

**EMPLOYEES' RETIREMENT SYSTEM OF  
THE STATE OF RHODE ISLAND**

**INVESTMENT CONSULTING SERVICES AGREEMENT**

THIS INVESTMENT CONSULTING SERVICES AGREEMENT (the "Agreement") is made by and between the *Employees' Retirement System of the State of Rhode Island* ("ERSRI"), acting by and through the *State of Rhode Island State Investment Commission* (the "SIC") (collectively referred to herein as the "Client"), and *Cliffwater LLC* (the "Consultant").

**WHEREAS**, the Client wishes to ensure that decisions made with respect to investments for its pension funds are prudent,

**WHEREAS**, the Consultant has broad experience in the field of advising clients with respect to investments in alternatives asset classes,

**WHEREAS**, the Consultant is registered with the Securities and Exchange Commission as an investment adviser under the Investment Advisers Act of 1940 (the "Advisers Act"),

**WHEREAS**, the Client wishes to retain the non-discretionary investment advisory services of the Consultant specifically with respect to advice on its alternatives asset class investment portfolio (discussed more fully in **Schedule A** of this Agreement, "Scope of Services"), and

**WHEREAS**, the Consultant agrees to provide such advisory services to the Client.

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained and intending to be legally bound, the parties hereto agree as follows:

**I. ADVISORY SERVICES**

A. The Client hereby retains the Consultant to provide the non-discretionary investment advisory services contemplated in **Schedule A** of this Agreement, entitled "Scope of Services". Notwithstanding anything herein to the contrary, the parties agree that the Consultant will not be providing legal, tax, or accounting advice.

B. The Consultant represents, warrants and agrees as follows:

- (i) It is lawfully empowered to enter this Agreement and perform and provide the services contemplated herein;
- (ii) The person executing this Agreement on behalf of the Consultant is authorized to do so and to bind the Consultant;

- (iii) The Consultant is registered as an investment adviser under the Advisers Act. In compliance with rules promulgated under the Advisers Act, the Consultant has delivered to the Client a copy of Part II of Form ADV, covering the Consultant, as filed with the Securities and Exchange Commission ("SEC") and as currently in effect;
- (iv) The Consultant's engagement and total compensation received in conjunction therewith shall operate exclusively on a "hard dollar" fee for services basis, in the amounts set forth in **Schedule B** of this Agreement, with respect to the Client, and the Consultant (including its officers, directors, employees, shareholders and affiliates) shall not accept any fees, commissions, or other forms of compensation (other than meals and de minimus gifts received in the ordinary course of business and in accordance with the Consultant's Code of Ethics and Conduct) from any other party or source, whether direct or indirect, in connection with or relating to its services hereunder.

C. The Client represents, warrants and agrees as follows:

- (i) The Client shall promptly provide to the Consultant the information, resources and other assistance reasonably necessary to enable the Consultant to perform its services hereunder;
- (ii) The Client is legally authorized to enter into this Agreement on behalf of its client pension funds;
- (iii) The individual(s) executing this Agreement on behalf of the Client are authorized to do so and to bind the Client.

## II. COMPENSATION OF CONSULTANT

As full consideration for the investment advisory services to be rendered under this Agreement, the Client shall pay the Consultant an annual cash fee as outlined in **Schedule B** of this Agreement, "Fees".

With respect to requests for services beyond those described in **Schedule A** of this Agreement, which may be made by Client at its sole discretion, the Consultant shall bill such requests on a fixed-fee basis negotiated in advance. Consultant agrees that no services for which additional fees are to be incurred by the Client shall be rendered without prior written authorization by the Client.

## III. TERM OF AGREEMENT

This Agreement shall be effective April 1, 2011, and shall continue in full force and effect for a period of two (2) years in duration. After the initial two (2) year period this Agreement shall be automatically renewable each year for subsequent one (1) year contract periods, subject to **Schedule B**. This Agreement may be terminated by either

party at any time and for any reason upon 30 days' advance written notice to the other party. If the Agreement is terminated under this provision, the Client shall be obligated to make payments as set forth in Section II of this Agreement to the date of termination.

