

Proprietary and Confidential

- (b) *Decreased* by (1) any distributions made to such Partner and (2) any amounts in the nature of loss or expense allocated to such Partner pursuant to this Article 8 or Appendix II; and
- (c) Otherwise adjusted in accordance with the provisions of this Agreement including, but not limited to, 6.3.2(a)(5).

8.1.2 Timing of Allocations.

Allocations of Net Gain, Net Loss, and any other items of income, gain, loss and deduction pursuant to this Article 8 and Appendix II shall be made for each fiscal year of the Partnership as of the end of such fiscal year; *provided, however*, that if the Carrying Value of the assets of the Partnership are adjusted in accordance with clause (ii) of the definition of "Carrying Value," the date of such adjustment shall be considered to be the end of a fiscal year for purposes of computing and allocating such Net Gain, Net Loss, and other items of income, gain, loss and deduction.

8.1.3 Compliance with Treasury Regulations.

The provisions of this 8.1, including the provisions relating to the maintenance of Capital Accounts, are intended to comply with Section 704(b) of the Code and Treasury Regulations Section 1.704-1(b), and shall be interpreted and applied in a manner consistent with such regulations.

8.2 ALLOCATIONS OF NET GAIN OR LOSS.**8.2.1 Net Gain and Net Loss, Generally.**

Except as explicitly provided elsewhere in this Agreement, the items of income, gain, loss or deduction of the Partnership comprising Net Gain or Net Loss for a fiscal year shall be allocated by the General Partner among the Partners in a manner such that the Capital Account of each Partner, immediately after making such allocation, is, as nearly as possible, equal (proportionately) to:

- (a) the distributions that would be made to such Partner pursuant to 7.2.1 (as adjusted by the other provisions of Article 7) if (x) the Partnership were dissolved, its affairs wound up and its assets sold for cash equal to their Carrying Values, (y) all Partnership liabilities were satisfied (limited in the case of each Nonrecourse Liability to the Carrying Value of the assets securing such liability) and (z) the net assets of the Partnership were distributed in accordance with 7.2.1 (as adjusted by the other provision of Article 7) to the Partners immediately after making such allocations, minus
- (b) such Partner's share of Partnership Minimum Gain and Partner Nonrecourse Debt Minimum Gain, computed immediately prior to the hypothetical sale of the assets.

All allocations may be adjusted in the sole discretion of the General Partner to take into account any charges or adjustments to be made to a Partner's Capital Account under this Agreement, including but not limited to, expenses specially charged to a Partner or a Partner's Capital Account and for Defaulting Partners.