
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

FORM 8-K

**CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934**

Date of Report (Date of earliest event reported): November 24, 2006

American Real Estate Partners, L.P.

(Exact name of registrant as specified in its charter)

Delaware

(State or Other Jurisdiction of Incorporation)

1-9516

(Commission File Number)

13-3398766

(IRS Employer
Identification No.)

767 Fifth Avenue, Suite 4700, New York, NY 10153

(Address of Principal Executive Offices) (Zip Code)

Registrant's Telephone Number, Including Area Code: **(212) 702-4300**

N/A

(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communication pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Section 1 - Registrant's Business and Operations

Item 1.01. Entry into a Material Definitive Agreement.

On November 24, 2006, our indirect subsidiaries, AREP O&G Holdings LLC and AREH Oil & Gas Corp., entered into an Interest Transfer Agreement, or the Transfer Agreement, with Highcrest Investors Corp. and Meadow Star Partner LLC, or MS Partner. Pursuant to the Agreement, Highcrest, which held a 99% interest in Meadow Star LLC, transferred a 95% interest in Meadow Star to AREH Oil & Gas and a 4% interest in Meadow Star to AREP O&G Holdings. MS Partner transferred its 1% interest in Meadow Star to AREP O&G Holdings.

Meadow Star is a general partner and a limited partner of Rome Acquisition Limited Partnership, or the Partnership. Pursuant to the Agreement of Limited Partnership effective November 15, 2006, among WH Rome Partners LLC and Meadow Star, or the Partnership Agreement, each of WH Rome and Meadow Star agreed to make an initial capital contribution of \$600 million to the Partnership for the purpose of funding a proposed acquisition of Reckson Associates Realty Corp.

Pursuant to the Transfer Agreement, AREP O&G Holdings and AREH Oil & Gas assumed all of the rights, title and interest in and to Meadow Star, including those which arise under the operating agreement of Meadow Star, as if each of AREP O&G Holdings and AREH Oil & Gas were an original party thereto. Furthermore, pursuant to the Transfer Agreement, if AREP O&G Holdings and AREH Oil & Gas do not cause Meadow Star to comply with its obligation to make its initial capital contribution to the Partnership, Highcrest and MS Partner will remain liable for complying with such obligations as set forth in Section 3.1 of the Partnership Agreement. On November 27, 2006, Meadow Star complied with its obligation to make its initial capital contribution to the Partnership.

Each of Highcrest and MS Partner is indirectly owned by Carl C. Icahn. Mr. Icahn indirectly owns 100% of American Property Investors, Inc., our general partner, and affiliates of Mr. Icahn hold approximately 86.5% of our outstanding preferred units and 90% of our outstanding depository units.

This summary of the Transfer Agreement and Partnership Agreement is qualified in its entirety by reference to the full text of the agreements filed

herewith as exhibits.

Section 9 - Financial Statements and Exhibits

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

Exhibit 10.1 - Interest Transfer Agreement, dated as of November 24, 2006, among Highcrest Investors Corp., Meadow Star Partner LLC, AREP O&G Holdings LLC and AREH Oil & Gas Corp.

Exhibit 10.2 - Agreement of Limited Partnership of Rome Acquisition Limited Partnership, effective as of November 15, 2006, among WH Rome Partners LLC and Meadow Star LLC.

[remainder of page intentionally left blank; signature page follows]

SIGNATURES

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

AMERICAN REAL ESTATE PARTNERS, L.P.
(Registrant)

By: American Property Investors, Inc.,
its General Partner

By: /s/ Hillel Moerman

Hillel Moerman
Chief Financial Officer
American Property Investors, Inc.,
the General Partner of American Real Estate Partners, L.P.

Date: November 30, 2006

INTEREST TRANSFER AGREEMENT

This INTEREST TRANSFER AGREEMENT (as amended, modified and supplemented from time to time, the “*Agreement*”) dated as of November 24, 2006 (the “*Effective Time*”), between Highcrest Investors Corp., a Delaware corporation (“*Highcrest*”), Meadow Star Partner LLC, a Delaware limited liability company (“*MS Partner*,” and together with Highcrest, the “*Transferors*”), AREP O&G Holdings LLC, a Delaware limited liability company (“*O&G LLC*”) and AREH Oil & Gas Corp., a Delaware corporation (“*O&G Corp.*,” and together with O&G LLC, the “*Transferees*”).

WITNESSETH

WHEREAS, Highcrest is the owner of ninety nine percent (99%) of the limited liability company member interests (the “*Majority Interest*”) of Meadow Star LLC, a Delaware limited liability company (“*Meadow Star*”);

WHEREAS, MS Partner is the owner of one percent (1%) of the limited liability company member interests (the “*Minority Interest*”, and together with the Majority Interests, the “*Interests*”) of Meadow Star;

WHEREAS, the parties hereto and American Real Estate Partners L.P., a Delaware master limited partnership (“*AREP*”), the indirect parent of the Transferees, have determined that the Transfer (as hereinafter defined) is in the best interest of the parties hereto and will facilitate AREP’s indirect participation in a potential transaction involving the acquisition of the equity interests of Reckson Associates Realty Corp. and Reckson Operating Partnership, L.P.;

WHEREAS, Highcrest desires to transfer as of the Effective Time its Interests, as set forth on Exhibit A hereto, to O&G Corp. and O&G LLC, and each of O&G Corp. and O&G LLC desire to accept such Interests as of the Effective Time on the terms and conditions set forth herein (the “*Highcrest Transfer*”);

WHEREAS, MS Partner desires to transfer as of the Effective Time its Interests, as set forth on Exhibit A hereto, to O&G LLC, and O&G LLC desires to accept such Interests as of the Effective Time on the terms and conditions set forth herein (the “*MS Partner Transfer*”, and together with the Highcrest Transfer, the “*Transfer*”); and

WHEREAS, Meadow Star is a general partner and a limited partner of Rome Acquisition Limited Partnership, a Delaware limited partnership (“*Rome*”), and is a party to the Agreement of Limited Partnership of Rome Acquisition Limited Partnership (“*Partnership Agreement*”).

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, and intending to be legally bound by the terms and conditions of this Agreement, the parties hereto hereby agree as follows:

Section 1. Definitions.

- 1.1. The following capitalized terms shall have the following meanings:
-

“**Asserted Liability**” shall have the meaning set forth in Section 5.3(1).

“**Claims Notice**” shall have the meaning set forth in Section 5.3(1).

“**Indemnifying Party**” shall have the meaning set forth in Section 5.3(1).

“**Indemnitee**” shall have the meaning set forth in Section 5.3(1).

“**Lien**” means, with respect to any asset, (i) any mortgage, deed of trust, lien, pledge, claim, equity interest, participation interest, security interest or other charge or encumbrance of any kind in or on such asset and (ii) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement relating to such asset.

“**Losses**” shall have the meaning set forth in Section 5.1.

“**Operating Agreement**” shall have the meaning set forth in Section 2.1.

1.2. The headings or subheadings of Sections are inserted for convenience of reference only and shall not in any way affect the interpretation or construction of this Agreement. References herein to any agreement or other instrument shall be deemed to include references to such agreement or other instrument as varied, amended, supplemented or replaced from time to time pursuant to the applicable provisions thereof. Where the context permits, words importing the plural shall include the singular and vice versa, and references to a person or “Person” shall be construed as references to an individual, firm, company, corporation or unincorporated body of persons.

Section 2. Agreement to Transfer and Assign; Delivery and Acceptance.

2.1. On the terms and subject to the conditions set forth herein, as of the Effective Time, (i) each Transferor transfers, assigns, sets over and otherwise conveys to the applicable Transferee all of the Transferor’s right, title and interest in, to and under the Interests, as set forth on Exhibit A hereto, whether arising under the Operating Agreement of Meadow Star LLC, as the same may be amended from time to time (the “**Operating Agreement**”), or otherwise, and agrees to remain liable for any of the obligations and liabilities in the foregoing incurred, due and payable prior to the Effective Time and (ii) each Transferee accepts, assumes, takes over and succeeds to all of the applicable Transferor’s rights, title and interest in and to the Interests, as set forth on Exhibit A hereto, and such Transferee covenants and agrees to discharge, perform and comply with, and to be bound by, all the terms, conditions, provisions, obligations, covenants and duties of the applicable Transferor in connection with the applicable Interests, including, without limitation, those arising under the Operating Agreement, from and after the Effective Time, as if such Transferee were an original party thereto.

2.2. Notwithstanding Section 2.1 of this Agreement or any other provisions of this Agreement, to the extent the Transferees choose, in their absolute discretion, not to cause Meadow Star to comply with its obligation to contribute its Initial Capital Contribution (as defined in the Partnership Agreement) as set forth in Section 3.1 of the Partnership Agreement, the Transferors shall remain liable for complying with such obligation set forth in Section 3.1 of the Partnership Agreement.

2.3. Pursuant to Section 7 of the Operating Agreement, upon the occurrence of the Transfer hereunder, the Transferees shall each become a member of Meadow Star and shall have all of the rights and powers and shall be subject to all of the duties and obligations of a member thereunder.

Section 3. Representations; Warranties and Covenants.

3.1. Each Transferor represents and warrants to the applicable Transferee that:

(1) Organization; Powers. Such Transferor (i) is duly organized, validly existing and in good standing under the laws of the State of Delaware, (ii) has all requisite power to own its property and assets and to carry on its business as now conducted and as proposed to be conducted, (iii) is qualified to do business in every jurisdiction where such qualification is required, except where the failure to so qualify would not have a material adverse effect on the performance by such Transferor of its obligations under this Agreement, and (iv) has the power and authority to execute, deliver and perform its obligations under this Agreement.

