

**AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT OF
JDS PRINCIPAL 9DKB LLC**

This LIMITED LIABILITY COMPANY AGREEMENT OF JDS PRINCIPAL 9DKB LLC (the "Company"), is dated as of July 25, 2022 (this "Agreement"), by JDS PRINCIPAL 9DKB PARENT LLC, a Delaware limited liability company ("Managing Member"), and BNP Development LLC, a Delaware limited liability company formed pursuant to the Delaware Limited Liability Company Law pursuant to that certain Certificate of Formation of the Company [SR 20197885966], dated November 04, 2019 ("BNP") as the members of the Company (each, a "Member", and collectively, the "Members").

RECITALS:

WHEREAS, the Company was formed pursuant to the Delaware Limited Liability Company Law, as amended from time to time (the "Act"), pursuant to that certain Certificate of Formation of the Company, dated September 25, 2018, filed in the office of the Secretary of State of the State of Delaware (the "Secretary of State") on September 25, 2018 (the "Certificate of Formation");

WHEREAS, Michael Stern, an individual ("MS"), entered into that certain Limited Liability Company Agreement of the Company, dated as of April 22, 2019 (the "Original Agreement"), as the sole member of the Company;

WHEREAS, the Company is a member of Ackerman JDS Partner, LLC, a Delaware limited liability company ("Ackerman JDS Partner"), holding a 71.756% ownership interest therein and in which the Company has funded an aggregate of \$14,351,190.20 in unreturned and outstanding capital contributions, pursuant to that certain Amended and Restated Limited Liability Company Agreement of Ackerman JDS Partner dated as of November 4, 2019 (the "Ackerman JDS JV Agreement");

WHEREAS, concurrently with the execution of this Agreement, MS, as the initial sole member of the Company, has assigned one hundred percent (100%) of his interest in the Company to Managing Member, such that following such assignment Managing Member will be the one hundred percent (100%) owner of all issued and outstanding membership interests in Company;

WHEREAS, immediately following the foregoing assignment, Managing Member has assigned a lien-free 87.10079% interest (the "Assigned Interests") in the Company to BNP in exchange for BNP's payment of \$12,500,000.00 therefor made in favor of the Managing Member or its group as instructed by the Managing Member, whereupon BNP shall be credited with a capital account in the Company equivalent to such payment;

WHEREAS, concurrent with the execution and delivery of this Agreement, BNP is being admitted as a member of the Company;

WHEREAS, Managing Member and BNP are the sole Members of the Company and desire to continue the Company as a limited liability company under the Act and to amend and restate the Original Agreement in its entirety as hereinafter provided.

NOW, THEREFORE, in consideration of the mutual covenants and the promises contained herein (the receipt and sufficiency of which being hereby acknowledged), the parties hereto, intended to be legally bound, do hereby agree as follows:

1. Formation. The Company was formed pursuant to the provisions of the Act by the execution, delivery and filing of the Certificate of Formation with the Secretary of State in accordance with and pursuant to the Act. Managing Member hereby confirms the formation of the Company as a limited liability company pursuant to the Act. This Agreement shall constitute the limited liability company agreement of the Company. Managing Member shall take such other actions as may from time to time be necessary or appropriate under the laws of the State of Delaware with respect to the formation, operation and continued good standing of the Company as a limited liability company. The rights and liabilities of the Members, the management of the affairs of the Company and the conduct of its business shall be as provided in the Act, except as herein otherwise expressly provided.

2. Name. The name of the Company is JDS PRINCIPAL 9DKB LLC.

3. Purpose. The purpose of the Company is:

- (i) to own and hold a limited liability company interest in Ackerman JDS Partner LLC, a Delaware limited liability company ("Ackerman JDS Partner"); and
- (ii) to engage in any lawful act or activity and to exercise any powers permitted to limited liability companies organized under the laws of the State of Delaware that are related or incidental to and necessary, convenient or advisable for the accomplishment of the above-mentioned purposes.

4. Place of Business. The Company shall have its principal place of business c/o JDS Development Group, 104 Fifth Avenue, 9th Floor, New York, New York 10011 or at such other place or places in New York City as Managing Member may, from time to time, select.

5. Registered Office and Agency. The address of its registered office in the State of Delaware is 3411 Silverside Road, Tatnall Building #104, Wilmington, Delaware 19810, New Castle County. The name of the registered agent at such address is Corporate Creations Network Inc. Such office and such agent may be changed from time to time by Managing Member in its sole discretion.

6. Capital Accounts. An account shall be established in the Company's books for the Members and transferee in accordance with the principles of Treasury Regulation Section 1.704-1(b)(2)(iv).