**IV. CONSULTANT'S ADDITIONAL REPRESENTATIONS, WARRANTIES AND AGREEMENTS**

A. Representations. Notwithstanding whether or not ERSRI is governed by the *Employee Retirement Income Security Act of 1974*, as amended ("ERISA"), Consultant further represents and warrants that:

- (i.) Consultant is qualified and eligible to act as, and shall therefore act with respect to the Client as an "investment advisor" as defined under ERISA, and shall therefore carry out its duties and responsibilities in accordance with the duties and responsibilities imposed upon investment advisors under ERISA.
- (ii.) Consultant is a fiduciary as that term is defined and applied pursuant to ERISA and pursuant to other applicable state and federal laws and common law with respect to the Client as if Client was governed by ERISA, and Consultant agrees to act as a fiduciary with respect to the Scope of Services and to provide such Services hereunder in accordance with the fiduciary responsibility provisions and requirements set forth in ERISA and all other applicable federal and state laws.
- (iii.) Consultant meets the bonding requirements provided by Section 412 of ERISA as if Client was governed by ERISA, or it carries at least an equivalent surety bond applicable to Consultant's actions hereunder; and Consultant will maintain throughout the term of this Agreement errors and omissions insurance, general liability insurance, and/or professional liability insurance coverage in amounts in accordance with the industry standards applicable to the amount of the Client's assets that are subject to this Agreement, and it shall provide evidence of such policies to Client upon Client's request.
- (iv.) There are no outstanding orders or pending or, to the Consultant's knowledge, threatened investigations or proceedings by any federal, state or local government agency, or any other actions, against Consultant or its principals, owners, directors, employees, or affiliates that would affect the performance of its services for the Client under this Agreement.
- (v.) Consultant has completed, obtained, and/or performed (and shall maintain and continue to perform) in all material respects all obligations, filings, approvals, authorizations, consent, examinations, licenses and/or registrations required by any government or governmental authority under federal, state or local law or regulation for the performance of the services

and acts contemplated by this Agreement.

- (vi.) Consultant has not paid or incurred, and shall not pay or incur, any third party marketing, broker or sales fees in the procurement or continuation of this Agreement. Consultant agrees that it shall not directly or indirectly receive any benefit from recommendations or advice made to the Client (other than meals and de minimus gifts received in the ordinary course of business and in accordance with the Consultant's Code of Ethics and Conduct) and shall disclose to the Client: (a) any personal investment or economic interest that may be enhanced by the recommendations made to the Client, or (b) any situation in which the interests of the Client may be in material conflict with the interests of Consultant.
- (vii.) Consultant will inform the Client as soon as possible if any of the following events occur:
  - A. the departure from Consultant of any primary investment Consultant professionals responsible for the performance of the services hereunder;
  - B. a change in the philosophy of Consultant that represents a deviation from the philosophy represented to the Client in the past;
  - C. any material adverse development in the ability of Consultant to provide consulting services in accordance with this Agreement; and
  - D. the commencement by any governmental regulatory or law enforcement agency of any investigation, examination or other proceeding directly involving the Consultant, any affiliate of Consultant or any of its or their owners, officers, directors or employees, except such investigations, examinations or other proceedings: (1) as are routinely conducted in the ordinary course of the Consultant's business, or (2) that do not affect the conduct of Consultant's consulting business;
  - E. a substantial change in the ownership structure of Consultant, subject however to the provisions of Article IV, Section (B) of this Agreement; and
  - F. any situation that, based on the Consultant's reasonable judgment, has the potential to materially impact either the professionalism, financial position or integrity of either the Consultant or the Client.

(viii.) Consultant shall promptly notify the Client in writing in the event that any of the foregoing representations, warranties, acknowledgments, or agreements shall no longer be accurate or true.

B. Standard of Liability. The Consultant shall be liable to the Client for any losses to the Client, including any unrealized losses in the value of the assets of the Client's pension funds which are covered by this Agreement, to the extent that any of such losses were directly caused by the Consultant's (and/or the Consultant's officers', directors', or employees') or any of the Consultant's affiliates' or agents' (or such affiliates' or agents' officers', directors', or employees'):

- (i.) negligence, bad faith or willful misconduct;
- (ii.) material violation of applicable law, including but not limited to violation of the laws and statutes referenced herein; or
- (iii.) material violation of this Agreement.

The Consultant shall not be liable for any special, consequential or punitive damages. Nothing in this Agreement shall serve as a waiver or limitation of any rights that the Client may have under any applicable federal or state laws or other applicable laws.

The Consultant shall not be responsible, and the Client shall hold harmless the Consultant, for any losses incurred by the Consultant that were directly caused by the Client's failure to provide accurate information to the Consultant.

## V. GENERAL PROVISIONS

- A. Modifications. No party may amend or modify this Agreement without the written consent of the other party (the Client or the Consultant, as the case may be).
- B. Assignment of the Agreement. The Consultant may not assign (as such term is defined in the Advisers Act) this Agreement without the written consent of the Client.
- C. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Rhode Island without giving effect to the conflict of laws provisions thereof.
- D. Exclusivity of Agreement; Conflict. Nothing in this Agreement shall be construed to restrict the right of the Client to use the services of other investment advisers or consultants with respect to any of the Client's assets. Further, it is hereby understood that the Consultant is free to serve other clients in the same areas of advice as are covered by this Agreement.