(2) Authorization; Conflicts. The execution, delivery and performance by such Transferor of this Agreement and the performance of the transactions contemplated hereby and thereby (i) have been duly authorized by all requisite action and (ii) will not (A) violate (1) any provision of law, statute, rule or regulation the effect of which would be to cause or be reasonably expected to have a material adverse effect on the ability of such Transferor to perform any of its obligations under this Agreement, (2) any order of any governmental authority having proper jurisdiction over such Transferor, (3) any provision of the organizational documents of such Transferor, or (4) any provision of any indenture, loan agreement or other material agreement to which such Transferor is a party or by which it or any of its property is or may be bound, (B) be in conflict with, result in a breach of or constitute (alone or with notice or lapse of time or both) a default under any such indenture, loan agreement or other material agreement or (C) result in the creation or imposition of any Lien upon or with respect to the Interests.

(3) Enforceability. This Agreement has been duly authorized, executed and delivered by such Transferor and constitutes the legal, valid and binding obligations of such Transferor enforceable against such Transferor in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and subject to general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

(4) Title and Ownership. Such Transferor is the sole legal and beneficial owner of its respective Interests and has full power and lawful authority to transfer, convey and assign to the applicable Transferee all of such Transferor's right, title and interest in and to its respective Interests in the manner contemplated hereby. The provisions of this Agreement are effective to convey to, and vest in, the applicable Transferee ownership of the applicable Interests, and such Transferee shall be entitled to exercise all rights of a member under such Interests. After giving effect to the consummation of the transactions contemplated hereby, neither such Transferor nor any person claiming under or through such Transferor has any valid claim to or interest in such Interests.

(5) Liens. The Interests are free from all Liens. Upon execution of this Agreement, legal title to the Interests and all rights and benefits under the applicable Interests shall pass to the applicable Transferee as of the Effective Time.

(6) Consents and Approvals. No consent, approval or authorization from, or filing or declaration with, any Person or any Governmental Authority is required to be made by such Transferor to give the applicable Transferee a perfected ownership interest in the applicable Interests or for the consummation of the transactions contemplated hereby.

3.2. Each Transferee represents and warrants to the applicable Transferor that:

(1) Organization; Powers. Such Transferee (i) is duly formed, validly existing and in good standing under the laws of the State of Delaware, (ii) has all requisite power and authority to own its property and assets and to carry on its business as now conducted and as proposed to be conducted, (iii) is qualified to do business in every jurisdiction where such qualification is required, except where the failure to so qualify would not have a material adverse effect on the performance by such Transferee of its obligations under this Agreement, and (iv) has the power and authority to execute, deliver and perform its obligations under this Agreement.

(2) Authorization. The execution, delivery and performance by such Transferee of this Agreement and the performance of the transactions contemplated hereby and thereby (i) have been duly authorized by all requisite action and (ii) will not (A) violate (1) any provision of law, statute, rule or regulation the effect of which would be to cause or be reasonably expected to have a material adverse effect on the ability of such Transferee to perform any of its obligations under this Agreement, (2) any order of any governmental authority having proper jurisdiction over such Transferee, (3) any provision of the organizational documents of such Transferee, or (4) any provision of any indenture, loan agreement or other material agreement to which such Transferee is a party or by which it or any of its property is or may be bound, or (B) be in conflict with, result in a breach of or constitute (alone or with notice or lapse of time or both) a default under any such indenture, loan agreement or other material agreement.

(3) Enforceability. This Agreement has been duly authorized, executed and delivered by such Transferee and constitutes the legal, valid and binding obligations of such Transferee enforceable against such Transferee in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors, rights generally and subject to general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

(4) Consents and Approvals. No consent, approval or authorization from, or filing or declaration with, any Person or any Governmental Authority is required to be made by the applicable Transferor to give such Transferee a perfected ownership interest in the applicable Interests or for the consummation of the transactions contemplated hereby.

3.3. All representations, warranties, covenants and agreements of the parties contained herein shall survive the execution and delivery of this Agreement and the closing hereunder.

Section 4. Further Assurances.

4.1. Each Transferor agrees that at any time and from time to time at Transferees' expense, each Transferor shall promptly and duly execute, deliver, file, register and record any and all such further instruments and documents and take such further actions as required by law or as either Transferee may reasonably request in writing in order (i) to protect the title and ownership of such Transferee to its respective Interests and (ii) to permit such Transferee to obtain the full benefits of this Agreement and the rights and powers herein granted.

Section 5. Indemnification; Limitation on Liability.

5.1. Obligation of the Transferors To Indemnify. The Transferors agree to indemnify, defend and hold harmless the Transferees (and their respective directors, officers, employees, affiliates, successors and assigns) from and against all losses, liabilities, damages, deficiencies, demands, claims, actions, judgments or causes of action, assessments, costs or expenses (including, without limitation, interest, penalties and reasonable attorneys' fees and disbursements) ("**Losses**") based upon, arising out of, or otherwise in respect of (i) any inaccuracy in or any breach of any representation, warranty, covenant or agreement of such Transferor contained in this Agreement, and (ii) the ownership of the Interests prior to the Effective Date. After the Effective Date, the Transferees' sole remedy for any breach of any representation or warranty of the Transferors expressly set forth in this Agreement shall be for indemnification pursuant to this Section 5.

5.2. Obligation of the Transferees To Indemnify. The Transferees agree to indemnify, defend and hold harmless the Transferors (and their respective directors, officers, employees, affiliates, successors and assigns) from and against all Losses based upon, arising out of, or otherwise in respect of any inaccuracy in or any breach of (i) any representation, warranty, covenant or agreement of the Transferees contained in this Agreement and (ii) the ownership of the Interests on and after the Effective Date. After the Effective Date, the Transferors' sole remedy for any breach of any representation or warranty of the Transferees expressly set forth in this Agreement shall be for indemnification pursuant to this Section 5.

5.3. Notice and Opportunity To Defend.

(1) Notice of Asserted Liability. Promptly after receipt by any party hereto (the “*Indemnitee*”) of notice of any demand, claim or circumstances, which, with a lapse of time, would or might give rise to a claim or the commencement (or threatened commencement) of any action, proceeding or investigation (the “*Asserted Liability*”) that may result in a Loss, the Indemnitee shall give notice thereof (the “*Claims Notice*”) to any other party obligated to provide indemnification pursuant to Section 5.1 or 5.2 (“*Indemnifying Party*”). The Claims Notice shall describe the Asserted Liability in reasonable detail and shall indicate the amount (estimated if necessary and to the extent feasible) of the Loss that has been or may be suffered by the Indemnitee.

(2) Opportunity To Defend. The Indemnifying Party may elect to compromise or defend, at its own expense and by its own counsel, any Asserted Liability. If the Indemnifying Party elects to compromise or defend such Asserted Liability, it shall, within 30 days (or sooner, if the nature of the Asserted Liability so requires), notify the Indemnitee of its intent to do so, and the Indemnitee shall cooperate, at the expense of the Indemnifying Party, in the compromise of, or defense against, such Asserted Liability. If the Indemnifying Party elects not to compromise or defend the Asserted Liability, fails to notify the Indemnitee of its election as herein provided or contests its obligation to pay an indemnity under this Agreement, the Indemnitee may pay, compromise or defend such Asserted Liability. Notwithstanding the foregoing, neither the Indemnifying Party nor the Indemnitee may settle or compromise any claim over the objection of the other; provided, however, that consent to settlement or compromise shall not be unreasonably withheld. In any event, the Indemnitee and the Indemnifying Party may participate, at their own expense, in the defense of any such Asserted Liability. If the Indemnifying Party chooses to defend any claim, the Indemnitee shall make available to the Indemnifying Party any books, records or other documents within its control that are necessary or appropriate for such defense.

Section 6. Notices.

Any notice or communication under this Agreement shall be sufficiently given if in writing and mailed by first-class mail, postage prepaid, or delivered in person or by telex, telecopier or overnight air courier guaranteeing next day delivery, addressed as follows:

If to Highcrest or MS Partners:

Icahn Associates Corp.
767 Fifth Avenue
New York, New York 10153
Attention: Legal Department
Telecopy No.: (212) 688-1158

If to O&G Corp. or O&G LLC:

c/o American Real Estate Holdings Limited Partnership
White Plains Plaza
445 Hamilton Avenue - Suite 1210
White Plains, NY 10601
Attention: President
Telecopy No.: (914) 614-7001

Either of the above parties by notice to the other party may designate additional or different addresses for subsequent notices or communications. All notices and communications shall be deemed to have been duly given: at the time of delivery by hand, if personally delivered; five business days after being deposited in the mail, postage prepaid, if mailed; when answered back, if telexed; when receipt acknowledged, if telecopier; and the next business day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery. If a notice or communication is given in the manner provided above within the time prescribed, it is duly given, whether or not such party receives it.

Section 7. Amendment.

Neither this Agreement nor any of the terms hereof may be terminated, amended, supplemented, waived or modified, except by an instrument in writing signed by the Transferees and the Transferors.

Section 8. Successors and Assigns.

All covenants and agreements in this Agreement made by or on behalf of the parties hereto shall bind and inure to the benefit of the respective successors and assigns of the parties hereto whether so expressed or not.

Section 9. Counterparts.

This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and such counterparts together shall constitute but one Agreement.

Section 10. GOVERNING LAW; CONSENT TO JURISDICTION; WAIVER OF JURY TRIAL.

(a) IN ACCORDANCE WITH SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATION LAW, THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE SUBSTANTIVE LAWS OF THE STATE OF NEW YORK (WITHOUT REGARD TO CHOICE OF LAW PRINCIPLES) APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED THEREIN AND THE OBLIGATIONS, RIGHTS, AND REMEDIES OF THE PARTIES UNDER THIS AGREEMENT SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

(b) ANY LEGAL SUIT, ACTION OR PROCEEDING AGAINST THE TRANSFEREE OR THE TRANSFEROR ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR ANY TRANSACTION CONTEMPLATED HEREBY, MAY BE INSTITUTED IN ANY FEDERAL OR STATE COURT IN THE CITY OF NEW YORK, STATE OF NEW YORK AND THE TRANSFEREES AND THE TRANSFERORS EACH HEREBY WAIVE ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING, AND, SOLELY FOR THE PURPOSES OF ENFORCING THIS AGREEMENT, THE TRANSFEREE AND THE TRANSFEROR EACH HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUCH SUIT, ACTION OR PROCEEDING.

