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ZMC PARTNERS, L.P.

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LIMITED PARTNERSHIP AGREEMENT

DATED APRIL 1, 2009

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THE LIMITED PARTNERSHIP INTERESTS (THE "INTERESTS") OF ZMC PARTNERS, L.P. (THE "PARTNERSHIP") HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), THE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES OR ANY OTHER APPLICABLE SECURITIES LAWS IN RELIANCE UPON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND SUCH LAWS. THE INTERESTS MUST BE ACQUIRED FOR INVESTMENT ONLY AND MAY NOT BE OFFERED FOR SALE, PLEDGED, HYPOTHECATED, SOLD, ASSIGNED OR TRANSFERRED AT ANY TIME EXCEPT IN COMPLIANCE WITH (I) THE SECURITIES ACT, ANY APPLICABLE STATE SECURITIES LAWS, AND ANY OTHER APPLICABLE SECURITIES LAWS; AND (II) THE TERMS AND CONDITIONS OF THIS PARTNERSHIP AGREEMENT. THE INTERESTS MAY NOT BE TRANSFERRED OF RECORD EXCEPT IN COMPLIANCE WITH SUCH LAWS AND THIS PARTNERSHIP AGREEMENT. THEREFORE, PURCHASERS OF THE INTERESTS WILL BE REQUIRED TO BEAR THE RISK OF THEIR INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

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APPENDIX A: CAPITAL ACCOUNTS AND ALLOCATION OF PROFITS AND  
LOSSES

ZMC PARTNERS, L.P.  
LIMITED PARTNERSHIP AGREEMENT

THIS LIMITED PARTNERSHIP AGREEMENT (this “Agreement”) of ZMC Partners, L.P., a Cayman Islands exempted limited partnership (the “Partnership”), is made this 1<sup>st</sup> day of April, 2009, by and among ZMC Investors, L.P., a Cayman Islands exempted limited partnership (together with any general partner substituted therefor in accordance with this Agreement, the “General Partner”), and the Limited Partners (as defined herein) of the Partnership.

W I T N E S S E T H :

WHEREAS, the parties hereto desire to enter into this Limited Partnership Agreement of the Partnership to permit the admission of the Limited Partners and further to make the modifications hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual promises and agreements herein made and intending to be legally bound hereby, the parties hereto agree as follows:

ARTICLE I

Definitions

As used herein, the following terms shall have the following meanings:

1940 Act: The United States Investment Company Act of 1940, as amended, as the same may be further amended from time to time.

Act: The Exempted Limited Partnership Law (as revised) of the Cayman Islands, as the same may be amended from time to time.

Additional Amount: As defined in Section 3.3(b).

Advisory Committee: As defined in Section 5.4(a).

Affiliate: With respect to any Person, any Person directly or indirectly controlling, controlled by or under common control with such Person.

After-Tax Amount: An amount equal to (a) the amount of any Carried Interest distributed to the General Partner with respect to a Limited Partner, minus (b) the amount of income tax payable on allocations of taxable income or distributions related to such Carried Interest based on the Assumed Income Tax Rate, such income tax to be reduced by the amount of any tax benefit actually realized by the General Partner (or its direct or indirect owners) in the year in which the General Partner is required to make a payment of the Clawback Amount, as calculated by the Partnership’s accountants, which tax

benefit is attributable solely to the making of such payment and which benefit shall be determined after first taking all other items of income, gain, loss, deduction or credit of the General Partner (or its direct or indirect owners) into account.

Aggregate Net Losses from Writedowns: As defined in Section 3.5(c).

Agreement: This Amended and Restated Limited Partnership Agreement, as the same may be amended, modified or supplemented from time to time.

Appraised Value: With respect to the redemption of the Interest of any Limited Partner pursuant to Section 8.6, a price equal to the value of such Interest, inclusive of the effect of any potential Carried Interest payments to the General Partner, determined on the assumption that the Investments were sold for their Fair Market Values as of the applicable valuation date and the proceeds therefrom were distributed to the Partners in accordance with this Agreement after credit or debit, as the case may be, for the amount of the Partnership's other assets and liabilities determined in accordance with GAAP.

Assignee: As defined in Section 8.2(a).

Assumed Income Tax Rate: A rate equal to 50% with respect to ordinary income and 30% with respect to capital gains; provided that the General Partner shall, in its reasonable judgment, and in consultation with its tax advisors, from time to time adjust such rates to reflect the prevailing highest effective marginal combined federal, state and local tax rate generally applicable to the direct and indirect members of the General Partner (taking into account the character of the income (i.e., ordinary vs. capital gains) and the deductibility of any state and local income taxes).

BHC Act: The United States Bank Holding Company Act of 1956, as amended.

BHC Partner: As defined in Section 5.1(c).

Broken Deal Expenses: All out-of-pocket costs and expenses, if any, incurred by or on behalf of the Partnership, any Parallel Vehicle or any vehicle formed pursuant to Section 2.9, in developing, negotiating and structuring prospective or potential Investments which are not ultimately made, including (i) any legal, accounting, advisory, consulting or other third-party expenses in connection therewith and any travel and accommodation expenses, (ii) all fees (including commitment fees), costs and expenses of lenders, investment banks and other financing sources in connection with arranging financing for a proposed Investment that is not ultimately made, and (iii) any deposits or downpayments of cash or other property which are forfeited in connection with a proposed Investment that is not ultimately made.

Business Day: A day which is not a Saturday, Sunday or other day on which banks are authorized or required by law to be closed in Washington, D.C., New York City, or the Cayman Islands.

Capital Commitment: As to any Partner, the amount set forth as such in its Subscription Agreement, as such amount may be adjusted from time to time pursuant to Section 3.3 or otherwise pursuant hereto.

Capital Contribution: As to any Partner at any time, the aggregate amount of capital actually contributed to the Partnership by such Partner pursuant to Section 3.1(a) (or deemed contributed pursuant to Section 3.4(h)) on or prior to such time, and, where the context requires, by such Partner to any alternative investment vehicle formed pursuant to Section 2.9.

Capital Under Management: As defined in Section 6.2(a).

Carried Interest: All amounts distributed to the General Partner pursuant to Sections 3.5(a)(ii) and (iii), and (to the extent distributions thereunder are attributable to the General Partner's entitlements to receive distributions pursuant to the other Sections of this Agreement referenced in this definition) Section 9.3 hereof and Section 6(b) of Appendix A, excluding, for the avoidance of doubt, any distribution that the General Partner has elected not to receive pursuant to Section 3.5(d).

Certificate: The statement with respect to Section 9 of the Act, which has been executed by or on behalf of the General Partner and filed with the Registrar of Exempted Limited Partnerships in the Cayman Islands on March 26, 2007, and all subsequent amendments thereto and restatements thereof.

Clawback Amount: An amount, determined separately for each Limited Partner, equal to the lesser of (i) Excess 20% Amount and (ii) the After-Tax Amount.

Clawback Determination Date: The date of the final distribution contemplated by Section 9.3.

Clawback Obligation: As defined in Section 9.4(a).

Closing: The initial closing of Capital Commitments to the Partnership occurring on the Closing Date. The minimum amount of Capital Commitments required for the Closing is \$100 million.

Closing Date: January \_\_, 2009.

Commitment Period: The period from the Closing Date until the earlier of (a) the Expiration Date; or (b) the date on which the obligation of Limited Partners to make Capital Contributions for Investments is canceled pursuant to Section 3.2(e).

Control: The possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting shares, by contract or otherwise.

Cumulative Net Distributions: As to any Limited Partner, the excess of (i) cumulative distributions to such Limited Partner of Investment Proceeds (including

deemed distributions pursuant to Section 3.4(h)) minus (ii) the aggregate amount of Capital Contributions and returns of distributions pursuant to Section 5.2(b) made by such Limited Partner.

Current Proceeds: All amounts received by the Partnership from an Investment other than Disposition Proceeds, net of Partnership Expenses, Management Fees and reserves therefor which are allocated to such proceeds in accordance with Sections 6.2 and 6.3(b) and (c).

Defaulting Limited Partner: As defined in Section 8.3(b).

Disabling Event: Other than as permitted by Section 8.1(a), the transfer or assignment of the General Partner's Interest in the Partnership, or the withdrawal, bankruptcy, commencement of liquidation proceedings, insolvency or dissolution of the General Partner.