- E. Entire Agreement. This Agreement (with the attached schedules) contains the entire Agreement between the parties hereto pertaining to the subject matter hereof. This Agreement supersedes and cancels any and all prior agreements between the parties, whether written or oral.
- F. Notices. All notices, requests and other communications hereunder shall be personally delivered, sent by first class mail or national overnight courier service, postage prepaid, sent by facsimile or electronically to:

the Consultant:                      Cliffwater LLC  
4640 Admiralty Way  
11<sup>th</sup> Floor  
Marina del Rey, CA 90292  
Tel: (310) 448-5000  
Fax: (310) 448-5001  
Attention: Barbara Smith

the Client:                              Rhode Island State Investment Commission  
c/o Office of the General Treasurer  
Finance Division  
40 Fountain Street, 8<sup>th</sup> Floor  
Tel:                                      (401) 222-8578  
Fax:  
Attention: Kenneth E. Goodreau, CMT  
Chief Investment Officer

- G. Relationship and Authority. The Consultant's status under this Agreement shall be that of an independent contractor. The Consultant shall make no representations whatsoever with respect to its affiliations with the Client that are inconsistent with its status as an independent contractor retained for the purposes set forth in this Agreement. Furthermore, the Consultant has no authority to enter into any agreement with any person or entity in the name of or on behalf of the Client and has no authority by virtue of this Agreement to bind or subject the Client to any obligations or liabilities whatsoever. The Client has the absolute right in all events to approve or to disapprove the form, substance and content of any and all agreements or investments on which the Consultant may offer advice.
- H. Confidential Information. Except as otherwise agreed in writing or as required by law, (i) Consultant shall keep confidential all information concerning the Client (financial or other information) provided or disclosed to Consultant by the Client, the Client's custodian bank, any of the Client's investment managers, or the Client's other investment consultants, and Consultant may only use such information in the performance of the Services to be provided in connection with this Agreement; and (ii) the Client will keep confidential all investment advice

furnished by the Consultant. Notwithstanding the foregoing, Consultant shall be permitted to include the name of the Client in its client lists used for marketing purposes. Should either party (the "**Receiving Party**") or any of its affiliates be requested either by interrogatories, subpoena, civil investigative demand, or open records request to disclose any information concerning the other party (the "**Disclosing Party**"), the Receiving Party or such affiliates shall provide notice of such request(s) to the Disclosing Party (unless (A) such notice is prohibited by applicable law, rules, regulations or legal or regulatory process, or (B) such disclosure is required pursuant to regular periodic regulatory examinations) so that the Disclosing Party may seek an appropriate protective order if necessary and/or waive compliance with the provisions of this Agreement.

- I. Arbitration. In the event of a dispute between the parties relating to this Agreement, each party agrees to make every effort to arrange for a fair, practical, and speedy resolution. If the parties are unable to agree upon a resolution to the dispute, the parties mutually agree to submit the dispute to non-binding arbitration prior to pursuing any other legal and/or equitable remedies. Such arbitration shall take place in the State of Rhode Island in accordance with the commercial arbitration rules of the *American Arbitration Association*. Litigation or other legal or equitable remedies may be pursued only in the event either party is not satisfied with the final ruling of the arbitrator.
- J. Severability. Notwithstanding any provision of this Agreement that shall be or become invalid or unenforceable, the remaining provisions shall remain in full force and effect.

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

Client

By: Kenneth Goodman

Its: CHIEF INVESTMENT OFFICER

Date: 4.14.11

Cliffwater LLC

By: Prudence Sullivan

Its: SR. MANAGING DIRECTOR

Date: 4-13-11



## SCHEDULE A

### SCOPE OF SERVICES

#### INVESTMENT CONSULTING SERVICES

The following services are to be provided by the Consultant to the Client:

#### **Scope of Services**

##### **Strategic Alternative Investment Consulting**

1. Provide recurring recommendations concerning long-term investment policy, objectives and strategy for the alternative investment portfolio, and provide advice and recommendations to the Client in the review and/or the development of a written statement of alternative investment objectives, policies and guidelines (i.e. the "Alternative Investment Policy Statement").
2. Prepare special analyses and/or research, as requested by Staff, to define goals and objectives, monitor portfolio risk and model program cash flows/commitment pacing for the alternative investment portfolio.
3. Conduct and prepare comprehensive written research, analysis and advice on specific investment issues, or conduct special projects or other activities, as requested.
4. Appear as needed at State Investment Commission ('SIC') meetings and/or other meetings to (i) present research, analyses, written reports and recommendations or (ii) respond to questions relating to the alternative investment portfolio or the alternative investment market or industry.
5. Attend meetings with Staff, in order to provide advice and counsel on matters related to the alternative investment portfolio, as needed.
6. Coordinate and communicate with the SIC, Staff and alternative investment funds in the portfolio on an ongoing basis, in order to ensure the effective and successful administration of the alternative investment portfolio.
7. Provide other consulting services consistent with or required in connection with the alternative investment portfolio and its goals, strategies and objectives.