(c) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, AS AGAINST THE OTHER PARTIES HERETO, ANY RIGHTS IT MAY HAVE TO A JURY TRIAL IN RESPECT OF ANY CIVIL ACTION OR PROCEEDING (WHETHER ARISING IN CONTRACT OR TORT OR OTHERWISE), INCLUDING ANY COUNTERCLAIM, ARISING UNDER OR RELATING TO THIS AGREEMENT OR ANY OTHER OPERATIVE DOCUMENT, INCLUDING IN RESPECT OF THE NEGOTIATION, ADMINISTRATION OR ENFORCEMENT HEREOF OR THEREOF.

Section 11. Severability.

Any provision of this Agreement that may be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof so long as the economic or legal substance for the transactions contemplated thereby is not affected in any manner adverse to any party. Any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the date first above written.

TRANSFERORS:

HIGHCREST INVESTORS CORP.

By: /s/ Keith Cozza

Name: Keith Cozza

Title: Vice President

MEADOW STAR PARTNER LLC

By: /s/ Keith Cozza

Name: Keith Cozza

Title: Treasurer

TRANSFEREES:

AREP O&G HOLDINGS LLC

By: AREP Oil & Gas Holdings LLC, its sole member

By: American Real Estate Holdings Limited Partnership, its sole member

By: American Property Investors, Inc., its general partner

By: /s/ Hillel Moerman

Name: Hillel Moerman

Title: Chief Financial Officer; Treasurer

AREH OIL & GAS CORP.

By: /s/ Hillel Moerman

Name: Hillel Moerman

Title: Chief Financial Officer; Treasurer

[Interest Transfer Agreement, effective as of November 24, 2006, between Highcrest Investors Corp. and Meadow Star Partner LLC (as transferors) and AREP O&G Holdings LLC and AREH Oil & Gas Corp. (as transferees) Re: Meadow Star LLC]

EXHIBIT A

Transfers By Highcrest Investors Corp.

Transferee	Percentage of Interests
AREH Oil & Gas Corp.	95 %
AREP O&G Holdings LLC	4 %

Transfers By Meadow Star Partner LLC

Transferee	Percentage of Interests
AREP O&G Holdings LLC	1 %

**AGREEMENT OF LIMITED PARTNERSHIP
OF ROME ACQUISITION LIMITED PARTNERSHIP**

This Agreement of Limited Partnership of Rome Acquisition Limited Partnership (the or this "Agreement"), a Delaware limited partnership (the "Partnership"), is entered into effective as of November 15, 2006 (the "Effective Date") among WH Rome Partners LLC, a Delaware limited liability company, as a General Partner ("Macklowe", in its capacity as a General Partner) and as a Limited Partner ("Macklowe Company", in its capacity as a Limited Partner), and Meadow Star LLC, a Delaware limited liability company, as a General Partner ("Icahn", in its capacity as a General Partner) and as a Limited Partner ("Icahn Company", in its capacity as a Limited Partner). In consideration of the premises and covenants contained herein, the parties agree as of the Effective Date as follows:

ARTICLE I

CERTAIN DEFINITIONS

Section 1.1 Certain Terms. The definitions set forth in Exhibit A attached hereto shall apply to this Agreement.

ARTICLE II

NAME, OFFICE, BUSINESS

Section 2.1 Name. The name of the Partnership is "Rome Acquisition Partnership", or such other name or variations thereof as may, from time to time, be selected by the General Partners or as may be necessary to comply with laws, rules or regulations applicable to the business of the Partnership.

Section 2.2 Registered Office in the State of Delaware: Agent for Service. The address of the Partnership's registered office in the State of Delaware is c/o The Corporation Service Company, Corporation Trust Center, 2711 Conterville Rd., Suite 400, Wilmington, County of New Castle, Delaware 19808. The name of the Partnership's registered agent for service of process in the State of Delaware at such address is The Corporation Service Company or such other agent as may be designated from time to time by the General Partners.

Section 2.3 Business of the Partnership. The business of the Partnership shall be to engage in the acquisition of the Target and after the Closing Date to manage and/or sell certain properties as determined by the General Partners, and to do any and all other acts and things that the General Partners in their sole discretion may mutually decide.

Section 2.4 Location of Principal Place of Business. The location of the principal place of business of the Partnership is 445 Hamilton Avenue, Suite 1210, White Plains, NY 10601, or such other location as may from time to time be determined by the General Partners.

Section 2.5 Term. The term of the Partnership (the "Term") shall commence with the filing with the Secretary of State of the State of Delaware of the Certificate of Limited Partnership of the Partnership on November 15, 2006 and shall continue until December 31, 2011.

ARTICLE III

CAPITAL CONTRIBUTIONS

Section 3.1 Initial Capital Contributions. By no later than November 27, 2006, the initial aggregate capital contributions of all of the Partners shall be U.S. \$1,200,000,000.00 (the "Initial Capital Commitment"), subject to the conditions set forth in this Section 3.1. Each Partner hereby agrees to contribute to the Partnership by no later than November 27, 2006, a capital contribution (with respect to each Partner an "Initial Capital Contribution") in cash in the amount set forth next to such Partner's name on Schedule A hereto; provided, however, that (I) no such capital contributions shall be required and (II) to the extent that such capital contributions shall have been made, such capital contributions shall be returned to any Partner upon its request unless (x) the price to be paid per Target Security pursuant to the definitive agreement between the Partnership or its wholly-owned subsidiary and the Target providing for the acquisition of the Target (the "Acquisition Agreement") does not exceed \$49.00 per Target Security and (y) the aggregate amount of equity required to consummate the acquisition of Target pursuant to the Acquisition Agreement does not exceed (without taking into account any of the Shared Expenses) the Initial Capital Commitment. Any breach by a Partner of this Section 3.1 shall constitute a "Failure to Contribute" hereunder, and any Partner that so breaches this Agreement shall constitute a "Non-Contributing Partner." The General Partner that is a member of the General Partner Group that does not have the Non-Contributing Partner shall be entitled to collect from the other General Partner that is a member of the General Partner Group that does have the Non-Contributing Partner, and such General Partner shall pay to the General Partner that is so entitled to collect or its designee, an amount equal to \$60,000,000 (the "Failure to Contribute Amount"). Notwithstanding anything in this Agreement to the contrary, the Failure to Contribute Amount shall be the sole and exclusive remedy against a Non-Contributing Partner with respect to any Failure to Contribute.

Section 3.2 Additional Capital Contributions. After the Effective Date, the General Partners may from time to time attempt to agree on additional capital commitments to the Partnership. If the General Partners agree on the amount of an additional capital commitment of each General Partner (in each case, and with respect to each General Partner, an "Additional Capital Commitment"), they will enter into such commitment by executing a commitment letter (in each case a "Commitment Letter") and deliver it to the General Partners and the Partnership, and Icahn and Macklowe will each thereby become bound to make an additional capital contribution (in each case and with respect to each General Partner, an "Additional Capital Contribution") to the Partnership up to the amount of an Additional Capital Commitment agreed upon in such Commitment Letter at the written request of one General Partner to the other General Partner (in each case a "Capital Contribution Request Letter"), which request shall set forth an amount of an Additional Capital Contribution that each General Partner shall contribute to the Partnership. Also, each of Icahn and Macklowe shall be entitled, from time to time, to make an Additional Capital Contribution to the Partnership (the "Contribution Right"), provided the aggregate of all Additional Capital Contributions contributed by such General Partner to the Partnership from the date of the last in time Commitment Letter does not exceed the Additional Capital Commitment of such General Partner set forth in such Commitment Letter. Each of Icahn and Macklowe may, in its sole and absolute discretion, choose to make an Additional Capital Contribution hereunder by causing each of Icahn Company and Macklowe Company, respectively, to make such Additional Capital Contribution.

Section 3.3 Obligation to Contribute. Each of Icahn and Macklowe shall cause each of Icahn Company and Macklowe Company, respectively, to make an Additional Capital Contribution to the Partnership on the date, in the amount and otherwise in accordance with the terms prescribed by a Capital Contribution Request Letter, provided that such Additional Capital Contribution does not cause such General Partner to make an Additional Capital Contribution beyond its Additional Capital Commitment pursuant to the last in time Commitment Letter.

Section 3.4 No Right or Obligation. Except as otherwise provided in this Agreement or required by law, no Partner shall be obligated to or have a right to make an additional Capital Contribution to the Partnership.

Section 3.5 Form of Capital Contribution. Capital Contributions to the Partnership shall be made in cash only.

Section 3.6 No Interest on Capital Contributions. No Partner shall be entitled to interest on or with respect to any Capital Contribution or any amounts to be paid to such Partner pursuant to this Agreement.

Section 3.7 Distribution and Return on Capital Contributions. Except as otherwise unanimously agreed to by the General Partners, no Partner shall be entitled to a return of any part of its Capital Contributions or to receive any distributions from the Partnership.

Section 3.8 Expenses.

Internal Expenses. For avoidance of doubt, each Partner shall be responsible for its own internal expenses related to or arising out of its activities outside of the Partnership and shall not have any right of reimbursement by the Partnership of such expenses.