Disposition: The sale, exchange, redemption, repayment, repurchase or other disposition by the Partnership of all or any portion of an Investment for cash or for Marketable Securities which are to be distributed to the Partners pursuant to Section 3.4(b) and shall include the receipt by the Partnership of a liquidating dividend for cash or for Marketable Securities on such Investment or any portion thereof which are to be distributed to the Partners pursuant to Section 3.4(b) and shall also include the distribution in kind to the Partners of all or any portion of such Investment as permitted hereby. A Disposition shall also include an Investment becoming worthless within the meaning of Section 165(g) of the Code or otherwise becoming worthless in the reasonable discretion of the General Partner.

Disposition Proceeds: All amounts received by the Partnership upon the Disposition of an Investment, net of Partnership Expenses, Management Fees and reserves therefor which are allocated thereto in accordance with Sections 6.2 and 6.3(b) and (c).

Dissolution Sale: All sales and liquidations by or on behalf of the Partnership of its assets in connection with or in contemplation of the winding-up of the Partnership.

ERISA: The United States Employee Retirement Income Security Act of 1974, as amended.

Event of Dissolution: As defined in Section 9.1.

Excess 20% Amount: As defined in Section 9.4(a).

Expiration Date: The date which is the fourth anniversary of the Closing Date.

Fair Market Value: The fair market value of the Investments, determined as provided in Section 4.7.



Final Closing Date: The date which is the twelve-month anniversary of the Closing Date.

Final Distribution: The distribution described in Section 9.3.

Fiscal Quarter: The calendar quarter or, in the case of the first fiscal quarter of the Partnership, the period commencing on the Closing Date and ending on the first calendar quarter end which is at least 60 days after the Closing Date, and, in the case of the last fiscal quarter of the Partnership, ending on the date on which the winding up of the Partnership is completed, as the case may be.

Fiscal Year: As defined in Section 2.8.

Follow-On Investment: Any further investment in or relating to an existing Investment.

GAAP: Generally accepted accounting principles in the United States.

General Partner: As defined in the Introduction hereto.

General Partner Expenses: As defined in Section 6.1.

GP Interest Value: With respect to the purchase of the General Partner's interest in the Partnership upon the removal of the General Partner pursuant to Section 9.1(b), a price equal to the value of the General Partner's interest in the Partnership (exclusive of any potential Carried Interest payments to the General Partner) based upon the General Partner's pro rata share (based upon Capital Contributions for Investments) of the Fair Market Value of the Investments and the amount of the Partnership's other assets and liabilities determined in accordance with GAAP.

Indemnified Party: As defined in Section 4.3(a).

Initial Limited Partner: As defined in the Introduction hereto.

Initial Payment Date: As defined in Section 3.1(b)(iv).

Interest: The entire limited partnership interest owned by a Limited Partner in the Partnership at any particular time, including the right of such Limited Partner to any and all benefits to which a Limited Partner may be entitled as provided in this Agreement, together with the obligations of such Limited Partner to comply with all the terms and provisions of this Agreement.

Investments: As defined in Section 4.1(a).

Investment Manager: ZMC Partners, LLC, a Delaware limited partnership.

Investment Guidelines: The investment objectives and policies set forth in Section 4.1.

Investment Proceeds: Current Proceeds and Disposition Proceeds.

Limited Partners: The parties listed from time to time on the Register of Limited Partners maintained by the General Partner at the registered office of the Partnership pursuant to the Law as limited partners or any Person who has been admitted to the Partnership as a substituted or additional Limited Partner in accordance with this Agreement. For purposes of the Act, the Limited Partners shall constitute a single class, series and group of limited partners.

Majority (or other specified percentage) in Interest: A “Majority in Interest” of the Limited Partners means, at any time, the Limited Partners holding a majority of the total limited partnership interests then entitled to vote in the Partnership as determined on the basis of Capital Commitments. Any other specified percentage in Interest of the Limited Partners means, at any time, the Limited Partners holding the specified percentage of the total limited partnership interests then entitled to vote in the Partnership, as determined on the basis of Capital Commitments.

Management Fee: As defined in Section 6.2(a).

Management Fee Payment Date: Each January 1 and July 1.

Marketable Securities: Securities that are traded on an established United States or international securities exchange or reported through the National Association of Securities Dealers, Inc. Automated Quotation System; provided that any such securities shall be deemed Marketable Securities only if they are freely tradeable. Freely tradeable for this purpose shall mean securities that either are (A) transferable by a Limited Partner pursuant to a then effective registration statement under the Securities Act (or similar applicable statutory provision in the case of non-U.S. securities) or (B) transferable by the Limited Partners who are not Affiliates of the General Partner pursuant to Rule 144(k) under the Securities Act or any successor rule thereto (or similar applicable rule in the case of non-U.S. securities).

Non-Defaulting Partner: Any Partner other than a Defaulting Limited Partner.

Non-Voting Interests: As defined in Section 5.1(c).

Organizational Expenses: All legal, accounting, filing and other expenses incurred in connection with organizing and establishing the Partnership, and the marketing and offering of interests in the Partnership (excluding placement fees, but including travel and accommodation expenses, filing fees and expenses and printing costs, or other similar amounts, incurred by the General Partner, or their Affiliates with respect to the offering of and subscription for Interests).

Other Fees: Cash and non-cash commitment, arranging, monitoring, break-up, directors’, organizational, set-up, advisory, investment banking, underwriting, syndication, brokerage, leasing, sales and other similar fees in connection with the purchase, monitoring or disposition of Investments or from unconsummated transactions.

Parallel Vehicle: As defined in Section 2.10.

Partners: The General Partner and the Limited Partners.

Partnership: ZMC Partners, L.P., a Cayman Islands exempted limited partnership.

Partnership Counsel: As defined in Section 11.15.

Partnership Expenses: As defined in Section 6.3(a).

Payment Date: As defined in Section 3.1(b)(i).

Payment Notice: As defined in Section 3.1(b)(ii).

Percentage Interest: With respect to any Partner and any Investment, the ratio of such Partner's Capital Contribution to that Investment to the total Capital Contributions of all Partners to that Investment; provided that the Capital Contribution of each Partner with respect to an Investment shall be adjusted to reflect any return of Capital Contributions pursuant to a Subsequent Closing; and provided, further, that for purposes of determining Percentage Interests (but not for the purpose of determining Unpaid Capital Commitments) the Capital Contribution of each Partner to an Investment shall be adjusted to reflect any changes to the Capital Account of such Partner as a result of any adjustment to the Carrying Value of such Investment pursuant to a Subsequent Closing; and provided, further, that for these purposes (but not for the purpose of determining Unpaid Capital Commitments) the Capital Contribution of each Partner in respect of an Investment shall be adjusted to reflect any changes to the Capital Account of each such Partner as a result of any reduction in the Capital Account of a defaulting Limited Partner pursuant to Section 8.3(d) and of any withdrawal of capital pursuant to Section 8.6. For the avoidance of doubt, the foregoing provisions shall apply *mutatis mutandis* to any Investment made by a Partner through an alternative investment vehicle so that its investment in such alternative investment vehicle will be taken into account in determining its Percentage Interest in each Investment.

Person: Any individual, partnership, corporation, limited liability company, unincorporated organization or association, trust (including the trustees thereof, in their capacity as such) or other entity.

Portfolio Companies: As defined in Section 4.1(a).

Pro Rata Share: As defined in Section 3.1(b)(iii).

Proceeding: Any legal action, suit or proceeding by or before any court, arbitrator, governmental body or other agency.

Realized Capital: As defined in Section 3.5(a)(i)(A).

Realized Capital and Costs: As defined in Section 3.5(a)(i)(B).

Realized Investment: As of any date, an Investment which has been the subject of a Disposition on or prior to such date.

Recapture Amount: As defined in Section 3.5(a)(iii).

Required Interest: As defined in Section 10.3.

Securities: Equity securities, subscriptions, notes, loans, bonds, debentures, claims and other causes of action, matured or unmatured, contingent or otherwise, of creditors and/or equity holders of any Person, or against any Person, including both bankruptcy claims and interests, and other instruments or evidences of indebtedness including debt instruments of public and private issuers and tax-exempt securities and other debt securities of any Person and all warrants, rights and options relating to any of the foregoing (including, without limitation, put and call options and rights) and other property or interests commonly regarded as securities, or any form of interest or participation therein.

Securities Act: The United States Securities Act of 1933, as amended.

Subscription Agreements: Each of the several Subscription Agreements between the General Partner and the Limited Partners.