7. Percentage Interest and Allocations of Profits and Losses. Each Member's interest in the Company ("Percentage Interest") shall be calculated as of the relevant date of determination as a fraction expressed as a percentage, the numerator of which is the total capital contribution of such Member and the denominator of which is the total capital contributions of all of the Members. The Company's profits and losses shall be allocated in accordance with the Percentage Interest of the Members. The Members acknowledge that as of the date hereof, each Member has made Capital Contributions into the Company in the amounts set forth in the column

labeled "Members' Capital Contributions" and each Member has the Percentage Interest set forth in the column labeled "Percentage Interest" as set forth on Exhibit A attached hereto.

8. Additional Contributions. Additional capital contributions shall be handled in accordance with Section 3.3 of that certain Amended and Restated Limited Liability Company Operating Agreement of Ackerman 9 DeKalb Partner, LLC, a Delaware limited liability company, dated as of November 4, 2019 (the "Ackerman 9 DeKalb Partner Agreement") by and between Ackerman JDS Partner and BNP Development, LLC, a Delaware limited liability company ("BNP Development"). To the extent additional contribution(s) are made to the Company, the Percentage Interest of the Members as reflected in Exhibit A of this Agreement shall be updated accordingly.

9. Distributions. At the time determined by Managing Member, but no less frequently than distributions are required to be or are actually made under the Ackerman 9 DeKalb Partner Agreement, Managing Member shall cause the Company to distribute any cash held by it which is neither reasonably necessary for the operation of the Company nor in violation of the Act. All Distributable Cash available for distribution shall be distributed to the Members as follows:

(a) first, pari passu, pro rata, to each Member in accordance with and proportion to, their respective Percentage Interests, until each Member has received an amount under this Section 9 equal to its respective aggregate Capital Contributions;

(b) second, to BNP until such time as BNP has received cumulative distributions under Section 9(a) and this Section 9(b) in an amount sufficient to provide BNP with a 20% IRR; and

(c) thereafter, pari passu, pro rata, to each Member in accordance with and proportion to, their respective Percentage Interests.

For purposes of this Agreement, "Distributable Cash" shall mean available cash distributed to the Company pursuant to the Ackerman JDS Partner Agreement as in proportion to their respective Percentage Interests at the time of such distribution.

10. Powers. The business of the Company shall be solely under the management of Managing Member. Except as otherwise expressly set forth in this Agreement, Managing Member shall have the right and authority to take all actions specifically enumerated in the Certificate of Formation or this Agreement or which Managing Member otherwise deems necessary, useful or appropriate for the day-to-day management and conduct of the Company's business.

11. Compensation; Development/Management Fee. Managing Member shall not receive compensation for services rendered to the Company; however, the Members acknowledge that Managing Member or an affiliate of Managing Member, in return for services as co-manager and co-developer of the Property, may be entitled to receive fees or other amounts, which amounts shall not constitute Distributable Cash hereunder.

12. Rights and Protections of BNP. Notwithstanding anything to the contrary herein, the Members acknowledge and agree that BNP shall have the same rights and protections afforded to BNP Development as set forth in Section 3.3.2, Section 3.4, Section 3.5, Section 6.3, Section 6.4, Section 9.1, Section 12.18 and Section 12.19 of the Ackerman 9 DeKalb Partner Agreement, and that Managing Member shall use commercially reasonable efforts to ensure that BNP receives the benefits of such provisions as if fully set forth herein (to the extent same are permitted pursuant to the

Ackerman JDS JV Agreement). Further, for purposes of the foregoing, any obligations and covenants of Ackerman JDS Partner under the aforementioned provisions shall be deemed the obligations and covenants of Managing Member hereunder, including, without limitation, any requirements to fund capital pursuant to Section 3.3.2 of the Ackerman 9 DeKalb Partner Agreement in order to maintain BNP's Overall Ownership Interest (as defined in the Ackerman 9 DeKalb Partner Agreement), as the same has been increased by virtue of BNP's investment under this Agreement.

13. Representations and Warranties of Managing Member. Managing Member hereby represents and warrants to BNP as follows:

- (a) the Recitals hereof are true and correct;
- (b) other than as previously disclosed to BNP, the representations and warranties set forth in Section 12.11.2 of the Ackerman 9 Dekalb Partner Agreement, subsections (b), (c), (f), (g), (i), (j), (k), (l), (n) (as modified to refer to this transaction), and (q) are true and correct in all material respects; and
- (c) The Assigned Interests are free and clear of all mortgages, collateral assignments, pledges, liens, encumbrances, charges, claims, other security arrangements or other options, calls, subscriptions, warrants, assessments, rights of first refusal or other rights of third parties to purchase or vote any of the Interests or to acquire any interests therein.
- (d) There are no outstanding Member Loans or Company Loans under the Ackerman JDS JV Agreement.
- (e) The organizational chart attached hereto as Exhibit B is true, correct, and complete following the completion of the transactions contemplated in this Agreement.