Shared Expenses. The Partners shall bear, pro rata in accordance with their respective Capital Accounts, (i) all fees and expenses of the financial advisors, legal advisor and accounting firm engaged by either General Partner on behalf of the Partnership in connection with the preparation and submission of a proposal with respect to the acquisition of Target, the negotiation and execution of the Acquisition Agreement and taking the other actions contemplated by this Agreement with respect to the proposed acquisition of Target and (ii) other third-party costs incurred by one General Partner on behalf of the Partnership in connection with the preparation and submission of a proposal with respect to the acquisition of Target, the negotiation and execution of the Acquisition Agreement and taking the other actions contemplated hereunder as unanimously approved by the General Partners, including any costs associated with structuring any debt financing for the acquisition of Target; provided that the fees and expenses described in both clauses (i) and (ii) above are incurred with the unanimous consent of each General Partner (the "Shared Expenses"); and provided, further and notwithstanding that Shared Expenses must be approved by the unanimous consent of each General Partner, that if Icahn (x) has paid to the Partnership its pro rata share (based on the amount set forth next to Icahn's name on Schedule A) of any Shared Expenses and (y) requests that Macklowe pay to the Partnership its pro rata share (based on the amount set forth next to Macklowe's name on Schedule A) of such Shared Expenses, then, within three (3) business days of such request, Macklowe shall pay to the Partnership its pro rata share of such Shared Expenses. In the event that Macklowe does not make the foregoing payment to the Partnership within such three (3) business days period, Icahn shall be entitled to collect from Macklowe, and Macklowe shall pay to Icahn or its designee, the Failure to Contribute Amount. Notwithstanding anything in this Agreement to the contrary, the Failure to Contribute Amount shall be the sole and exclusive remedy against Macklowe with respect to any failure to pay to the Partnership its pro rata share of any Shared Expenses in accordance with this Section 3.8(b).

Repayment of Debt. If the General Partners unanimously elect, or are required by one or more third parties, to repay or repurchase at the Closing Date (or thereafter in connection with the sale of properties) any indebtedness of Target or any subsidiary of Target, at the Closing Date (or thereafter in connection with the sale of properties), the Partners shall pay in cash such indebtedness plus any costs, expenses or fees associated with such repayment or repurchase, including without limitation any prepayment fees or penalties, to be repaid, pro rata in accordance with their respective Capital Accounts. For these purposes, “indebtedness” shall be deemed to include the costs of unwinding any interest rate swaps, caps, treasury locks and other derivatives and hedges associated with the indebtedness that is being repaid.

ARTICLE IV

ALLOCATION OF PROFITS AND LOSSES

Section 4.1 Allocation of Profits and Losses.

Allocation of Profits. Profits for each Accounting Period shall be allocated among the Partners in accordance with the positive balances of their Capital Accounts as of the beginning of such Accounting Period.

Allocation of Losses. Losses for each Accounting Period shall be allocated among the Partners in accordance with the positive balances of their Capital Accounts as of the beginning of the Accounting Period.

Timing of Allocations. Allocations of Profits and Losses as provided in this Section 4.1 shall be made as of the end of each Accounting Period.

Section 4.2 Additional Allocation Provisions.

Except as provided below in this Section 4.2, the net profits and net losses of the Partnership, as determined for Federal income tax purposes, shall be allocated in the same manner as Profits and Losses are allocated under Sections 4.1 hereof.

Notwithstanding the foregoing provisions of this Article IV hereof, the aggregate General Partner's interest in each item of Partnership income, gain, loss, deduction or credit shall equal at least 1% of each of those items at all times during the existence of the Partnership. In determining each General Partner's interest in those items, any Limited Partner's interest owned by such General Partner shall not be taken into account.

Notwithstanding the provisions of Article IV hereof, items of Partnership income, gain, loss or deduction, as determined for Federal income tax purposes, shall be specially allocated to the Partners to eliminate the difference between the adjusted tax basis and the book value of such Target Securities, in accordance with the principles of Code § 704(c), the Treasury Regulations there-under, and Treasury Regulations § 1.704-1(b)(4)(i); provided, however, that in the event of a withdrawal of a Partner, the General Partners other than a withdrawing Partner, acting together by unanimous agreement, shall have reasonable discretion to specially allocate items of Partnership income, gain, loss or deduction, as determined for Federal income tax purposes, first to the withdrawing Partner in order to eliminate any disparity between such withdrawing Partner's adjusted tax basis in its Partnership Interest and its Capital Account immediately prior to such withdrawal.

ARTICLE V

DISTRIBUTION, WITHDRAWAL AND BUY-SELL OFFER

Section 5.1 Distribution of Available Cash and Property. The General Partners may from time to time, in their sole discretion, acting together by unanimous agreement, distribute to the General Partners and the Limited Partners, pro rata in accordance with the relative positive balances of their Capital Accounts, cash or other property held by the Partnership, determined by the General Partners, in their sole discretion, acting together by unanimous agreement, to be available for distribution. Any withholding tax imposed with respect to a distribution to a Partner shall be deemed to be a distribution.

Section 5.2 Withdrawal. Except pursuant to Section 5.3 ("Buy-Sell Offer") or Article VII ("TRANSFERS OF INTERESTS BY PARTNERS"), no Partner shall have the right to withdraw from the Partnership and no Partner shall withdraw from the Partnership under any circumstances or make a demand for withdrawal of any or all of its Capital Contributions.

Section 5.3 Buy-Sell Offer. Any General Partner Group (the "Initiating Partners") may at any time (i) after the ninetieth (90th) day after the Closing Date and (ii) after notice to the other General Partner Group that the General Partners fail to unanimously agree pursuant to Section 6.2 on any action under this Agreement, deliver to Icahn, with respect to Icahn Group, or Macklowe, with respect to Macklowe Group (with respect to either Icahn Group or Macklowe Group, as the case may be, the "Non-Initiating Partners") an offer (the "Buy-Sell Offer") in writing stating the purchase price on a per unit or percentage basis at which the Initiating Partners and/or their Affiliate(s) designated by the Initiating Partners in the Buy-Sell Offer (each an "Initiating Designee" and collectively "Initiating Designees") are willing to purchase from the Non-Initiating Partners or sell to the Non-Initiating Partners all (but not less than all) Interests in the Partnership held in the case of a purchase by the Non-Initiating Partners, and in the case of a sale by the Initiating Partners.

Icahn or Macklowe, as the case may be, on behalf of the Non-Initiating Partners, shall then be obligated to elect to:

- (i) sell to the Initiating Partners and/or Initiating Designees, as the case may be, all (but not less than all) Interests in the Partnership then owned by the Non-Initiating Partners at the purchase price and upon the terms and conditions set forth in the Buy-Sell Offer; or
- (ii) purchase from the Initiating Partners on their own and/or through their Affiliate(s) designated by the Non-Initiating Partners and disclosed to the Initiating Partners in writing (each a "Non-Initiating Designee" and collectively "Non-Initiating Designees") all (but not less than all) Interests in the Partnership at the purchase price and upon the terms and conditions set forth in the Buy-Sell Offer.

Icahn or Macklowe, as the case may be, on behalf of the Non-Initiating Partners, shall give written notice of such election to the Initiating Partners within thirty (30) days after receipt of the Buy-Sell Offer. Failure of Icahn or Macklowe, as the case may be, on behalf of the Non-Initiating Partners, to give the Initiating Partners notice of their election within said 30-day period shall conclusively be deemed to be an election under clause (i) above.

The closing of any purchase and sale of Interests in the Partnership pursuant hereto shall occur no later than ten (10) days following the delivery of the notice of election set forth above or such earlier date as shall be specified in writing by the Purchasing Partners, unless an approval for the consummation of the foregoing transaction is required from any Regulatory Authority, in which case such closing shall take place no later than 10 days following such approval. At any closing pursuant to this section, a General Partner Group which is selling Interests in the Partnership, whether such General Partner Group shall be of the Initiating Partners or the Non-Initiating Partners who elect to sell (the "Exiting Partners"), shall sell, transfer and assign to the other General Partner Group purchasing such Interests and the Target Securities (the "Purchasing Partners") all right, title and interest in and to the Exiting Partners' Interests in the Partnership free and clear of all liens, claims and encumbrances, the Purchasing Partners shall pay for such interests and Interests in cash or immediately available Federal funds and, at the request of the Purchasing Partners, the Exiting Partners shall execute all other documents and take such other actions as may be reasonably necessary or desirable to effectuate the transfer of the Interests in the Partnership and to carry out the purposes of this Agreement.

In the event, the Exiting Partners fail to comply with the closing procedure set forth above, the Purchasing Partners may, in their discretion, chose to deliver to the Partnership and the Exiting Partners a Payment Notice (as defined below), and the Partnership and the Exiting Partners shall abide by the procedure set forth in the Payment Notice.

Section 5.4 Material Breaches of Section 5.3. Any breach by a Partner of Section 5.3 (“Buy-Sell Offer”) shall constitute a “Material Breach” hereunder, and any Partner that is in “Material Breach” shall constitute a “Subject Partner.” The General Partner, that is a member of the General Partner Group that does not have the Subject Partner as its member, and/or its Affiliate(s) designated by such General Partner shall be entitled to purchase (without any obligation to do so) (the “Purchase Option”) all (but not less than all) of the Interests of the General Partner Group that has the Subject Partner as its member at price equal to seventy five percent (75%) of the Capital Account of that General Partner Group on the date of the Material Breach by tendering to the Partnership and such Subject Partner a payment notice (a “Payment Notice”) at any time after the Material Breach, which Payment Notice shall set forth the procedure for the payment for the Interest in immediately available Federal funds, and the Partnership and the Subject Partner shall abide by such procedure. The Subject Partner shall be deemed to have waived any defenses it may have to the purchase of its Interest pursuant to the Purchase Option. Notwithstanding the foregoing, nothing herein shall be construed as a waiver of any other rights or remedies that the Partnership and/or each of its Partners may have against the Subject Partner at law or in equity, including damages for any breach of this Agreement, whether or not the Purchase Option is exercised.

ARTICLE VI

POWERS RIGHTS AND DUTIES OF THE GENERAL PARTNER

Section 6.1 Authority. Except as otherwise specifically stated herein, the General Partners, acting together by unanimous agreement, shall have exclusive and complete authority and discretion to manage the operations and affairs of the Partnership and to make all decisions regarding the business of the Partnership.