Subsequent Closings: As defined in Section 3.3(a).

Successor Fund: As defined in Section 4.6(a).

Target Regions: The United States, Eastern Europe (Ukraine, Russia, and other member states of the Commonwealth of Independent States), and other jurisdictions as determined by the General Partner.

Temporary Investments: Short-term investments in money market funds, bank accounts and other money market instruments determined in good faith by the General Partner to be of high quality.

Temporary Investment Income: Income from sources other than Investments, net of Partnership Expenses, Management Fees and reserves therefor which are allocated to such income in accordance with Sections 6.2 and 6.3(b) and (c).

Unpaid Capital Commitment: As to any Partner as of any date, an amount equal to:

(a) such Partner's Capital Commitment, minus

(b) the aggregate amount of such Partner's Capital Contributions (but not Additional Amounts thereon), including any similar payments made by such Limited Partner to any alternative investment vehicle established pursuant to Section 2.9, made (or deemed made) on or prior to such date, including, in the case of any Limited Partner that is an Affiliate of the General Partner, the Capital

Contributions which such Limited Partner would have made pursuant to Section 3.1(a)(iv) had such Limited Partner been required to make such Capital Contributions, plus

(c) the amount of Investment Proceeds distributed to a Limited Partner pursuant to Sections 3.4 and 3.5 (other than those referred to in clause (d) below and Carried Interest) or deemed distributed, including any similar distributions made to such Limited Partner by any alternative investment vehicle established pursuant to Section 2.9, up to the aggregate amount of the Capital Contributions (but not any Additional Amounts thereon referred to in Section 3.3) made by such Limited Partner which were used for Partnership Expenses, Organizational Expenses or the Management Fee, including, in the case of any Limited Partner that is an Affiliate of the General Partner, the Capital Contributions which such Limited Partner would have made pursuant to Section 3.1(a)(iv) had such Limited Partner been required to make such Capital Contributions, plus

(d) the amount of any Capital Contribution (but not any Additional Amounts thereon referred to in Section 3.3) by a Partner which is returned to such Partner on or prior to such date upon a Subsequent Closing pursuant to Sections 3.3(b) and 3.3(c), plus

(e) the amount of any Capital Contribution by a Partner which is returned to such Partner in lieu of its application toward an Investment pursuant to Section 3.1(h).

Unrealized Investment: Any Investment that has not yet been the subject of a Disposition.

Other capitalized terms not defined herein shall have the meanings set forth in Appendix A.

## ARTICLE II

### General Provisions

2.1. Formation. The parties hereto formed the Partnership as a Cayman Islands exempted limited partnership in April 2009 pursuant to the Act.

2.2. Name. The name of the Partnership shall be "ZMC Partners, L.P." The General Partner is authorized to make any variations in the Partnership's name which the General Partner may deem necessary or advisable; provided that (a) such name shall contain the words "Limited Partnership" or the letters "L.P." or the equivalent translation thereof, (b) such name shall not contain the name of any Limited Partner without the consent of such Limited Partner and (c) the General Partner shall promptly give written notice of any such variation to the Limited Partners and the Registrar of Exempted Limited Partnerships in the Cayman Islands within 60 days of such change as required by the Act.

2.3. Organizational Certificates and Other Filings; Limitations on Conduct of Business. If requested by the General Partner, the Limited Partners shall promptly execute all certificates and other documents consistent with the terms of this Agreement necessary for the General Partner to accomplish all filing, recording, publishing and other acts as may be appropriate to comply with all requirements for (a) the formation and operation of an exempted limited partnership under the laws of the Cayman Islands, (b) if the General Partner deems it advisable, the operation of the Partnership as a limited partnership, or partnership in which the Limited Partners have limited liability, in all jurisdictions where the Partnership proposes to operate and (c) all other filings required to be made by the General Partner in relation to the Partnership.

2.4. Purpose. The purpose of the Partnership is to make investments (and to monitor and dispose of the same) in accordance with the Investment Guidelines and to engage in such other activities as are permitted hereby or are incidental or ancillary thereto as the General Partner shall deem necessary or advisable, all upon the terms and conditions set forth in this Agreement.

2.5. Principal Place of Business; Other Places of Business. The Partnership may maintain offices and places of business at such place or places as the General Partner deems advisable.

2.6. Registered Office and Registered Agent. The Partnership shall maintain a registered office at c/o Walkers SPV Limited, Walker House, Mary Street, George Town, Grand Cayman, Cayman Islands, KY1-9002. The General Partner may at any time change the location of the Partnership's offices and may establish additional offices. The name and address of the Partnership's registered agent is Walkers SPV Limited, Walker House, Mary Street, George Town, Grand Cayman, Cayman Islands KY1-9002.

2.7. Term. The Partnership commenced upon the execution of this Agreement, and unless earlier dissolved and terminated pursuant to Section 9.1, shall continue in business through the close of business on the eighth-year anniversary of the Closing Date; provided that the General Partner may extend the term of the Partnership for successive one-year periods up to a maximum of two years in order to effect an orderly dissolution and winding up of the Partnership.

2.8. Fiscal Year. The fiscal year ("Fiscal Year") of the Partnership shall be the calendar year or, in the case of the first and last fiscal years of the Partnership, the fraction thereof commencing on the Closing Date or ending on the date on which the winding up of the Partnership is completed, as the case may be. The taxable year of the Partnership shall be determined under Section 706 of the Code. The General Partner shall have the authority to change the ending date of the Fiscal Year if the General Partner shall determine in good faith that such change is necessary or appropriate, provided that the General Partner shall promptly give written notice of any such change to the Limited Partners.

2.9. Alternative Investment Vehicle. If the General Partner determines in good faith that for legal, tax, regulatory or other similar reasons it is in the best interests of one or more of the Partners that their participation in an Investment be made through an alternative

investment vehicle, the General Partner shall be permitted to structure the making of all or any portion of such Investment outside of the Partnership, by requiring any Partner or Partners to make such Investment through separate limited partnerships (or other similar vehicles) that will invest on a parallel basis with or in lieu of the Partnership, as the case may be. Subject to Section 3.2, the Partners shall be required to make Capital Contributions directly to each such alternative investment vehicle to the same extent, for the same purposes and on the same terms and conditions as Partners are required to make Capital Contributions to the Partnership, and such Capital Contributions shall reduce the Unpaid Capital Commitments of the Limited Partners to the same extent as if Capital Contributions were made to the Partnership with respect thereto. Each Partner shall have the same economic interest in all material respects in Investments made pursuant to this Section 2.9 as such Partner would have if such Investment had been made solely by the Partnership, and the other terms of such vehicle shall be substantially identical in all material respects to those of the Partnership, to the maximum extent applicable.

2.10. Parallel Investment Entities. In order to facilitate investment by certain investors, the General Partner or an Affiliate thereof may establish one or more additional collective investment vehicles or other arrangements (each such vehicle or arrangement, a "Parallel Vehicle"). Each Parallel Vehicle will invest proportionally in all Investments on effectively the same terms and conditions as the Partnership, subject to applicable legal, tax or regulatory constraints, and the General Partner shall cause each Parallel Vehicle not to sell or otherwise dispose of any portion of any Investment prior to the sale or disposition by the Partnership of a like proportion of such Investment and then only on the same terms and conditions in all material respects as the Partnership's sale or disposition of such Investment, subject to applicable legal, tax or regulatory constraints. The voting rights of Limited Partners will generally be aggregated with those of the investors in such Parallel Vehicles.

### ARTICLE III

#### Capital Contributions; Distributions

##### 3.1. Capital Contributions.

(a) *Capital Contributions.* Subject to Section 3.2, each Limited Partner agrees to make contributions to the capital of the Partnership in cash from time to time, payable in United States dollars, in installments as follows:

(i) *The initial minimum capital commitment from the Limited Partners shall be two hundred million dollars (US \$200,000,000.00).* It is expected that the Fund will be composed of a combination of capital and real assets owned by the Limited Partner and to be developed by the Fund. The total value of the Fund shall approximate one billion dollars (US \$1 billion) with the cash contribution being the difference between the ceiling of the Fund minus the cost value of the real property contributed to the Fund. The initial capital commitment closing shall occur on or about April 2009. The contribution of selected Ukrainian properties owned by investor shall occur as agreed by the parties. Additional capital to be invested subsequent to initial minimum capital shall be contributed as agreed by the parties.

