not vote with respect to the continuation and/or removal of himself as Real Estate Manager.

**Section 3.6**                    Meetings of the Oversight Committee

Meetings of the Oversight Committee are to be held not less than quarterly as may be further delineated in the Oversight Committee's Bylaws. Special meetings of the Oversight Committee may be held whenever and wherever called for by the Manager and/or Real Estate Manager, any member of the Oversight Committee, or counsel for the Oversight Committee.

**IV. PROFESSIONALS**

**Section 4.1**                    Compensation of the Oversight Committee's Counsel

The members of the Oversight Committee shall not be paid for their time expended as members of the Oversight Committee. The Oversight Committee's Counsel, if retained, shall be reimbursed for its reasonable fees and expenses from the Assets and Reserve, subject to the following notice protocol: Counsel for the Oversight Committee seeking payment of its fees and reasonable expenses shall provide monthly invoices for any such amounts to the Manager, or where applicable, the Real Estate Manager, and the members of the Oversight Committee. Such fees and expenses shall be payable, without approval by the Bankruptcy Court, absent written objection within 30 days of service. If any portion of the fees and expenses is the subject of an objection, the undisputed portion shall be paid and the parties shall confer in good faith to resolve any remaining objections. If the parties cannot reach resolution within 30 days of the written objection, they shall bring the dispute before the Bankruptcy Court.

**Section 4.2**                    Compensation of the Structure's Real Estate Professionals

To the extent the Structure is an “LLC” or other corporate entity, the Structure’s Real Estate Professionals shall serve monthly invoices on the Real Estate Manager and the Oversight Committee, and such fees and expenses shall be payable, without approval of the Bankruptcy Court, absent written objection within 30 days of service. If any portion of the fees and expenses is the subject of an objection, the undisputed portion shall be paid and the parties shall confer in good faith to resolve any remaining objections. If the parties cannot reach resolution within 30 days of the written objection, they shall bring the dispute before the Bankruptcy Court.

**Section 4.3**                    **Compensation of the Structure’s Non-Real Estate Professionals**

To the extent the Structure is an “LLC” or other corporate entity, the Structure’s Non-Real Estate Professionals shall serve monthly invoices on the Manager and the Oversight Committee, and such fees and expenses shall be payable, without approval of the Bankruptcy Court, absent written objection within 30 days of service. If any portion of the fees and expenses is the subject of an objection, the undisputed portion shall be paid and the parties shall confer in good faith to resolve any remaining objections. If the parties cannot reach resolution within 30 days of the written objection, they shall bring the dispute before the Bankruptcy Court.

**Section 4.4**                    **Compensation of the Real Estate Manager’s Real Estate Professionals**

To the extent the Structure is a “trust,” the Real Estate Manager’s Real Estate Professionals shall serve monthly invoices on the Real Estate Manager and the Oversight Committee, and such fees and expenses shall be payable, without approval of the Bankruptcy Court, absent written objection within 30 days of service. If any portion of the fees and expenses is the subject of an objection, the undisputed portion shall be paid and the parties shall

confer in good faith to resolve any remaining objections. If the parties cannot reach resolution within 30 days of the written objection, they shall bring the dispute before the Bankruptcy Court.

**Section 4.5**                    **Compensation of the Manager’s Non-Real Estate Professionals**

To the extent the Structure is a “trust,” the Manager’s Non-Real Estate Professionals shall serve monthly invoices on the Manager and the Oversight Committee, and such fees and expenses shall be payable, without approval of the Bankruptcy Court, absent written objection within 30 days of service. If any portion of the fees and expenses is the subject of an objection, the undisputed portion shall be paid and the parties shall confer in good faith to resolve any remaining objections. If the parties cannot reach resolution within 30 days of the written objection, they shall bring the dispute before the Bankruptcy Court.

**Section 4.6**                    **Compensation of the Manager’s Professionals**

The Manager’s Professionals retained under Section 2.2.1(f) shall serve monthly invoices on the Manager and the Oversight Committee, and such fees and expenses shall be payable, without approval of the Bankruptcy Court, absent written objection within 30 days of service. If any portion of the fees and expenses is the subject of an objection, the undisputed portion shall be paid and the parties shall confer in good faith to resolve any remaining objections. If the parties cannot reach resolution within 30 days of the written objection, they shall bring the dispute before the Bankruptcy Court.