Section 6.2 Powers and Duties of General Partner. The General Partners shall be solely responsible for the administration of the Partnership and any act by the Partnership shall, except as otherwise set forth in ARTICLE III (“CAPITAL CONTRIBUTIONS”) and Section 5.3 (“Buy-Sell Offer”) hereof, require the unanimous approval of the General Partners, including, without limitation, (i) admission of any other person as a Partner, (ii) any matter relating to any transaction between the Partnership or any entity controlled by the Partnership and any General Partner or Limited Partner, (iii) any distributions to the Partners (iv) determining to require any Capital Contribution from the Partners, (v) except as set forth in Section 5.3 hereof, the taking of any action by the Partnership prior to the acquisition of any Target Securities, (vi) a change in the purpose of the Partnership, (vii) the dissolution of the Partnership, (viii) the sale or purchase of Target Securities by the Partnership or the voting of Target Securities by the Partnership but not by any Partner or any of its Affiliates (other than the Partnership), (ix) appointment of and/or delegation of authority to one General Partner or any representative of any General Partner to represent the Partnership and/or each of the General Partners in any specific affairs, undertakings, matters or projects of the Partnership during a specific time or period, and in any event, until one General Partner objects to such appointment or delegation by giving written notice of such objection to the other General Partner and therefore revokes its consent (x) public disclosure of the plans, strategies or affairs of the Partnership and (xi) sales of any assets of the Partnership. Except as otherwise specifically provided herein, the General Partners, acting by unanimous agreement, shall have (x) all rights and powers of a general partner under the Uniform Act; (y) all authority, rights and powers in the management of the Partnership business to do any and all other acts and things necessary, proper, convenient or advisable to effectuate the purpose of this Agreement, to carry on the business of the Partnership and/or as permitted by law and (z) the sole power to approve a transfer, domestication, continuance, merger, consolidation or conversion of the Partnership. From time to time, the General Partners may, by unanimous consent, appoint one or more officers or agents (which may be a General Partner) to act on behalf of the Partnership with respect to such matters and affairs as shall have been specified in such appointment. Either General Partner may revoke such appointment at any time to be effective as set forth in written notice given by the General Partner desiring to make such revocation to the other General Partner and such appointee.

Section 6.3 Liability. Except as otherwise specifically provided in this Agreement, no member of a General Partner Group or/and no Affiliate of a General Partner shall be personally liable for the return of any portion of the Capital Contributions of any of the General Partners or of the Limited Partners or shall be required to pay to the Partnership or any Limited Partner any deficit in any Partner's Capital Account. Except as otherwise specifically provided in this Agreement, no General Partner, former, present or future Partner, member, officer, director, stockholder, employee, agent or Affiliate of a General Partner shall be liable, responsible or accountable to the Partnership or any Limited Partner for (a) any act or omission performed or omitted by any of them, or for any costs, damages or liabilities arising therefrom, or by law, unless that act or omission was performed or omitted fraudulently or in bad faith or through negligence or gross negligence or intentional misconduct; or (b) except as provided in clause (a) of this Section 6.3 with respect to the Person who performed or omitted such acts, any costs, damages or liabilities due to the negligence, dishonesty or bad faith of any employee, officer, broker, consultant or other agent of the Partnership, selected, engaged and retained in good faith by a General Partner.

Section 6.4 Indemnification. (a) The Partnership shall:

(i) indemnify and hold harmless each member of the General Partner Group and Affiliates of each General Partner and the respective personal representatives, heirs, successors in interest and assignees of any thereof (each, an "Indemnified Party"), from and against any and all damages incurred or suffered by any Indemnified Party arising out of or in connection with the Partnership's business or affairs; provided, however, that the Partnership shall not indemnify or hold harmless any Indemnified Party with respect to any act or omission which was performed or omitted fraudulently or in bad faith by it; and

(ii) advance to any Indemnified Party expenses for which the Partnership is required to indemnify the Indemnified Party pursuant to this Section 6.4 subject to the undertaking of the Indemnified Party to repay such advances if it is ultimately determined that such Indemnified Party is not entitled to be indemnified.

Survival. The exculpation provided in Section 6.3 hereof and the indemnification provided in this Section 6.4 shall survive any termination of this Agreement. Any Person entitled to exculpation pursuant to Section 6.3 hereof and/or indemnification pursuant to this Section 6.4 shall remain entitled to such exculpation and/or indemnification to the same extent as prior to any of the following events with respect to any matter arising or occurring prior to such event and shall have no liability with respect to any matter arising after such event: (i) such Person ceases to be a partner, member, officer, director, stockholder, employee, agent or Affiliate of a General Partner or its Affiliates; or (ii) a General Partner ceases to be one of the general partners of the Partnership, unless such Person is a partner, member, officer, director, stockholder, employee, agent or Affiliate of a permitted hereunder successor to such General Partner.

Repayment. If it shall ultimately be determined that the Indemnified Party is not entitled to the indemnification provided by this Section 6.4, the Indemnified Party shall promptly repay to the Partnership the amount of any expenses advanced to such Indemnified Party and the amount of all costs of the Partnership in providing indemnification pursuant to this Agreement.

Section 6.5 Management of Acquired Assets. To the extent that customary property management services are required with respect to any property acquired under the Acquisition Agreement, services may be provided by Icahn, Macklowe or an outside manager in exchange for payment of customary management fees in amounts to be agreed to by the General Partners, acting together by unanimous agreement, provided, however that if Icahn desires to undertake such customary management services through one of its Affiliates, Icahn shall be entitled to do so in exchange for payment of customary management fees without any consent requirement from any other Partners. In the event Icahn undertakes such management services through one of its Affiliates and Macklowe is not satisfied, in its sole discretion, with Icahn's Affiliates performance of such management services, Macklowe shall be entitled to initiate a Buy-Sell Offer pursuant to the terms of Section 5.3 hereof without regard to clause (ii) of the first paragraph of Section 5.3, and notwithstanding anything in this Agreement to the contrary, this shall be the sole and exclusive remedy against Icahn with respect to any performance or failure to perform such management services.

ARTICLE VII

TRANSFERS OF INTERESTS BY PARTNERS

Section 7.1 General Partner Transfer. Notwithstanding any other provision of this Agreement but subject to Section 5.3 hereof, a General Partner may not and may not cause, permit or suffer to occur, any sale, assignment, pledge or other encumbrance or disposition (collectively "Transfer") of all or a portion of its General Partnership Interest in the Partnership (including any direct or indirect beneficial interest therein), directly or indirectly, including without limitation, as a result of any Transfer of such General Partner's securities, stock or other ownership interest (including any direct or indirect beneficial interest therein) or any Transfer by any Person directly or indirectly controlling such General Partner of its securities, stock or other ownership interest (including any direct or indirect beneficial interest therein), to any Person other than: (i) to an Affiliate that agrees to be bound by this Agreement and the terms hereof pursuant to documents reasonably acceptable to the other General Partner; or (ii) pursuant to the procedure set forth in Section 5.3.

Section 7.2 Transfer of Limited Partner's Interest. (a) Notwithstanding any other provision of this Agreement but subject to Section 5.3 hereof, a Limited Partner may not and may not cause, permit or suffer to occur, any Transfer of all or a portion of its Limited Partnership Interest in the Partnership (including any direct or indirect beneficial interest therein), directly or indirectly, including without limitation, as a result of any Transfer of such Limited Partner's securities, stock or other ownership interest (including any direct or indirect beneficial interest therein) or any Transfer by any Person directly or indirectly controlling such Limited Partner of its securities, stock or other ownership interest (including any direct or indirect beneficial interest therein), to any Person (unless to an Affiliate that agrees to be bound by this Agreement and the terms hereof pursuant to documents reasonably acceptable to the General Partners) that agrees to be bound by this Agreement and the terms hereof or the following conditions are met:

(i) the General Partners give their unanimous written consent to the Transfer (which consent may be withheld in the sole discretion of each of the General Partners);

(ii) the Regulatory Authority gives its written consent, if necessary, to the Transfer; and

(iii) an instrument of Transfer, and any other documents and opinions, in form and substance satisfactory to all of the General Partners executed by both the transferor and transferee of the Interest or portion thereof shall be delivered to the General Partners and the transferee, shall, if so requested, assume the obligations, if any, of the transferor to the Partnership allocable to the Interests or portion thereof transferred.

No transferee of a Limited Partner's Interest shall become a Substituted Limited Partner unless the transfer shall be made in compliance with clauses (i) through (iii) of Section 7.2(a) hereof and the transferee (1) if any of the General Partners requests, executes a subscription agreement containing representations, warranties and other provisions as such requesting General Partner reasonably deems to be necessary or appropriate under then existing applicable law; (2) each of the General Partners shall give its prior written consent, which consent may be withheld in the sole discretion of any of the General Partners; and (3) the transferring Limited Partner and the transferee shall have executed and acknowledged such other instruments as any of the General Partners may deem reasonably necessary or appropriate.

Each Limited Partner agrees that such Limited Partner will pay all reasonable costs and expenses, including, without limitation, attorneys fees and the cost of the preparation, filing and publishing of any amendment to any certificate of the Partnership, incurred by the Partnership in connection with a transfer by or to it.

Any Limited Partner which shall transfer all of its Interest shall cease to be a Limited Partner upon the admission of a Substituted Limited Partner in its stead. Anything herein to the contrary notwithstanding, until such time as the transferee of an Interest has been admitted into the Partnership as a Substituted Limited Partner or each of the General Partners has determined that the requirements of Sections 7.2(a) hereof for transfer of an Interest have been satisfied, both the Partnership and the General Partners shall be entitled to treat the transferor of such Interest as the absolute owner thereof in all respects.