(ii) *With respect to any Capital Contribution for the making of Investments generally:* At any time and from time to time on or prior to the expiration or termination of the Commitment Period (subject to extension by the General Partner in the case of any Investment in which on or prior to the expiration or termination of the Commitment Period the Partnership, or the General Partner or one of its Affiliates on behalf of the Partnership, has entered into a letter of intent, written agreement in principle or definitive agreement to invest), each Limited Partner shall, on any Payment Date, make a Capital Contribution to the Partnership of its Pro Rata Share of the aggregate amount of Capital Contributions to be made by all such Limited Partners for such Investment, but any such Limited Partner in no event shall be required to make such a Capital Contribution to the Partnership on any date in an amount greater than its Unpaid Capital Commitment as of such date. The amount of Capital Contribution that any such Limited Partner is required to make on any Payment Date shall be specified by the General Partner in a Payment Notice delivered to such Limited Partner in respect of such Payment Date.

(iii) *With respect to any Capital Contribution for the making of a Follow-On Investment:* At any time and from time to time until the two-year anniversary of the expiration or termination of the Commitment Period (or such later date as may be approved by the Advisory Committee), each Limited Partner shall, on any Payment Date, make a Capital Contribution to the Partnership of its Pro Rata Share of the aggregate amount of Capital Contributions to be made by all such Limited Partners for a Follow-On Investment; provided that the aggregate amount of such Follow-On Investments after the expiration or termination of the Commitment Period shall not exceed 15% of the Partnership's Capital Commitments; and provided, further, that a Limited Partner in no event shall be required to make such a Capital Contribution to the Partnership on any date in an amount greater than its Unpaid Capital Commitment as of such date. The amount of a Capital Contribution that any such Limited Partner is required to make on any Payment Date shall be specified by the General Partner in a Payment Notice delivered to such Limited Partner in respect of such Payment Date;

(iv) *With respect to any Capital Contribution for the payment of Partnership Expenses:* At any time and from time to time during the term of the Partnership, on any Payment Date, each Limited Partner shall make a Capital Contribution to the Partnership of its Pro Rata Share of the aggregate amount to be contributed by all such Limited Partners on such date for Partnership Expenses; provided that any such Limited Partner in no event shall be required to make such a Capital Contribution to the Partnership on any date in an amount greater than its Unpaid Capital Commitment as of such date. The amount which any such Limited Partner is required to contribute on any Payment Date shall be specified by the General Partner in a Payment Notice delivered to such Limited Partner in respect of such Payment Date;

(v) *With respect to any Capital Contribution for payment of the Management Fee:* On the Initial Payment Date and the Business Day falling on or immediately after each Management Fee Payment Date, each Limited Partner (other than Affiliates of the General Partner) shall make a Capital Contribution to the Partnership of such Limited Partner's Pro Rata Share of the installment of the Management Fee then due and owing as determined in accordance with Section 6.2. A Payment Notice shall be delivered in



respect of such Capital Contributions specifying such Business Day as the Payment Date therefor; and

(vi) *With respect to any Capital Contribution for Organizational Expenses:* On the Initial Payment Date and from time to time thereafter, each Limited Partner shall reimburse the General Partner (to the extent the General Partner has previously paid such amounts) or make a Capital Contribution to the Partnership of such Limited Partner's Pro Rata Share of the aggregate amount to be paid or contributed by all Limited Partners on such date for Organizational Expenses, and a Payment Notice shall be delivered in respect of such payment or Capital Contribution specifying the Payment Date therefor.

For purposes of this Agreement, the General Partner shall be treated as if it had contributed to the Partnership any amount of Organizational Expenses for which it has not been reimbursed pursuant to Section 3.1(a)(v) above.

(b) *Related Definitions.* (i) A "Payment Date" shall mean a date on which Partners are required to make Capital Contributions to the Partnership (or an alternative investment vehicle under Section 2.9), which date:

(A) shall be specified in a Payment Notice delivered to each Limited Partner from which a Capital Contribution is required on such date; and

(B) except as otherwise provided in Section 3.2(b), 3.2(c) and 8.3(e), shall be at least ten (10) Business Days after the date of delivery of a Payment Notice.

(ii) A "Payment Notice" shall mean a written notice requiring Capital Contributions to the Partnership (or an alternative investment vehicle under Section 2.9), which notice shall be delivered to each Limited Partner and:

(A) specify the purpose for which the Capital Contributions are required to be made;

(B) in the case of a Payment Notice with respect to the anticipated making of an Investment, include:

(I) a statement as to whether the Investment will otherwise be structured through an alternative investment vehicle pursuant to Section 2.9, and

(II) a brief description of the identity and nature of such Investment, the business to which it relates, and the type of interest being purchased, except that the General Partner may exclude the specific identity thereof (but not the description of the nature of the Investment and the business to which it relates) if the General Partner determines in good faith that notifying the Limited Partners of such identity would risk jeopardizing such Investment; and

(C) specify such Limited Partner's Pro Rata Share of the Capital Contributions required to be made by the Limited Partners and the method of calculation thereof.

(iii) The "Pro Rata Share" of a Limited Partner of the aggregate Capital Contributions to be made by all such Limited Partners for Investments or Partnership Expenses on any Payment Date shall mean the percentage that such Limited Partner's Unpaid Capital Commitment as of such date represents of the aggregate Unpaid Capital Commitments as of such date of all such Limited Partners from which a Capital Contribution is required on such date. The "Pro Rata Share" of a Limited Partner of the aggregate Capital Contributions for Organizational Expenses to be made by Limited Partners on any Payment Date shall mean the percentage that such Limited Partner's Capital Commitment as of such date represents of the aggregate Capital Commitments of all Limited Partners as of such date. The "Pro Rata Share" of a Limited Partner (other than Affiliates of the General Partner) of the aggregate Capital Contributions for the Management Fee to be made by Limited Partners (other than Affiliates of the General Partner) on any Payment Date shall mean the percentage that any such Limited Partner's Capital Under Management as of such date represents of the aggregate Capital Under Management of all Limited Partners (other than Affiliates of the General Partner) as of such date.

(iv) The "Initial Payment Date" shall mean the first date on which Limited Partners are required to make Capital Contributions in respect of Organizational Expenses, Partnership Expenses and the first installment of the Management Fee (for the period from the Closing Date to the first Management Fee Payment Date). Unless otherwise specified, the Initial Payment Date shall be the tenth Business Day following the Closing Date and Limited Partners shall receive a Payment Notice in respect thereof.

(c) Other than as expressly set out in this Agreement, no Partner shall be required to make any contribution to the capital of the Partnership or otherwise to advance any funds to the Partnership. Capital Contributions shall be made by wire transfer of immediately available funds to the account specified in the related Payment Notice. No Partner shall be entitled to a return, or to demand a return, of any of such Partner's Capital Contribution or entitled to any distribution or allocation except as provided in this Agreement. A Partner is not entitled to be paid interest in respect of either its Capital Account or its Capital Contributions. An unrepaid Capital Contribution is not a liability of the Partnership or of any other Partner.

(d) The General Partner shall cause the books and records of the Partnership to reflect the addresses of Partners and any changes thereto and the transfer of Interests and changes in Capital Commitments which are accomplished in accordance with the provisions of this Agreement.

(e) If the General Partner determines that a proposed Investment in respect of which Partners have made Capital Contributions will not be consummated (e.g., because a definitive acquisition agreement relating thereto has been terminated), the General Partner shall, within 90 days after such determination, refund to the Partners that made such Capital Contributions the amounts of such Capital Contributions unless such amounts are then required

for another Investment or for the payment of Management Fees or Partnership Expenses. If the General Partner determines that a proposed Investment in respect of which Partners have made Capital Contributions will not require the full amount of Capital Contributions made therefor, the General Partner shall, within 90 days after such determination, refund to the Partners that made such Capital Contributions, pro rata to the amounts of such Capital Contributions, the amount of such Capital Contributions that exceeds the portion required to consummate such Investment, unless such amounts are then required for another Investment or for the payment of Management Fees or Partnership Expenses. Any amount refunded pursuant to this Section 3.1(e) shall be treated for purposes of Section 3.5(a) as never having been contributed to the Partnership.

(f) The provisions of this Section 3.1 are intended solely to benefit the Partnership and the Partners and, to the fullest extent permitted by applicable law, shall not be construed as conferring any benefit upon any creditor of the Partnership (and no such creditor shall be a third party beneficiary of this Agreement), and no Partner shall have any duty or obligation to any creditor of the Partnership to make any Capital Contributions to the Partnership pursuant to this Section 3.1 or to cause the General Partner to deliver to any Partner any Payment Notice.