14. Term. The Company shall dissolve, and its affairs shall be wound up, upon the earliest to occur of (a) the decision of the Members unanimously, (b) the sale by the Company of all or substantially all of its property or (c) an event of dissolution of the Company under the Act.

15. Assignments. No Member shall at any time directly or indirectly sell, transfer, assign, hypothecate, pledge or otherwise dispose of or encumber ("Transfer") all or any part of its interest in the Company (including, without limitation, any right to receive distributions or allocations in respect of such interest and whether voluntarily, involuntarily or by operation of law) without the prior written consent of Managing Member.

16. Limited Liability. The Members shall have no liability for the obligations of the Company except to the extent provided in the Act.

17. Additional Members. Additional Members can only be admitted to the Company upon the consent of the Members, which consent may be evidenced by, among other things, the execution of an amendment to this Agreement.

18. Management. The business and affairs of the Company shall be conducted solely and exclusively by Managing Member, as provided herein. Managing Member shall have all rights and powers on behalf and in the name of the Company to perform all acts necessary and

desirable to the objects and purposes of the Company. All determinations, decisions and actions made or taken by Managing Member (or its designee(s)) shall be conclusive and binding upon the Company. The Members hereby appoint Michael Stern as an Authorized Signatory to execute and deliver contracts, agreements application or documents of any sort or manner on behalf of the Company in furtherance of the foregoing. Third parties may conclusively rely upon the act of Managing Member as evidence of the authority of Managing Member for all purposes in respect of their dealings with the Company.

19. Duty of Care. Each Member shall act in good faith. None of the Members, including Managing Member, shall have any duties or liabilities to the Company, subject to Managing Member's obligations under Section 17, or any other Member (including any fiduciary duties), whether or not such duties or liabilities otherwise arise or exist in law or in equity, and each Member hereby expressly waives any such duties or liabilities. This Section 18 addresses a Member's duty of care in the exercise of powers and performance of its duties under this Agreement. Nothing in this Section 18 shall limit the rights and remedies of the Members for breaches of the terms and conditions of this Agreement.

20. Notices.

(i) Any and all notices, consents, approvals, offers, elections and other communications required or permitted under this Agreement ("Notice") shall be deemed adequately given only if in writing and the same shall be delivered either in hand or Federal Express or similar expedited commercial carrier, addressed to the recipient, as required below in Section 20(iii), or with all freight charges prepaid (if by Federal Express or similar carrier), or by electronic mail provided that the recipient either replies to such email or otherwise acknowledges receipt of such email in writing which can be through a separate email.

(ii) All communications to be sent hereunder shall be deemed to have been given for all purposes of this Agreement upon the date of receipt or refusal.

(iii) All Notices shall be addressed as follows:

If to Managing Member, to

c/o JDS Development Group
104 Fifth Avenue, 9th Floor
New York, New York 10011
Attention: Michael Stern
Email: mstern@jdsdevelopment.com

with a copy to:

Kasowitz Benson Torres LLP
1633 Broadway
New York, New York 10019
Attention: David Szeker, Esq.
Email: DSzeker@kasowitz.com

If to BNP, to:

BNP Development LLC
200 North Philips Avenue, Suite 301
Sioux Falls, South Dakota 57104, USA
Attn: Evgeny Burykin
Email: eb@bnpdevelopment.com

with a copy to:

Paul Hastings LLP
200 Park Avenue
New York, New York 10166
Attn: Gerd S. Alexander
Email: gerdalexander@paulhastings.com

(iv) By giving to the other parties written Notice thereof, the parties hereto and their respective successors and assigns shall have the right from time to time and at any time during the term of this Agreement to change their respective addresses effective upon receipt by the other parties of such notice and each shall have the right to specify as its address any other address within the United States of America.

21. Amendment. This Agreement may be amended only in a writing signed by the Members.

22. Binding Agreement. Notwithstanding any other provision of this Agreement, the Members agree that this Agreement constitutes a legal, valid and binding agreement of the Members, and is enforceable against the Members in accordance with its terms.