In the event of the transfer of a Partner's Interest at any time other than the end of the Partnership's Fiscal Year, the distributive shares of the various items of Partnership income, gain, loss, deduction and credit as computed for purposes of Federal income tax shall be allocated between the transferor and the transferee on such basis as the transferor and the transferee shall agree; provided, however, that no allocation shall be effective unless (i) the transferor and transferee shall have given each of the General Partners written notice prior to the effective date of the transfer, stating their agreement that the allocation shall be made on such basis; (ii) each of the General Partners shall have consented, in its sole discretion, to the allocation, and (iii) the transferor and the transferee shall have agreed to reimburse the Partnership for any incremental accounting fees, attorneys' fees and other expenses incurred by the Partnership in making the allocation.

Section 7.3 Transferees Bound by Agreement. Any successor or transferee of a Partner and any Substituted Limited Partner shall be subject to and bound by all of the provisions of this Agreement as if originally a party to this Agreement.

Section 7.4 Improper Transfers are Void. Any purported transfer of an Interest (or any beneficial interest therein) which is not made in compliance with this Agreement is hereby declared to be null and void and of no force and effect whatsoever.

ARTICLE VIII

DISSOLUTION OF THE PARTNERSHIP

Section 8.1 Causes of Dissolution. The Partnership shall be dissolved upon the earliest of:

The expiration of its Term as provided in this Agreement;

The unanimous determination by all of the General Partners in their sole discretion to dissolve;

The entry of a decree of judicial dissolution;

The failure by the General Partners to agree on any additional capital commitments pursuant to Section 3.2 hereof; or

Any act or event specified in the Uniform Act § 17-801 or any successor provision thereto.

Section 8.2 Prohibition of Dissolution. Without unanimous consent of the General Partners, a Partner shall not (i) act (ii) fail to act or (iii) cause any action or inaction, if any of the foregoing leads to, results in, or causes, directly or indirectly, a dissolution of the Partnership.

ARTICLE IX

WINDING UP, TERMINATION AND LIQUIDATION DISTRIBUTIONS

Section 9.1 Winding Up. a) In the event of the dissolution of the Partnership for any reason set forth in Section 8.1 hereof, the General Partners shall wind up the affairs of the Partnership and liquidate the Partnership Property.

The Partners shall continue to share Profits and Losses during the period of liquidation in accordance with Article IV hereof. The General Partners may, in their sole discretion, acting together by unanimous agreement, determine the time, manner and terms of any sale or sales of the assets of the Partnership pursuant to the liquidation.

In the event of the dissolution of the Partnership, the General Partners, acting together by unanimous agreement, shall have the right to dispose of the goodwill and all of the Partnership's books and papers in any manner as they may deem advisable, including to an entity that will continue the Partnership and its business, which may be an Affiliate of any of the General Partners. If the business of the Partnership is continued, or the goodwill, if any, sold or otherwise disposed of, any non-continuing Partner shall have no claim against the assets of the Partnership, or any Partner thereof, or against the successor or continuing entity, in any other respect, and shall not be entitled to participate in or derive any benefit from, any use or disposition of the name, goodwill, books or offices of the Partnership.

Section 9.2 Distributions Upon Liquidation. Subject to the right of the General Partners to set up cash reserves, as they may deem necessary or appropriate, acting together by unanimous agreement, the proceeds of the liquidation of the Partnership Property, after payment or adequate provision for the payment of all debts and obligations of the Partnership, shall be distributed pro rata to the Partners in accordance with their respective Capital Accounts.

Section 9.3 Termination. The Partnership shall terminate when all Partnership Property shall have been disposed of and distributions made as provided in Section 9.2 hereof. The General Partners shall then execute and cause to be filed a Certificate of Cancellation of the Partnership.

ARTICLE X

BOOKS AND RECORDS, REPORTS, FISCAL YEAR

Section 10.1 Books and Records. True and complete books of account and records are to be kept by the Partnership and shall be available for inspection by each Partner.

Section 10.2 Reports. As soon as practicable after the end of each Fiscal Year other than the Fiscal Year in which the Partnership was formed, the General Partners shall cause the Partnership to send to each Person who was a Partner at any time during such Fiscal Year, an annual statement indicating such Partner's share of the Partnership's taxable income or loss, capital gain or loss, and other items relevant for Federal income tax or other tax purposes. The General Partners will make annual financial statements for the Partnership, other than for the Fiscal Year in which the Partnership was formed, available to Limited Partners upon reasonable request. The General Partners shall cause the Partnership to furnish each General Partner with separate accounting statements for the Partnership's brokerage and trading businesses. Each Partner shall provide the Partnership with copies of any reports, filings or other documents (collectively the "Regulatory Documents") that such Partner files with, delivers to or makes otherwise available to (collectively "Files") any Regulatory Authority, in connection with or in relation to the Interest of such Partner in the Partnership immediately after such Partner Files the Regulatory Documents, and the General Partners shall cause the Partnership to furnish each General Partner with the Regulatory Documents.

Section 10.3 Fiscal Year. The fiscal year of the Partnership (the "Fiscal Year") shall be from January 1 through December 31 of each year or portion thereof during which the Partnership is in existence.

ARTICLE XI

AMENDMENT OF PARTNERSHIP AGREEMENT

Section 11.1 Approval of Amendments. Amendments to this Agreement may be made by the General Partners, acting together by unanimous agreement, without the consent of any Limited Partner through use of the power of attorney described in Section 14.1 hereof if those amendments are (i) of a non-material nature, as determined by the General Partners; (ii) for the purpose of creating a new class or classes of Limited Partnership Interests, admitting additional Limited Partners or reflecting the withdrawal of Limited Partners; (iii) necessary to maintain the Partnership's status as a partnership according to § 7701(a)(2) of the Code; (iv) necessary to preserve the validity of any and all allocations of Partnership income, gain, loss or deduction pursuant to § 704(b) of the Code; or (v) contemplated by this Agreement. Amendments to this Agreement other than those described in the first sentence of this Section 11.1 may be made only if embodied in an instrument signed by all of the General Partners and a Majority-in-Interest of the Limited Partners, provided, however, that any amendment to this Agreement pertaining to the rights, preferences, priorities, powers, limitations and/or restrictions with respect to the Limited Partners of a particular class or classes of Limited Partnership Interest need only be signed by all of the General Partners and a Majority-in-Interest of the Limited Partners of each such class of Limited Partnership Interest. Any supplemental or amendatory agreement shall be adhered to and have the same effect from and after its effective date as if the same had originally been embodied in, and formed a part of, this Agreement. The General Partners shall cause the Partnership to give written notice to all Partners promptly after any amendment has become effective. Any amendment to this Agreement must be in writing.

ARTICLE XII

TAX MATTERS

Section 12.1 Tax Matters Partner. The General Partners will jointly select, at the expense of the Partnership, an accounting firm to review a draft of each tax return to be filed by the Partnership, and each Partner shall also be afforded the opportunity to review and comment on the draft of such tax return. The Tax Matters Partner shall prepare and file all tax returns and execute any agreements or other documents relating to tax matters on behalf of the Partnership, provided, however, that the Tax Matters Partner will not settle any administrative proceeding before a taxing authority, or commence or settle a judicial proceeding, without the consent of Macklowe, such consent not to be unreasonably withheld or delayed. The Tax Matters Partner is authorized to make an election under Section 754 of the Code upon the request of either Partner and may make other elections for federal, state, local and foreign tax purposes as permitted by applicable law; provided, however, that any such other election shall not be made without the consent of Macklowe, such consent not to be unreasonably withheld or delayed. Icahn shall be and is specifically authorized to act as the “Tax Matters Partner.”

ARTICLE XIII

STANDSTILL

Section 13.1 Standstill. (a) For avoidance of doubt, prior to the Execution Date, Partners and their respective Affiliates will be free to purchase the Target Securities without any restrictions hereunder. During the Standstill Period, a Partner shall not, other than through its participation in the Partnership, and shall cause its Affiliates not to, and a former Partner shall not, and shall cause its Affiliates not to, directly or indirectly:

(i) acquire, announce an intention to acquire, offer or propose to acquire, solicit an offer to sell or agree to acquire, by purchase, by gift, by joining or taking an equity interest in a Person, a syndicate or any group or otherwise (x) any Target Securities or (y) any assets, businesses or properties of the Target;

(ii) participate in the formation or encourage the formation of, or join or in any way participate with, any Person, syndicate, group or other person or entity that beneficially owns or seeks to acquire beneficial ownership of Target Securities for the purpose of beneficially owning or acquiring beneficial ownership of any Target Securities (other than any group consisting solely of such Partner and/or its Affiliates);

(iii) solicit, or participate in the solicitation of, proxies or become a participant in any election contest (the terms used in this section 13.1(a)(iii) having the respective meanings given them to Regulation 14A under the 1934 Act) with respect to the Target;

(iv) initiate, propose or otherwise solicit any stockholders of the Target for the approval of one or more proposals with respect to the Target or induce any other Person to initiate any such proposal;

(v) seek the removal of any of the members of the management or the board of directors of the Target or seek to have called any meeting of the stockholders of the Target;

(vi) deposit any Target Securities in a voting trust or subject them to a voting agreement or other agreement or arrangement with respect to voting (other than pursuant to the unanimous agreement of all of the General Partners or any agreement or arrangement solely among such Partner and/or its Affiliates); or

(vii) otherwise act, alone or in concert with others, to seek to control the management, policies or affairs of the Target or solicit, propose, seek to effect or negotiate with any other Person (including, without limitation, the Target) with respect to any form of business combination or other extraordinary transaction with the Target or any of its stockholders; solicit, make or propose, or negotiate with any other Person with respect to, or announce an intent to make, any tender offer or exchange offer for any Target Securities; publicly disclose an intent, purpose, plan or proposal with respect to the Target or the Target Securities that would violate the provisions of this Section 13.1(a); or assist, participate in, facilitate or solicit any effort or attempt by any Person to do or seek to do any of the foregoing.