**Section 4.7**                    **Compensation of the Structure’s Professionals**

The Structure’s Professionals retained under Section 2.2.1(g) shall serve monthly invoices on the Manager and the Oversight Committee, and such fees and expenses shall be payable, without approval of the Bankruptcy Court, absent written objection within 30 days of

service. If any portion of the fees and expenses is the subject of an objection, the undisputed portion shall be paid and the parties shall confer in good faith to resolve any remaining objections. If the parties cannot reach resolution within 30 days of the written objection, they shall bring the dispute before the Bankruptcy Court.

## V. MISCELLANEOUS

### Section 5.1 Reserve Account

On the Effective Date (or as soon thereafter as practicable), the Manager shall establish the Reserve Account, (the “Reserve”) in the amount of \$1,000,000, for additional Administrative Expense Claims incurred by Manager’s Professionals and the Real Estate and Non-Real Estate Professionals under this Agreement, and professionals of the Offshore Fund as set forth in Appendix 2 to the Stillwater Agreement, until the Bankruptcy Court in the Chapter 11 Case approves the 9019 Motion and the mechanism to resolve the bankruptcy case, as well and further fees incurred by the Structure in pursuing recovery and/or monetization of Assets and litigation. The Reserve may be drawn down to pay authorized operating expenses, fees, costs, and expense as provided for under this Agreement, but shall be maintained in an amount not less than \$200,000 absent agreement of the Oversight Committee upon majority vote.

### Section 5.2 Voting

For matters requiring a supermajority vote by the Oversight Committee, the affirmative vote of four members of the Oversight Committee shall be required. For matters set forth in paragraph 3.4(b) requiring a majority vote, the affirmative vote of three members of the Oversight Committee shall be required. Any action required or permitted to be taken by the Oversight Committee at a meeting may be taken without a meeting if notice is given to all of the

members of the Oversight Committee, and the action is taken by written consent of a supermajority or majority vote of the Oversight Committee, as the case requires. The Manager shall not participate in any vote regarding the removal and/or appointment of a new Manager or Real Estate Manager or with respect to any matter involving compensation and/or fees payable or to be paid to the Manager or Real Estate Manager.

**Section 5.3**                    **Liability and Indemnification**

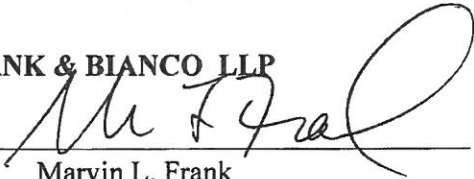
Neither the Manager or the Non-Real Estate Professionals, the Real Estate Manager or the Real Estate Professionals, or the members of the Oversight Committee and its counsel, shall be liable to the Beneficiaries or any other party for any loss or cost in connection with any action taken or omitted in connection with the Structure or Assets or any obligation or responsibility under this Agreement, so long as they acted in good faith and are not found to be guilty of gross negligence or willful malfeasance by a final non-appealable court of competent jurisdiction. The Structure agrees to indemnify and hold harmless the Manager and the Non-Real Estate Professionals, the Real Estate Manager and the Real Estate Professionals, and the members of the Oversight Committee and its counsel from and against any and all claims, attorneys' fees and expenses unless the Manager or the Non-Real Estate Professionals, the Real Estate Manager or the Real Estate Professionals, or the members of the Oversight Committee or its counsel is determined to be guilty of gross negligence or willful malfeasance by a final non-appealable court of competent jurisdiction.

**Section 5.4**                    **Effective Date**

The Management Agreement shall commence upon the effective date (the "Effective Date") as defined in the GSA.

Dated: December 17, 2013

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Dated: December 17, 2013

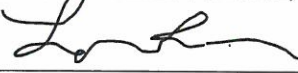
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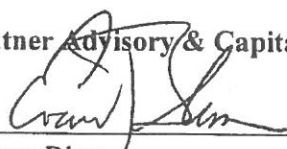
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**Attorneys for Stillwater Asset Backed Offshore Fund, Ltd.**