### 3.2. Excuse, Exclusion and Cancellation.

(a) *Excuse.* Notwithstanding anything herein to the contrary, in the event that a Limited Partner's participation in an Investment would be reasonably likely to violate any law, regulation, governmental order (including with respect to any BHC Partner, (i) a violation of Section 4 of the BHC Act or the rules, regulations and written governmental interpretations relating thereto (other than Section 4(k) of the BHC Act) or (ii) the application of any law, regulation or governmental order to a BHC Partner that was not applicable to such BHC Partner immediately prior to the making of the Investment by the Partnership) or written investment policy (to the extent such policy was provided to the General Partner prior to the closing of such Limited Partner's investment in the Partnership and continues in effect as of the date such excuse is sought) to which such Limited Partner is subject, then such Limited Partner shall be excused from all of its obligation to make any Capital Contribution relating to that Investment (or that part of its obligation which would cause any such violation); provided that, within five (5) Business Days after such Limited Partner has received the Payment Notice in respect of such Investment, such Limited Partner shall have delivered to the General Partner an opinion of counsel to such Limited Partner (which opinion and counsel shall be reasonably satisfactory to the General Partner, and which opinion may be waived by the General Partner in its sole discretion upon receipt of a written confirmation from such Limited Partner to the same effect as an opinion of counsel) that the Limited Partner's participation in such Investment (or in the case of an excuse from part but not all of its obligation, the part of its participation in question), would be reasonably likely to cause a violation as referred to above.

(b) *Subsequent Capital Call for an Investment in the Event of Excuse.* If the opinion referred to in Section 3.2(a) is delivered (or waived by the General Partner) with respect to the participation of any Limited Partner in an Investment, the General Partner may in its discretion, (i) in addition to and notwithstanding any other provisions to the contrary in this Agreement, make a Capital Contribution (either itself or through its Affiliates) to the Partnership equal to all or any portion of the excused obligation and/or (ii) with respect to any excused

obligation not funded by the General Partner or its Affiliates, deliver a new notice to each Limited Partner which is able to participate in such Investment indicating the additional payment with respect to its Capital Contribution to be made in respect of such Investment, and each such Limited Partner shall make such additional payment within five (5) Business Days after having been given such new notice. Any additional amounts called for pursuant to this Section 3.2(b) shall be made by each such Limited Partner in an amount which bears the same ratio to the aggregate of the additional amounts payable by all such Limited Partners as such Limited Partner's Unpaid Capital Commitment bears to the Unpaid Capital Commitments of all such Limited Partners; provided that no Limited Partner shall be obligated to contribute an amount in excess of such Limited Partner's Unpaid Capital Commitment.

(c) *Exclusion.* The General Partner may exclude a particular Limited Partner from participating in all or any part of an Investment if the General Partner determines in good faith that:

(i) a significant delay, extraordinary expense or materially adverse effect on the Partnership or any of its Affiliates, any Investment or future investment of the Partnership is likely to result from such Limited Partner's participation (or in the case of an exclusion from part but not all of its participation, the part of its participation in question) in such Investment, or

(ii) based upon a written opinion of counsel (which opinion and counsel shall be reasonably acceptable to the Limited Partner proposed to be excluded), there is a reasonable likelihood that such Limited Partner's participation (or in the case of an exclusion from part but not all of its participation, the part of its participation in question) in such Investment would cause a violation of any law, regulation or governmental order to which such Limited Partner is subject.

Such determination shall be communicated to such Limited Partner at or prior to the time that the General Partner delivers Payment Notices relating to the Capital Contributions in question to the other Limited Partners, and such Payment Notices shall provide the amount of any additional Capital Contributions which such other Limited Partners shall be required to contribute as a result of the developments set forth above or, if such determination is not made until after a Payment Notice for such Investment is delivered to the other Limited Partners (but in any event within ten (10) Business Days after the consummation of such Investment), the General Partner may in its discretion, (i) in addition to and notwithstanding any other provision in this Agreement to the contrary, make a Capital Contribution (either itself or through its Affiliates) to the Partnership equal to all or any portion of such excluded obligation and/or (ii) with respect to any excluded obligation not funded by the General Partner or its Affiliates, deliver a new notice to each Limited Partner which is able to participate in such Investment indicating the additional payment with respect to its Capital Contribution to be made in respect of such Investment, and, subject to the proviso set forth in this Section 3.2(c), each such Limited Partner shall make such additional payment on the Payment Date in respect of such Investment but in no event earlier than five (5) Business Days after having been given such new notice. Additional amounts called for pursuant to this Section 3.2(c) shall be made by each such Limited Partner in an amount which bears the same ratio to the aggregate of the additional amounts payable by all such Limited Partners as such Limited Partner's Unpaid Capital Commitment bears to the Unpaid

Capital Commitments of all such Limited Partners; provided that no Limited Partner shall be obligated to contribute an amount in excess of such Limited Partner's Unpaid Capital Commitment.

(d) The Unpaid Capital Commitment of any Limited Partner excused or excluded from participation in an Investment pursuant to this Section 3.2 shall not be reduced as a result of such excuse or exclusion.

(e) *Cancellation by the General Partner.* The General Partner at any time may in its discretion cancel the obligation of all Partners to make Capital Contributions for Investments other than those for which the Partnership is already committed if in the good faith judgment of the General Partner, changes in applicable law, regulation, case law, judicial, governmental or administrative order or decree or governmental license or permit, or any interpretation thereof by any governmental or regulatory authority or court of competent jurisdiction or in business conditions make such cancellation necessary or advisable in the interests of the Partners.

(f) If any Limited Partner is not required to make a Capital Contribution for an Investment in accordance with paragraphs (b), (c) or this paragraph (f) of this Section 3.2 because such Capital Contribution would be in excess of such Limited Partner's Unpaid Capital Commitment, then, subject to the proviso set forth in this Section 3.2(f), the General Partner shall send to the Limited Partners which are not subject to the constraint specified above and which are otherwise able to participate in such Investment an additional Payment Notice providing the amount of any additional Capital Contributions which such Partners shall be required to make as a result of such excess not being funded by such Partner. Additional amounts called for pursuant to this Section 3.2(f) shall be made by each such Limited Partner in an amount which bears the same ratio to the aggregate of the additional amounts payable by all such Limited Partners as such Limited Partner's Unpaid Capital Commitment bears to the Unpaid Capital Commitments of all such Limited Partners; provided that no Limited Partner shall be obligated to contribute an amount in excess of such Limited Partner's Unpaid Capital Commitment. The provisions of this Section 3.2(f) shall operate successively until either all Limited Partners able to participate in such Investment are subject to the restriction above or the full amount of Capital Contributions to be made by Limited Partners with respect to such Investment has been provided for.

(g) For purposes of determining the Unpaid Capital Commitment of a Partner who receives a refund of a Capital Contribution pursuant to this Section 3.2, the amount refunded shall be treated as never having been contributed to the Partnership. If during the period between the contribution and a refund of such amount, the Partners have made Capital Contributions for another Investment or for any other purpose in ratios that were incorrect in light of the preceding sentence, then the General Partner shall require such additional Capital Contributions, and shall refund such amounts, as are necessary to adjust the Capital Contributions of Partners for such other Investment to the correct ratio.

### 3.3. Subsequent Closings.

(a) *Generally.* The General Partner may, in its sole discretion and without the consent of any other Partners, admit additional Limited Partners, or permit any existing Limited Partner to increase its Capital Commitment, at one or more subsequent closings (“Subsequent Closings”); provided that no Subsequent Closing shall occur after the twelve-month anniversary of the Closing Date.