For purposes of this Agreement, “Standstill Period”, with respect to any Partner or former Partner, shall mean the period that starts on the Execution Date and ends on the Closing Date; provided, however, that, in the event all of the Partners remaining in the Partnership belong to the same General Partner Group, the Standstill Period solely with respect to such remaining Partners shall end on the day that the last in time Partner of the other General Partner Group ceases to be a Partner of the Partnership. Notwithstanding anything herein to the contrary, no Partner shall be deemed to have violated this Section 13.1 in the event that such Partner acquires beneficial ownership of the Target Securities pursuant to a transaction in which such Partner acquires another Person, in circumstances in which the principal purpose of such transaction is not to acquire the Target Securities or otherwise to circumvent the intent of this agreement, provided that the number of the Target Securities so acquired shall not exceed five (5) percent of the outstanding Target Securities on the day of such acquisition, and such Target Securities shall, immediately after such acquisition, be contributed to the Partnership by such Partner. Until the Partnership Files a Regulatory Document to publicly disclose its holdings of the Target Securities, a Partner shall not, and shall not permit any of its Affiliates to act in any way that triggers any public disclosure or any disclosure to any third-party (other than an Affiliate of such Partner, but including without limitation any Regulatory Authority, Person, Target or governmental agency, organization, or body) by such Partner unless the General Partners unanimously consent to such action.

ARTICLE XIV

MISCELLANEOUS

Section 14.1 Power of Attorney. Each Limited Partner hereby constitutes and appoints the General Partners as a group as its true and lawful representative and attorney-in-fact, in its name, place and stead and with full power of substitution to make, execute, publish, acknowledge, deliver, record and file and swear to the execution, delivery, acknowledgment, filing and/or recording of: (a) all amendments to this Agreement permitted by the provisions of Section 11.1 hereof to be made without the consent of any Limited Partner and all instruments that the attorney-in-fact deems appropriate to reflect any change or modification of this Agreement in accordance with this Agreement; (b) except as otherwise provided in this Agreement, a Certificate of Limited Partnership of the Partnership, any amendment thereof required because of an amendment to this Agreement or in order to effectuate any change in the membership of the Partnership and (c) all such other agreements, applications, instruments, documents, certifications, certificates and reports which may from time to time be required by any laws applicable to the Partnership, including without limitation the laws of the United States of America, the State of Delaware or any other jurisdiction, or any political subdivision or agency thereof, or any Regulatory Rule, all of the foregoing to effectuate, implement and continue the valid and subsisting existence of the Partnership and to permit it to conduct its business. The power of attorney granted hereby is coupled with an interest and is irrevocable and shall (i) continue in full force and effect notwithstanding the subsequent death, incapacity, dissolution, termination or bankruptcy of the Limited Partner granting the same or the transfer of all or any portion of such Limited Partner’s Interest, and (ii) extend to that Limited Partner’s successors, assigns and legal representatives. Each Limited Partner agrees to be bound by any representation made by the attorney-in-fact acting in good faith pursuant to, and in accordance with, this power of attorney, and hereby waives any and all defenses which may be available to contest, negate or disaffirm the action of the attorney-in-fact taken in good faith pursuant to, and in accordance with, this power of attorney.

Section 14.2 Notices. All notices and demands required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given (a) upon receipt, if delivered personally or if mailed by registered or certified mail or if sent by overnight courier or (b) upon dispatch, if transmitted by telecopy or other means of facsimile which provides immediate delivery to compatible equipment in the possession of the recipient, if receipt has been confirmed, in any case, provided that any telecopy or facsimile notices delivered hereunder must be followed by a copy of notice delivered through registered or certified mail or by means of an overnight courier, if to the Partnership:

Rome Acquisition Limited Partnership
767 Fifth Avenue
New York, NY 10153
Attention: William S. Macklowe
Telecopy Number: (212) 554-5890
Confirmation Number: (212) 554-5882
and
Attention: Keith Meister
Telecopy Number: (212) 688-1158
Confirmation Number: (212) 702-4359

if to Macklowe or Macklowe Company:

WH Rome Partners LLC
767 Fifth Avenue
New York, NY 10153
Attention: William S. Macklowe
Telecopy Number: (212) 554-5890
Confirmation Number: (212) 554-5882
and
Attention: General Counsel
Telecopy Number: (212) 489-7431
Confirmation Number: (212) 554-5811

with a copy to:

Willkie Farr & Gallagher LLP
787 Seventh Avenue
New York, NY 10019-6099
Attention: Steven A. Seidman, Esq.
Telecopy Number: (212) 728-9763
Confirmation Number: (212) 728-8000

if to Icahn or Icahn Company:

Meadow Star LLC
767 Fifth Avenue, 47th Floor
New York, NY 10153
Attention: Keith Meister
Telecopy Number: (212) 688-1158
Confirmation Number: (212) 702-4359
and
Attention: Keith Cozza
Telecopy Number: (212) 688-1158
Confirmation Number: (212) 702-4323

with a copy to:

Icahn Associates Corp.
767 Fifth Avenue, 47th Floor
New York, NY 10153
Attention: Yevgeny Funder
Telecopy Number: (212) 688-1158
Confirmation Number: (212) 702-4329

or at such other address or telecopy number as will be specified by like notice, and if to any other Partner, to the address or telecopy number of such Partner as shown from time to time on the records of the Partnership. Any Partner may specify a different address or telecopy number by notifying each General Partner thereof. Any General Partner may specify a different address or telecopy number by notifying all Partners thereof.

Section 14.3 Entire Agreement. This Agreement constitutes the entire agreement among the parties with respect to the subject matter hereof. As of the Effective Date this Agreement supersedes any prior agreement or understandings among the parties hereto. This Agreement may not be modified or amended in any manner other than as set forth herein.

Section 14.4 Governing Law. This Agreement and the rights of the parties hereunder shall be governed by and interpreted in accordance with the law of the State of Delaware without giving effect to the conflict of law principles thereof.

All of the provisions of this Agreement shall be subject to all Regulatory Rules, including, without limitation, the following:

(i) No distribution may be made to any Partner pursuant to this Agreement (A) if such distribution would cause the Partnership to be in violation of (1) any Regulatory Rule, including, without limitation, the Net Capital Rule or (2) any material contract to which the Partnership is a party; or (B) without the prior written approval, if necessary, of the Regulatory Authority; and

(ii) No transfer of all or a portion of a Partner's Interest may be made unless the Regulatory Authority gives its written consent, if necessary, to the transfer.

Notwithstanding anything herein to the contrary, to the extent that this Agreement is invalid, void, illegal or otherwise inconsistent with Delaware law or any Regulatory Rule, such Regulatory Rule and/or Delaware law shall override this Agreement to the extent necessary to conform this Agreement to such Regulatory Rule or Delaware law.

Section 14.5 Voting, Consents and Approvals. Any action requiring the consent, approval or affirmative vote of Limited Partners under this Agreement may be taken by vote at a meeting or, in lieu thereof, by written consent of Limited Partners with the required percentage in Interest or written consent of the Limited Partners who have the right to approve or consent to such action, as the case may be. The granting or withholding of consents or approvals by any party shall be in the sole discretion of the consenting or approving party, unless otherwise expressly provided in this Agreement.

Section 14.6 Effect. Except as herein otherwise specifically provided, this Agreement shall be binding upon and inure to the benefit of the parties and their legal representatives, heirs, administrators, executors, successors and permitted assigns.

Section 14.7 Pronouns and Number. Wherever it appears appropriate from the context, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in either the masculine, feminine or neuter shall include the masculine, feminine and neuter.

Section 14.8 Captions. Captions contained in this Agreement are inserted only as a matter of convenience and in no way define, limit or extend the scope or intent of this Agreement or any provision hereof.

Section 14.9 Partial Enforceability. If any provision of this Agreement, or the application of that provision to any circumstance, shall be held invalid, the remainder of this Agreement, or the application of that provision to circumstances other than those to which it is held invalid, shall not be affected thereby, except to the extent necessary to carry out the purposes of this Agreement.

Section 14.10 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

Section 14.11 Third Party Beneficiaries. The parties hereto intend that this Agreement shall not benefit or create any right or cause of action in or on behalf of any Person other than the parties hereto their legal representatives, heirs, administrators, executors, successors and permitted assigns.

Section 14.12 Specific Performance. Each Partner understands and acknowledges that a breach or threatened breach by a Partner (the "Breaching Partner") of any part of this Agreement could cause the Partnership and/or each of its Partners, other than the Breaching Partner, irreparable injury; damages would not adequately compensate the Partnership and/or each of its Partners for such breach or threatened breach; and damages in such event would be difficult if not impossible to determine. Therefore, in addition to any other remedies the Partnership and/or each of its Partners, may have at law, the Partnership and/or each of its Partners, other than the Breaching Partner, shall be entitled to the remedies of injunction, specific performance and other equitable relief, without posting any bonds, as may be available to restrain or prevent a breach or threatened breach of any of the Breaching Partner's obligations under this Agreement. This provision shall not, however, be construed as a waiver of any other rights or remedies that the Partnership and/or each of its Partners may have at law or in equity, including damages.

Section 14.13 Consultation and Cooperation. Any public statement (including press releases but excluding filings with the Securities and Exchange Commission) which any Partner desires to make relating to or in connection with the acquisition of Target or this Agreement shall require the unanimous consent of the General Partners (which consent shall not be unreasonably withheld, conditioned or delayed).

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first written above.