23. Governing Law. This Agreement shall be governed by and construed under the laws of the State of Delaware.

24. Arbitration of Disputes. Any dispute among the Members shall, in each case, be resolved and finally determined by arbitration pursuant to an Expedited Arbitration Proceeding, which shall be the sole and exclusive mechanism for resolving disputes arising out of or relating to this Agreement. As used herein, an “**Expedited Arbitration Proceeding**” means a binding arbitration proceeding conducted in the City and County of New York under the Commercial Arbitration Rules of the American Arbitration Association (or its successor) (the “**Rules**”) and administered pursuant to the expedited procedures provisions thereof; provided, however, that with respect to any such arbitration, (A) the list of arbitrators referred to in Section E-4(B) of the Rules shall be returned within seven (7) days from the date of mailing; (B) the parties shall notify the American Arbitration Association (or its successor) by telephone, within five (5) days of receipt of notice of the appointed arbitrator, of any objections to the arbitrator appointed and, subject to clause (G) below, shall have no right to object if the arbitrator so appointed was on the list submitted by the American Arbitration Association (or its successor) and was not objected to in accordance with Section E-4(B) of the Rules as modified by clause (A) above; (C) the notification of the hearing referred to in Section E-7 of the Rules shall be five (5) days in advance of the hearing; (D) the hearing shall be held within ten (10) days after the appointment of the

arbitrator; (c) the arbitrator shall have no right to award damages or vary, modify or waive any provision of this Agreement; (F) the decision of the arbitrator shall be final and binding on the parties, and any party may seek to have the decision confirmed by way of a court order; and (G) the arbitrator shall not have been employed by either party (or any of their respective Affiliates) during the three (3) year period immediately prior to the date of the Expedited Arbitration Proceeding. All fees and expenses of the arbitrator and all other expenses of the arbitration shall be borne initially by the Members equally (i.e., 50% for each Member), but ultimately shall be borne by the non-prevailing party in the arbitration.

25. Separability of Provisions. Each provision of this Agreement shall be considered separable and if for any reason any provision or provisions herein are determined to be invalid, unenforceable or illegal under any existing or future law, such invalidity, unenforceability or illegality shall not impair the operation of or affect those portions of this Agreement which are valid, enforceable and legal. The parties shall nevertheless negotiate in good faith in order to agree to the terms of a mutually satisfactory provision consistent with their intentions in executing and delivering this Agreement to be substituted for the provision which is invalid, unenforceable or illegal.


26. Agreement in Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be considered an original and together shall constitute one and the same Agreement, binding upon all of the parties hereto. The exchange of copies of this Agreement, any amendments hereto, any signature pages required hereunder or any other documents required or contemplated hereunder by facsimile or Portable Document Format ("PDF") transmission shall constitute effective execution and delivery of same as to the parties thereto and may be used in lieu of the original documents for all purposes. Signatures transmitted by facsimile or PDF shall be deemed to be original signatures for all purposes.

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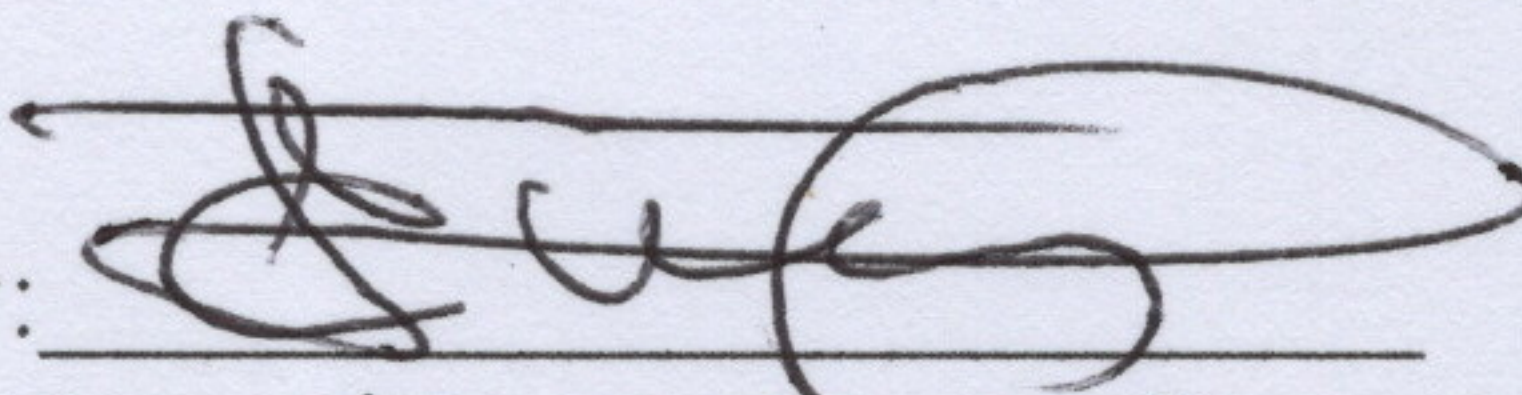
IN WITNESS WHEREOF, the undersigned has duly executed this Agreement as of the date first written above.