## APPENDIX 2

### ADMINISTRATIVE EXPENSES

1. GlassRatner Advisory & Capital Group LLC (for fees incurred from March 8, 2013 to September 30, 2013): Approximately \$495,000.00<sup>1,2</sup>
2. ASK LLP (for fees incurred from January 25, 2013 to September 30, 2013): Approximately \$309,000.00<sup>1,3</sup>
3. Foley Lardner LLP (for fees incurred from September \_\_, 2012 to September 30, 2013) and Out-of-Pocket Expenses to Committee Members: Approximately \$221,000.00<sup>1,4</sup>
4. Marotta Gund Budd & Dzera, LLC (for fees incurred from January 25, 2013 to March 8, 2013): \$20,355.87
5. JPL (for fees incurred): \$20,000
6. Fees incurred by GlassRatner Advisory & Capital Group LLC, ASK LLP, and Foley & Lardner LP related to Confirmatory Discovery: capped at \$100,000
7. Fees incurred by ASK LLP, GlassRatner Advisory & Capital Group LLC, and Foley Lardner LLP in seeking and obtaining Bankruptcy Court approval of the Settlement and completion of the bankruptcy case: Approximately \$100,000
8. Special counsel to the Offshore Fund retained to document the Settlement and Structure and perform related tasks. The JPL can use up to \$15,000 of such funds for its work on this matter: Approximately \$75,000 in total

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<sup>1</sup> This figure incorporates a 10% voluntary reduction in billed fees for this time period and additional reductions of \$10,000, \$6,000 and \$4,000 for GlassRatner, ASK and Foley Lardner, respectively, for billed fees to be paid to the JPL as per item 5.

<sup>2</sup> This amount includes \$450,000,000 to be paid from the Administrative Expense Claims; the excess over this amount shall be paid from any excess available funds related to items 6, 7 & 8 below and from the \$1mm Reserve. Future fees shall be paid out of the \$1mm Reserve.

<sup>3</sup> This amount includes \$300,000 to be paid from the Administrative Expense Claims; the excess over this amount shall be paid from any excess available funds related to items 6, 7 & 8 below and from the \$1mm Reserve. Future fees shall be paid out of the \$1mm Reserve.

<sup>4</sup> This amount includes \$200,000 to be paid from the Administrative Expense Claims; the excess over this amount shall be paid from any excess available funds related to items 6, 7 & 8 below and from the \$1mm Reserve. Future fees shall be paid out of the \$1mm Reserve.

**APPENDIX 3**

**FUND SPLIT PERCENTAGES**

<b>Stillwater Fund</b>	<b>Fund Split Percentage</b>
Stillwater Asset Backed Fund LP	5.21%
Stillwater Asset Backed Fund II, LP	2.89%
SABF Onshore SPV	13.04%
Stillwater Market Neutral Fund LP	0.31%
Stillwater Market Neutral Fund II, LP	5.87%
Stillwater Market Neutral Fund Ltd	9.76%
Stillwater Matrix Fund LP	1.86%
Stillwater Real Estate Partners LP	7.17%
Stillwater WPB Venture LP	2.08%
Stillwater WPB Venture II	2.25%
Stillwater Asset Backed Offshore Fund LP (the "Offshore Fund")	22.28%
Stillwater Asset Backed Fund SPV	27.29%
	100.00%

## APPENDIX 4

### ILLUSTRATIVE WATERFALL SUMMARY

<b>Settlement Proceeds</b>	<b>\$20,000,000</b>	Assumed
Initial Administrative Expense Claims and Reserve	1,950,000	[1]
Initial Payment to Stillwater Defendants	500,000	[2]
First Split Distribution (up to \$5,250,000)	5,250,000	[3]
Second Payment to Stillwater Defendants	300,000	[4]
Second Split Distribution (up to \$5,800,000)	5,800,000	[5]
Third Payment to Stillwater Defendants	200,000	[6]
Third Split Distribution	6,000,000	[7]
<b>Total Settlement Proceeds distributed</b>	<b>\$20,000,000</b>	

- 
- [1] \$950,000 of Administrative Expense Claims paid before Split Distributions plus \$1,000,000 Reserve.
- [2] To be made contemporaneously with the payment of the initial \$950,000 of Administrative Expense Claims and the funding of the Reserve.
- [3] \$5,250,000 is the amount that brings total distributions to the \$7,700,000 First Threshold Amount after which the Second Payment to the Stillwater Defendants is triggered. The SPV Administrative Expenses of \$300,000 (which together with the initial \$950,000 totals \$1,250,000 of total Administrative Expense Claims) will be paid by Stillwater Asset Backed Fund SPV out of its share of the proceeds of the First Split Distribution.
- [4] Payable after aggregate Settlement Proceeds of \$7,700,000 (First Threshold Amount) have been distributed.
- [5] \$5,800,000 is the amount that brings total distributions to the \$13,800,000 Second Threshold Amount after which the Third Payment to the Stillwater Defendants is triggered.
- [6] Payable after aggregate Settlement Proceeds of \$13,800,000 (Second Threshold Amount) have been distributed.
- [7] Settlement Proceeds available to the Stillwater Funds after the Third Payment to Stillwater Defendants has been made