WH ROME PARTNERS LLC
as General Partner and Limited Partner

By: WH ROME INC.
(its Managing Member)

by: /s/ William S. Macklowe
Name: William S. Macklowe
Title: Vice President

HARRY MACKLOWE
solely as personal guarantor of
WH Rome Partners LLC's obligations
to pay the Failure to Contribute Amount

by: /s/ Harry Macklowe
Name: Harry Macklowe

MEADOW STAR LLC
as General Partner and Limited Partner

by: /s/ Keith Meister
Name: Keith Meister
Title: President

CARL C. ICAHN
solely as personal guarantor of
Meadow Star LLC's obligations
to pay the Failure to Contribute Amount

by: /s/ Carl C. Icahn
Name: Carl C. Icahn

[Signature Page to Agreement of Limited Partnership]

Schedule A

<u>Partner</u>	<u>Initial Capital Contribution</u>
Macklowe	\$6,000,000.00
Macklowe Company	\$594,000,000.00
Icahn	\$6,000,000.00
Icahn Company	\$594,000,000.00

**Exhibit A to the Limited Partnership Agreement of
Rome Acquisition Partnership**

“Accounting Period” means, as the context may require, the period beginning as of the Effective Date or on the day following the last day of the immediately preceding Accounting Period, and ending on the next succeeding of the following:

- 1) the last day of each Fiscal Year of the Partnership;
- 2) the day prior to the day as of which a Person is admitted as a Partner;
- 3) the day prior to the day as of which any Partner makes a Capital Contribution;
- 4) the day prior to the date of any distribution to any Partner pursuant to this Agreement;
- 5) the day prior to the date of exercise of a Purchase Option; and
- 6) any day specified as the last day of an Accounting Period by the General Partners.

“Acquisition Agreement” has the meaning specified in Section 3.1 hereof.

“Additional Capital Commitment” has the meaning specified in Section 3.2 hereof.

“Additional Capital Contribution” has the meaning specified in Section 3.2 hereof.

“Affiliate” means, “Affiliate” of any Person means any other Person that, directly or indirectly, controls, is controlled by or is under direct or indirect common control with, such Person and with respect to any natural Person, any other Person having a relationship by blood, marriage or adoption, not more remote than first cousins with such natural Person. For the purposes of this Agreement, “control” when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of Voting Stock or other equity interests, by contract or otherwise, and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Agreement” means this Limited Partnership Agreement of the Partnership, as amended, modified or supplemented from time to time.

“beneficially own” or “beneficial ownership” has the meaning given to such terms in Rule 13d-3 of the 1934 Act.

“Breaching Partner” has the meaning specified in Section 14.12 hereof.

“Buy-Sell Offer” has the meaning specified in Section 5.3 hereof.

“Capital Account” means, with respect to each Partner, the account so designated established on the books and records of the Partnership for each Partner. As of the Execution Date, the Capital Account of each Partner is as set forth on Schedule A to the Agreement. The Capital Account of each Partner will be (i) increased by (A) the amount of Profits (and income and gain) credited to that Partner’s Capital Account pursuant to Sections 4.1 and 4.2 hereof and (B) the amount of Additional Capital Contributions made by that Partner to the Partnership; and (ii) decreased by (A) the amount of Losses charged to that Partner’s Capital Account pursuant to Article IV hereof and the amount of loss and (B) the amount of distributions in cash and the fair market value of other Partnership Property distributed (net of any liabilities encumbering the distributed Partnership Property that the Partner takes subject to or assumes) to that Partner pursuant to Article V and Section 9.2 hereof. Notwithstanding anything to the contrary contained in this definition or in Article IV hereof, each Capital Account shall be determined in accordance with the principles of Treasury Regulations § 1.704-1(b)(2)(iv).

“Capital Contribution” means the total amount of cash contributed to the capital of the Partnership by any Partner.

“Capital Contribution Request Letter” has the meaning specified in Section 3.2 hereof.

“Clearing Agency” has the meaning specified in § 3(a)(23)(A) and (B) of the 1934 Act.

“Closing Date” means the date on which the transaction contemplated by the Acquisition Agreement, if any, is consummated.

“Code” means the Internal Revenue Code of 1986, as amended from time to time (or any succeeding law). References to sections of the Code shall include amended or successor provisions thereto.

“Commitment Letter” has the meaning specified in Section 3.2 hereof.

“Contribution Right” has the meaning specified in Section 3.2 hereof.

“Effective Date” has the meaning specified in the preamble to this Agreement.

“Examining Authority” means the Partnership’s examining authority as defined in the Net Capital Rule.

“Exchange” means any securities or commodity exchange.

“Execution Date” means the date of the execution by the Partnership or its wholly-owned subsidiary and the Target of the Acquisition Agreement.

“Exiting Partner” has the meaning specified in Section 5.3 hereof.

“Failure to Contribute” has the meaning specified in Section 3.1 hereof.

“Failure to Contribute Amount” has the meaning specified in Section 3.1 hereof.

“File” has the meaning specified in Section 10.2 hereof.

“Fiscal Year” has the meaning specified in Section 10.3 hereof.

“General Partner” means each of Macklowe and Icahn and any of its respective successor, assignee or transferee permitted by this Agreement, so long as it is a general partner of the Partnership. At such time as there is only one general partner of the Partnership, all references in the agreement to the “General Partners” or to more than one General Partner shall be deemed to refer only to the remaining general partner.

“General Partner Group” means each of Icahn Group and Macklowe Group.

“group” has the meaning given to such term in Rule 13d-3 of the 1934 Act.

“Icahn” has the meaning specified in the preamble to this Agreement.

“Icahn Company” has the meaning specified in the preamble to this Agreement.

“Icahn Group” means a group consisting of Icahn and Icahn Company.

“Initial Capital Commitment” has the meaning specified in Section 3.1 hereof.

“Initial Capital Contribution” has the meaning specified in Section 3.1 hereof.

“Initial Current Market Price” means with respect to each Target Security, the Current Market Price of the Target Security at the time of its contribution to the Partnership pursuant to this Agreement.

“Initiating Designee(s)” has the meaning specified in Section 5.3 hereof.

“Initiating Partner” has the meaning specified in Section 5.3 hereof.

“Interest” means the individual interest of each Partner in the Partnership at any particular time.

“Indemnified Party” has the meaning specified in Section 6.4 hereof.

“Limited Partners” means (A) (i) each of Icahn Company and Macklowe Company and (ii) as of the Effective Date the Persons listed as limited partners on the signature pages here-to plus any other Person who the General Partner agrees to admit as a Limited Partner effective as of the Effective Date who signs a counterpart of this Agreement (the “Additional Effective Date Limited Partners”); (B) from time to time, such Persons plus each Person subsequently admitted as a Limited Partner pursuant to Section 3.3(a) hereof and each Person admitted as a Substituted Limited Partner pursuant to Section 7.2 hereof less any such Person who shall withdraw as a Limited Partner pursuant to Section 5.2(a) hereof; and (C) with respect to those provisions of this Agreement concerning a Limited Partner’s rights to receive distributions or allocations of Profits and Losses, any permitted assignee of a Limited Partner’s Interest.

“Losses” has the meaning specified below in the definition of “Profits.”

“Macklowe” has the meaning specified in the preamble to this Agreement.

“Macklowe Company” has the meaning specified in the preamble to this Agreement.

“Macklowe Group” means a group consisting of Macklowe and Macklowe Company and all Partners other than Icahn and Icahn Company.

“Majority-in-Interest of the Limited Partner” means Limited Partners whose aggregate Capital Account balances exceed 50% of the aggregate Capital Account balances of all Limited Partners.

“Material Breach” has the meaning specified in Section 5.4 hereof.

“Net Capital Rule” means Rule 15c3-1 promulgated pursuant to the 1934 Act.

“Non-Contributing Partner” has the meaning specified in Section 3.1 hereof.

“Non-Initiating Designee(s)” has the meaning specified in Section 5.3 hereof.

“Non-Initiating Partner” has the meaning specified in Section 5.3 hereof.

“Partner” means any General Partner or any Limited Partner.

“Partners” means collectively all General Partners and all Limited Partners.

“Partnership Property” means any real or personal property, whether tangible or intangible, inclusive without limitation of any Target Securities, owned by the Partnership and any negative goodwill.

“Payment Notice” has the meaning specified in Section 5.4 hereof.

“Person” means any individual, venture, association, partnership, corporation, limited liability company, trust or other entity.

“Profits” and “Losses” mean, for each Accounting Period, the net profit or net loss, respectively, of the Partnership determined in accordance with generally accepted accounting principles in the United States.

“Purchase Option” has the meaning specified in Section 5.4 hereof.

“Purchasing Partner” has the meaning specified in Section 5.3 hereof.

“Regulatory Authority” means collectively the Commission, the Examining Authority, any SRO, Exchange, Clearing Agency, the Federal Trade Commission or other regulatory authority which has regulatory authority over the Partnership.

“Regulatory Documents” has the meaning specified in Section 10.2 hereof.

“Regulatory Rule” means each statute, regulation, rule and other requirement of the Regulatory Authority applicable to the Partnership or its affairs.

“Shared Expenses” has the meaning specified in Section 3.8 hereof.

“SRO” means self-regulatory organization, as that term is defined in § 3(a)(26) of the 1934 Act.

“Standstill Period” means the period that begins on the Execution Date and ends on the Closing Date.

“Subject Partner” has the meaning specified in Section 5.4 hereof.

“Substituted Limited Partner” means any Person admitted to the Partnership as a Substituted Limited Partner pursuant to the provisions of Section 7.2 hereof.

“Target” means collectively Reckson Associates Realty Corp., a Maryland corporation, and Reckson Operating Partnership, L.P., a Delaware limited partnership.

“Target Security” means the common stock, par value \$0.01 per share, of Reckson Associates Realty Corp. and the units of limited partnership interest of Reckson Operating Partnership, L.P.

“Term” has the meaning specified in Section 2.5 hereof.

“Transfer” has the meaning specified in Section 7.1 hereof.

“Treasury Regulations” means the Treasury Regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding Treasury Regulations).

“Uniform Act” means the Delaware Revised Uniform Limited Partnership Act, as amended from time to time (or any succeeding law).

“Voting Stock” of any Person means capital stock of such Person which ordinarily has voting power for the election of directors (or persons performing similar functions) of such Person, whether at all times or only as long as no senior class of securities has such voting power by reason of any contingency.

“1934 Act” means the Securities Exchange Act of 1934, as amended from time to time (or any succeeding law).