MANAGING MEMBER:

**JDS PRINCIPAL 9DKB PARENT
LLC**

By: 
Name: Michael Stern
Title: Authorized Signatory

BNP DEVELOPMENT LLC, a Delaware
limited liability company

By: 

Name: Eugene Burykin

Title: Director

EXHIBIT A**MEMBERS' CAPITAL CONTRIBUTIONS AND PERCENTAGE INTEREST**

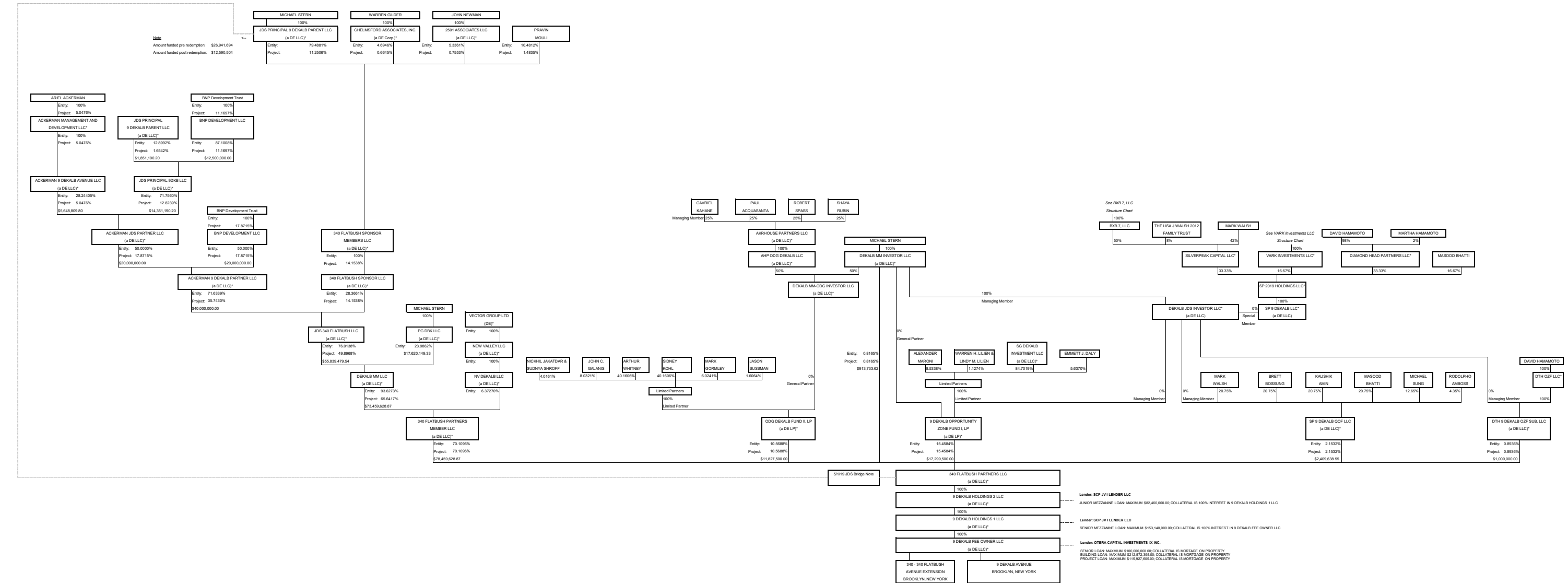
Member	Capital Contribution	Percentage Interest
JDS PRINCIPAL 9DKB PARENT LLC	\$1,851,190.20	12.89921%
BNP Development LLC	\$12,500,000.00	87.10079
Total:	\$14,351,190.20	100%

EXHIBIT B

ORGANIZATIONAL CHART

[available as a separate document]

9 DeKalb Avenue
Organizational Chart
(Net of 5/1/19 JDS BRIDGE NOTE)



Footnotes

* Denotes that such entities have been formed in the United States.

Dollar amounts correspond to cash contributed to the applicable entity as of the date of close (excluding, for the avoidance of doubt, the 5/1/19 JDS Bridge Note)

5/1/19 JDS Bridge Note assigned from JDS Principal 90KB LLC to JDS Principal 9 DeKab Parent LLC.