(b) *Capital Contributions at Subsequent Closing for Investments, Organizational Expenses and Partnership Expenses.* (i) Subject to Section 3.2, each Limited Partner that is admitted or increases its Capital Commitment at a Subsequent Closing shall (A) make a Capital Contribution to the Partnership (and any alternative investment vehicle formed pursuant to Section 2.9) at such Subsequent Closing (or on such later date as specified by the General Partner) equal to the difference between (x) its Pro Rata Share (based upon Limited Partners’ Capital Commitments) of (I) the aggregate amount, if any, previously contributed by Limited Partners for the making of any Investment then still held by the Partnership (or, as applicable, any alternative investment vehicle formed pursuant to Section 2.9) and (II) Organizational Expenses and Partnership Expenses previously paid by Limited Partners, and (y) any amounts previously contributed (or paid directly to the General Partner, as applicable) by such Limited Partner therefor, plus an additional amount (an “Additional Amount”) on each portion of such Capital Contribution relating to a previous contribution or payment at 8.0% per annum from the date each such amount was funded to such date, prorated based upon the actual number of days elapsed (which Additional Amount shall not be treated as a Capital Contribution) and (B) be deemed to have made a Capital Contribution with respect to each such Investment in an amount equal to the product of (x) a fraction the numerator of which is the aggregate of such Limited Partner’s Capital Contributions for all such Investments after giving effect to such admission or increase and the denominator of which is the aggregate amount of all Limited Partners’ Capital Contributions for all such Investments after giving effect to such admission or increase and (y) the amount of all Limited Partners’ Capital Contributions with respect to such Investment. The General Partner shall distribute the proceeds from such Capital Contributions and Additional Amounts among the Limited Partners that were admitted at prior closings in proportion to the difference between the Capital Contributions (and direct payments to the General Partner, as applicable), which each such Limited Partner has already made for such Investments, Organizational Expenses and Partnership Expenses and such Limited Partner’s Pro Rata Share of such amounts after giving effect to such admission or increase; provided that Additional Amounts so distributed shall not be added to a Partner’s Unpaid Capital Commitment.

(ii) The Additional Amount paid to the Partnership pursuant to this Section 3.3(b) shall be treated solely for purposes of this Agreement as though paid directly to existing Limited Partners by the incoming Limited Partners making such payment.

(iii) Notwithstanding Section 3.3(b)(i) above, if, in the determination of the General Partner in its sole and absolute discretion, a Capital Contribution required to be made by any Limited Partner as determined pursuant to Section 3.3(b)(i) shall provide such Limited Partner with an inappropriate Percentage Interest in an Investment of the Partnership (or any alternative investment vehicle formed pursuant to Section 2.9)

because of material changes in the value of such Investment (including changes in the value of Investments which are Marketable Securities), the General Partner may either (A) exclude such Limited Partner from participation in such Investment or (B) inform such Limited Partner prior to the date of its Subsequent Closing of the Capital Contribution that such Limited Partner will instead be required to make at such Subsequent Closing (or on such later date as specified by the General Partner), which shall be determined by the General Partner such that the Capital Account balance of such Limited Partner shall bear the same ratio to the aggregate of the Capital Account balances of all Limited Partners (adjusted to reflect the adjustments to the Carrying Value of the Partnership's assets immediately prior to such Subsequent Closing and the return of Capital Contributions to existing Limited Partners pursuant to this Section 3.3(b)) as the Unpaid Capital Commitment of such Limited Partner bears to the aggregate of the Unpaid Capital Commitments of all Limited Partners; provided that no Limited Partner shall be allowed to acquire or increase an Interest in an existing Investment at any Subsequent Closing at a discount to the original acquisition cost of such Investment unless such action is consented to by the General Partner after prior consultation with the Advisory Committee.

(c) *Capital Contributions at Subsequent Closing for Management Fee.* Each Limited Partner (other than Affiliates of the General Partner) that is admitted or increases its Capital Commitment at a Subsequent Closing shall make a Capital Contribution to the Partnership at such Subsequent Closing (or on such later date as specified by the General Partner) for the payment of the Management Fee based upon such Limited Partner's Capital Commitment or increased Capital Commitment, as applicable, with respect to the period from the Closing Date until the end of the Management Fee period in which such Subsequent Closing occurs (calculated pro-rata for the number of days in such period), plus an Additional Amount thereon at 8.0% per annum from the Initial Payment Date to such date, prorated based upon the actual number of days elapsed.

(d) To the extent that as a result of any Limited Partner's admission or increase in its Capital Commitment at any Subsequent Closing or the subsequent closing of any Parallel Vehicle on or prior to the Final Closing Date, the increase in Capital Commitments and/or the increase in capital commitments to any Parallel Vehicle causes the ratio of such capital commitments to change, the General Partner acting in good faith may adjust the percentage interests of the Partnership and each Parallel Vehicle in each Investment to reflect such ratio. In such case, amounts shall be paid to the Partnership or such Parallel Vehicle, as the case may be, by the other as a result of such adjustment in a manner comparable to the mechanics of this Section 3.3 as applied to the Partnership and such Parallel Vehicle.

(e) *Withdrawal or Admission of Limited Partner To or From Parallel Vehicles.* The General Partner may, in its discretion, permit an existing Limited Partner to withdraw from the Partnership to facilitate such Limited Partner's participation in any Parallel Vehicle (with respect to such Limited Partner's Capital Commitment) and, in connection therewith, take any other necessary action to consummate the foregoing. The General Partner may, in its discretion and without the consent of the other Partners, permit a Limited Partner withdrawing from any Parallel Vehicle to be admitted to the Partnership (with respect to such Limited Partner's commitment to such Parallel Vehicle) and, in connection therewith, take any other necessary

action to treat the Limited Partner as if such Limited Partner were a Limited Partner of the Partnership from the date when the Limited Partner was admitted to the Parallel Vehicle.

3.4. Distributions -- General Principles.

(a) *Generally.* Except as otherwise expressly provided herein, no Partner shall have the right to withdraw capital from the Partnership or to receive any distribution or return of its Capital Contribution. Distributions of Partnership assets that are provided for herein shall be made only to Persons who, according to the books and records of the Partnership, were the holders of record of Interests in the Partnership on the date determined by the General Partner as of which the Partners are entitled to any such distributions.

(b) *Distributions in Kind of Marketable Securities.* (i) In addition to cash distributions, distributions pursuant to this Article III may be made all or in part in Marketable Securities (but may not otherwise be made in kind except in connection with the dissolution and winding up of the Partnership or the withdrawal of a Limited Partner); provided that any distribution of Marketable Securities pursuant to this Article III shall be made in accordance with the following:

(A) if within five (5) calendar days after receiving notice from the General Partner of a proposed distribution of Marketable Securities during the term of the Partnership, a Partner demonstrates to the good faith satisfaction of the General Partner (which demonstration may be satisfied by an opinion reasonably acceptable to the General Partner) that there is a reasonable likelihood that such distribution (or any portion thereof) would cause such Partner to violate any law, regulation or governmental order, to which such Partner is subject (including with respect to any BHC Partner, (i) a violation of Section 4 of the BHC Act or the rules, regulations and written governmental interpretations relating thereto (other than Section 4(k) of the BHC Act) or (ii) if such distribution would cause the application of any law or regulation to a BHC Partner that was not otherwise applicable immediately prior to the distribution of Marketable Securities), the Partnership shall dispose on behalf of such Partner, as soon as is reasonably practicable, all (or such portion) of such Marketable Securities at such price and on such terms as the General Partner shall determine in good faith to be then achievable and to distribute to such Partner instead the proceeds from such disposition;

(B) such Partners shall bear all of the expenses (including underwriting costs, brokerage commissions and any applicable transfer taxes) of such disposition under clause (A) above;

(C) the calculation of the Carried Interest shall be based in all cases on the Fair Market Value at the time of distribution of the Marketable Securities to be distributed in kind to the Limited Partners (whether or not any Limited Partner receives cash pursuant to clause (A) above);



(D) if the General Partner offers Limited Partners the option of receiving a distribution in kind of Marketable Securities or cash pursuant to the Disposition of Marketable Securities by the Partnership in a secondary offering, the General Partner may reasonably require as a condition to any Partner receiving a distribution in kind of such Marketable Securities pursuant to this paragraph 3.4(b), that such Partner shall make any necessary or desirable representations, warranties and covenants (e.g., as to disclosable ownership of the issuer's securities, other disclosable affiliations with the issuer and compliance with underwriter's lockups) as the General Partner shall reasonably determine;

(E) any income, gain, loss or deduction realized upon the distribution in kind of Marketable Securities to Partners who receive Marketable Securities shall be allocated pro rata only among such Partners; and

(F) any income, gain, loss or deduction realized upon the Disposition of Marketable Securities shall be allocated pro rata only among Partners receiving the proceeds from such Disposition.

(ii) Except as provided in this Section 3.4(b), distributions consisting of both cash and Marketable Securities shall be made, to the extent practicable, in equal proportions of cash and such Marketable Securities as to each Partner receiving such distributions.