##### **Deal Sourcing and Due Diligence**

It is expected that alternative investment deals will be sourced by both the Consultant and Staff. Deal sourcing and due diligence will include the following actions, at a minimum:

1. Develop a proactive, structured process to (i) analyze the full universe of available investments and (ii) identify efficiently those investments most advantageous to the SIC for investment. This process will include detailed analysis of prospective investments identified by Staff.
2. Provide advice concerning and make recommendations to the Client with regard to the need to replace any SIC alternative investments and/or to consider additional and/or different alternative investments.

3. Conduct due diligence on those prospective investments that Consultant or Staff recommend for consideration. Due diligence will include evaluation of the prospective investment's history, team, performance and strategy.
4. Present written recommendations to the Staff and SIC which will include: (i) the results of Consultant's due diligence, (ii) a discussion of strategic considerations, (iii) an analysis regarding how the recommendation fits within the SIC's alternative investment portfolio and (iv) a detailed business review of the deal terms and fund documents.
5. Work with Staff and legal counsel in the negotiation of contract terms and conditions.

#### **Monitoring of the Alternative investment Portfolio**

1. Actively and continually monitor all of the SIC's alternative investments, including take responsibility for the timely review and analysis of key events that may affect the alternative investment portfolio. This review and analysis may cover market changes, changes in senior management or substantial reductions in portfolio value. Monitoring will be conducted through surveillance of the media, communication with professional networks and the systematic review of the funds' reporting.
2. Assist in any actions taken to protect the interests of the SIC as an investor, and interact, where necessary, with portfolio general partners to ensure individual fund compliance with contract terms.
3. Assist Staff in attending partnership annual meetings, and, where appropriate, serve on advisory committees.
4. Review and recommend courses of action for all fund document amendments.

#### **Database Management**

For private investments (i.e. private equity, the Consultant will develop and maintain a database, management of which will include, at a minimum, the following:

1. Record all historical information on cash flows, net asset values, unfunded commitments, fee payments, cost basis and returns per investment.
2. Record performance data, including IRR and multiple calculations, and measure the recorded data against performance benchmarks.
3. Review cash flows and performance data by individual investment, asset class and the total portfolio over quarterly periods.

#### **Reporting**

The Consultant will provide the following reports for private investments (i.e. private equity):

1. Quarterly performance reporting, which will include, at a minimum:
  - a. Allocation breakdown by geography, sector and industry
  - b. Updates on each investment fund
  - c. Listing of each investment fund by sector
  - d. Date of commitment to each investment fund
  - e. Commitment amount to each investment fund

- f. Drawdown amounts by investment fund
  - g. Outstanding commitment by investment fund
  - h. Distribution amounts by investment fund
  - i. Investment fund NAVs
  - j. Multiples by investment fund
  - k. IRR of each investment fund
  - l. Items a – k aggregated for the total alternative investment portfolio.
2. Reconcile the quarterly reporting with the custodian bank's reports and records for accuracy.

The consultant will provide monthly performance reports and quarterly performance and risk reports for liquid investments (i.e. hedge funds).

**Other**

1. Provide educational workshops to SIC Members on specific issues designated by the SIC and/or recommended by the Consultant.
2. Provide comments and analysis on proposed federal and state legislation affecting the alternative investment portfolio.
3. Support Staff, and the SIC through written and/or oral presentations with government agencies, legislative committees, auditors, etc.
4. Meet with Staff quarterly to review the alternative investment portfolio, update Staff regarding the current market/ new issues and advise regarding improvements to the alternative investment portfolio or the SIC's administration of same.

**SCHEDULE B**

**FEEs**

**INVESTMENT CONSULTING SERVICES**

The Consultant will be entitled to receive an annual fee, billed and payable in arrears in equal monthly installments, for the Services described in Schedule A as outlined below:

April 1, 2011 to March 31, 2012	\$450,000
April 1, 2012 to March 31, 2013	\$450,000
April 1, 2013 to March 31, 2014	\$450,000

The annual fee will be reviewed prior to March 31, 2014 for subsequent years.

Consultant will be responsible for all out-of-pocket expenses and its travel in association with the services above.