(iii) Except as otherwise provided in this Agreement, assets distributed in kind shall be deemed to have been sold for cash for their Fair Market Value determined in accordance with Section 4.7. Upon the making of a distribution in kind, the Capital Accounts of the Partners receiving such distribution shall be reduced by the Fair Market Value of the property distributed and except as provided in Sections 3.4(b)(i)(E) and (F) the Capital Accounts of all of the Partners shall be adjusted to reflect Profits or Losses or any other item of income, gain, loss or deduction deemed to have been realized in respect of the deemed sale.

(c) *Timing and Manner of Distributions.* Distributions shall be made at the times provided below:

(i) Current Proceeds from an Investment shall be distributed at such times and intervals as the General Partner shall determine, but in no event later than 90 days following the end of each Fiscal Quarter in which such Current Proceeds are received by the Partnership;

(ii) Disposition Proceeds from an Investment, or any portion of an Investment, shall, unless otherwise applied to an Investment, be distributed as soon as practicable after the date such Disposition Proceeds are received by the Partnership, but in no event later than 90 days following the end of each Fiscal Quarter in which such Disposition Proceeds are received by the Partnership;

(iii) Temporary Investment Income shall, unless otherwise applied to an Investment, be distributed at such times and intervals as the General Partner shall

determine, but in no event later than 45 days following the end of the Fiscal Quarter in which such Temporary Investment Income is received by the Partnership, or more often in the sole discretion of the General Partner.

Distributions shall be made by wire transfer of immediately available funds to the account specified in each Limited Partner's Subscription Agreement or otherwise specified in writing by any Limited Partner to the General Partner.

(d) For all purposes of this Agreement, whenever a portion of an Investment (but not the entire Investment) is the subject of a Disposition, that portion shall be treated as having been a separate Investment from the portion of the Investment that is retained by the Partnership, and Capital Contributions for the Investment shall be treated as having been divided between the sold portion and the retained portion on a pro rata basis.

(e) The rate of return specified in Section 3.5(a)(ii) shall be calculated from the date the Capital Contributions relating to an Investment were actually used to make such Investment until the date of distribution of proceeds from the Disposition of such Investment.

(f) For all purposes of this Agreement, whenever an investment is made in the same type of security of, or other interest in, an entity or asset in which an Investment previously has been made, such subsequent investment shall be treated as a separate Investment from the Investment previously made, and the Capital Contributions for, and Investment Proceeds and Carried Interest proceeds subsequently received from, such entity shall be divided between the prior Investment and the subsequent Investment based upon the relative amounts invested by the Partnership in such prior and subsequent Investments.

(g) The amount of any tax credits received by the Partnership and any taxes paid by or withheld from receipts of the Partnership from an Investment (or any flow-through vehicle in which it invests) shall be allocated among those Partners who the General Partner reasonably determines are entitled to such tax credits or on whose behalf the General Partner reasonably determines it is directly or indirectly required by law to withhold or to make tax payments and shall, in each case, be deemed to have been distributed to each such Partner as Investment Proceeds to the extent that tax credits would have increased Investment Proceeds or the payment or withholding of such taxes reduced Investment Proceeds otherwise distributable to such Partner as provided herein (for this purpose taking into account with respect to each Partner any reduction in such taxes that occurs by reason of each Partner's status).

(h) (i) Any amount otherwise distributable to a Limited Partner pursuant to Sections 3.4 and 3.5 may be retained by the Partnership and used for any purpose under this Agreement for which Capital Contributions are then permissible to be called to the extent such retained amounts would have, if distributed, increased the Unpaid Capital Commitment of such Limited Partner in accordance with clauses (c) and (e) of the definition of Unpaid Capital Commitment.

(ii) Other than amounts referred to in clause (i) of this Section 3.4(h) which would have increased the Unpaid Capital Commitment of a Limited Partner, any amount otherwise distributable to a Limited Partner pursuant to Sections 3.4 and 3.5 may be

retained by the Partnership and used for any purpose under this Agreement for which Capital Contributions are then permissible to be called to the extent that if such amounts had been distributed to the Limited Partner pursuant to Sections 3.4 and 3.5 and immediately recontributed thereby as a Capital Contribution, such Limited Partner's Unpaid Capital Commitment would have been reduced by such amount (and therefore such amounts may not exceed such Limited Partner's then Unpaid Capital Commitment); provided that the foregoing shall not limit the ability to pay the Management Fee and Partnership Expenses and take reserves therefor in accordance with Sections 6.2 and 6.3(b) and (c).

(iii) Any amount retained pursuant to clauses (i) and (ii) of this Section 3.4(h) shall be treated as though such amount had been distributed to the Limited Partner pursuant to Sections 3.4 and 3.5 and immediately recontributed thereby as a Capital Contribution as of the date of such distribution for all purposes hereof.

(i) All cash distributions shall be made in United States dollars, and in the case of any distribution in kind of a security not denominated in United States dollars, the amount of such distribution shall be calculated using the exchange in the relevant currency on the date of the distribution.

### 3.5. Amounts and Priority of Distributions.

(a) *Distributions of Investment Proceeds from Investments.* Each distribution of Investment Proceeds from an Investment shall initially be made to the Partners (including, for the avoidance of doubt, the General Partner) in proportion to each of their respective Percentage Interests with respect to such Investment. Notwithstanding the previous sentence, the share of each Limited Partner (other than Affiliates of the General Partner) of each distribution of Investment Proceeds from an Investment shall be divided between such Limited Partner on the one hand and the General Partner on the other hand as follows:

(i) *Return of Capital and Costs:* First, 100% to such Limited Partner until such Limited Partner has received cumulative distributions of Investment Proceeds equal to:

(A) such Limited Partner's Capital Contributions for all such investment and all Realized Investments (but not Additional Amounts thereon) and such Limited Partner's pro rata share of any Aggregate Net Losses from Writedowns ("Realized Capital"); and

(B) the product of (I) the sum of such Limited Partner's Capital Contributions for the Management Fee, Organizational Expenses and other Partnership Expenses (but not Additional Amounts thereon) as of such date and (II) a fraction the numerator of which is the sum of such Limited Partner's Capital Contributions for all Realized Investments as of such date and the denominator of which is such Limited Partner's Capital Contributions for all Investments as of such date (such amounts, together with such Limited Partner's Realized Capital, "Realized Capital and Costs");

(ii) *Catch-up to 20% Overall Carried Interest*: Second, 100% to the General Partner to the extent, if any, necessary so that the cumulative distributions of Carried Interest to the General Partner from such Investment and all Realized Investments with respect to such Limited Partner, equal 20% of the sum of:

(X) the excess of (I) the cumulative distributions to such Limited Partner of Investment Proceeds from such Investment and all Realized Investments over (II) the amount described in Sections 3.5(a)(i) and 3.5(a)(iii) above, plus

(Y) the cumulative distributions of Carried Interest to the General Partner from such Investment and all Realized Investments with respect to such Limited Partner;

provided that if the cumulative distributions of Carried Interest to the General Partner from such Investment and all Realized Investments with respect to such Limited Partner already exceeds 20% of the foregoing sum, then the distribution shall instead be made 100% to such Limited Partner until the cumulative distributions of Carried Interest to the General Partner from such Investment and all Realized Investments with respect to such Limited Partner equal 20% of the foregoing sum; and

(iii) *80/20 Split*: Thereafter, (A) 80% to such Limited Partner and (B) 20% to the General Partner.

(b) *Distributions of Temporary Investment Income*: Each distribution of Temporary Investment Income shall be divided among all Partners pro rata in proportion to their respective proportionate interests in the Partnership property or funds that produced such Temporary Investment Income, as reasonably determined by the General Partner.

(c) *Writedowns*. A Limited Partner's pro rata share of "Aggregate Net Losses from Writedowns" as of any date means, in respect of all Unrealized Investments in which such Limited Partner has a Percentage Interest, the aggregate excess, if any, of (i) the amount resulting from the product of (A) such Limited Partner's Percentage Interest in each such Investment, multiplied by (B) the total Capital Contributions of all Partners for such Investment over (ii) the amount resulting from the product of (A) such Limited Partner's Percentage Interest in each such Investment, multiplied by (B) the Fair Market Value of such Investment as of such date.

(d) The General Partner may elect not to receive all or any portion of any Carried Interest distribution that otherwise would be made to it. Any such distribution shall be, in the General Partner's sole discretion, either retained by the Partnership on the General Partner's behalf or distributed to the other Limited Partners. To the extent that the General Partner elects not to receive any Carried Interest distribution, subsequent distributions shall be made to the General Partner until it has received the amount of Carried Interest distributions it would have received without such election; provided that no interest shall accrue on or be paid to the General Partner with respect to any such deferred Carried Interest distributions.

## ARTICLE IV

### The General Partner

#### 4.1. Investment Guidelines.

(a) The Partnership and any alternative investment vehicle formed pursuant to Section 2.9 shall make investments in accordance with the Investment Guidelines set forth in this Section 4.1 (the Securities in which the Partnership or any such alternative investment vehicle has actually invested or the securities issued as a dividend thereon, in a reclassification with respect thereto or in an exchange therefor, are referred to herein as “Investments”, and the issuers thereof are referred to herein as “Portfolio Companies”). In addition, at such time as any funds of the Partnership are not invested in Investments, distributed to the Partners or applied towards the expenses of the Partnership, the Partnership shall maintain such funds either in Temporary Investments or in cash.

(i) The investment objective of the Partnership is to generate superior long-term capital appreciation principally through privately negotiated equity and equity-related investments which represent, directly or indirectly (including through Portfolio Companies), interests in real property located throughout target jurisdictions in the world including the states and territories of the United States. The Partnership may invest in Securities of any kind and in Temporary Investments.

(ii) The Partnership will not, without the consent of a Majority in Interest of the Limited Partners or the Advisory Committee invest more than 20% of its aggregate Capital Commitments in Investments issued by a single Portfolio Company and its Affiliates or representing an interest or interests in a single real property asset.

(b) The Partnership may invest in or enter into options or short sales and other derivative contracts or instruments if such sales, contracts or instruments are bona fide hedging transactions in connection with the acquisition, holding or disposition of Investments. Any amounts paid by the Partnership for or resulting from any such sales, contracts or instruments shall be treated as a Partnership Expense relating to the Investment(s) hedged thereby and as part of the Capital Contributions relating to such Investment(s) for purposes of the distribution priorities set forth in Section 3.5, and, if two or more Investments are hedged thereby, such amounts shall be allocated among such Investments as reasonably determined by the General Partner. Any distributions resulting from any such sales, contracts or instruments shall be treated as Investment Proceeds from the Investment(s) hedged thereby, and, if two or more Investments are hedged thereby, such distributions shall be allocated among such Investments as reasonably determined by the General Partner.

(c) The Investment Guidelines shall be subject to the good faith interpretation of the General Partner.

#### 4.2. Powers of the General Partner.

(a) The management, operation and policy of the Partnership shall be vested exclusively in the General Partner, which shall have the power by itself, and shall be authorized

and empowered on behalf and in the name of the Partnership, to carry out any and all of the objects and purposes of the Partnership and to perform all acts and enter into and perform all contracts and other undertakings that it may in its sole discretion deem necessary or advisable or incidental thereto, all in accordance with and subject to the other terms of this Agreement.

(b) Without limiting the foregoing general powers and duties, the General Partner is hereby authorized and empowered on behalf and in the name of the Partnership, or on its own behalf and in its own name, or through agents, including the Investment Manager and the Investment Advisor, subject to the limitations contained elsewhere in this Agreement, to:

(i) make all decisions concerning the investigation, selection, negotiation, structuring, commitment to, monitoring of and disposition of Investments; with the exception that upon identifying an investment, the General Partner shall advise the Limited Partner of such interest in an investment. A management board comprised of two members of the General Partner and two members of the Limited Partner shall make final investment decisions subject to a majority vote by the management board.

(ii) direct the formulation of investment policies and strategies for the Partnership, and select and approve the investment of Partnership funds, all in accordance with the Investment Guidelines and the other limitations of this Agreement;

(iii) acquire, hold, sell, transfer, exchange, pledge and dispose of Investments, and exercise all rights, powers, privileges and other incidents of ownership or possession with respect to Investments, including the exercise of any voting rights with respect to an Investment, the approval of a restructuring of an Investment, participation in arrangements with creditors, the institution and settlement or compromise of suits and administrative proceedings and other similar matters;

(iv) open, maintain and close bank accounts and draw checks or other orders for the payment of money and open, maintain and close brokerage, money market fund and similar accounts;

(v) hire for usual and customary payments and expenses consultants, strategic or operating advisers, brokers, appraisers, attorneys, accountants and such other agents for the Partnership as it may deem necessary or advisable, and authorize any such agent to act for and on behalf of the Partnership;

(vi) enter into, execute, maintain and/or terminate contracts, undertakings, agreements, deeds and any and all other documents and instruments in the name of the Partnership, and do or perform all such things as may be necessary or advisable in furtherance of the Partnership's powers, objects or purposes or to the conduct of the Partnership's activities, including entering into acquisition agreements to make or dispose of Investments which may include such representations, warranties, covenants, indemnities and guaranties as the General Partner deems necessary or advisable;

(vii) act as the "tax matters partner" under the Code and in any similar capacity under state, local or non-United States law;

(viii) hold or authorize a nominee to hold legal title to all real and personal property of the Partnership in its name for the benefit of the Partnership;

(ix) make, in its sole discretion, any and all elections for United States federal, state, local and non-United States tax matters, including any election to adjust the basis of Partnership property pursuant to Sections 734(b), 743(b) and 754 of the Code or comparable provisions of United States federal, state, local or non-United States law; and

(x) deliver or cause to be delivered details in the prescribed form of any change in the Partnership which the General Partner is obliged to deliver pursuant to the provisions of the Act within the relevant time limit.

(c) *Borrowing and Guarantees.* The General Partner shall have the right, at its option, to cause the Partnership to guarantee loans or other extensions of credit made to any current or prospective Portfolio Company (or to any subsidiary thereof) or any vehicle formed to effect the acquisition thereof or of any real property or other asset acquired by the Partnership; and may incur indebtedness for the purpose of (i) covering Partnership Expenses; (ii) providing interim financing to the extent necessary to consummate the purchase of Investments prior to the receipt of Capital Contributions; and (iii) providing funds for the payment of amounts to withdrawing Partners; provided that any such borrowings from the General Partner or its Affiliates shall be on terms at least as favorable to the Partnership as those available from unaffiliated third parties.

#### 4.3. Limitation on Liability.

(a) The General Partner shall be subject to all of the liabilities of a general partner in a partnership without limited partners; provided that to the fullest extent permitted by law, none of the General Partner, the Investment Manager, the Investment Advisor, and their respective Affiliates, nor their respective members, officers, directors, employees, stockholders, shareholders, partners and any other person who serves at the request of the General Partner on behalf of the Partnership as an officer, director, partner, member or employee of any other entity (each, an “Indemnified Party”), shall be liable to the Partnership or to any Limited Partner for (i) any act performed or omission made by such Indemnified Party in good faith in connection with the conduct of the affairs of the Partnership or otherwise in connection with this Agreement or the matters contemplated herein, unless such act or omission resulted from fraud, intentional misconduct, gross negligence, a material violation of (to the extent applicable) United States federal securities laws, or willful material breach of this Agreement by such Indemnified Party or (ii) any mistake, negligence, dishonesty or bad faith of any broker or other agent of the Partnership, unless such Indemnified Party was responsible for the selection or monitoring of such broker or agent and acted in such capacity with gross negligence.

(b) To the extent that, at law or in equity or otherwise, the General Partner has duties (including fiduciary duties) and liabilities relating thereto to the Partnership or to another Partner, the General Partner acting under this Agreement shall not be liable to the Partnership or to any such other Partner for its good faith reliance on the provisions of this Agreement. The provisions of this Agreement, to the extent that they expand or restrict the duties and liabilities of

the General Partner otherwise existing at law or in equity or otherwise, are agreed by the Partners to modify to that extent such other duties and liabilities of the General Partner.

(c) The General Partner may consult with legal counsel and accountants selected by it and any act or omission suffered or taken by it on behalf of the Partnership or in furtherance of the interests of the Partnership in good faith in reliance upon and in accordance with the advice of such counsel or accountants shall be full justification for any such act or omission, and the General Partner shall be fully protected in so acting or omitting to act, provided that such counsel or accountants were selected with reasonable care and the General Partner believes in good faith that the matters with respect to which such counsel or accountants are providing advice are within the professional competence of such counsel and accountants.

#### 4.4. Indemnification.

(a) To the fullest extent permitted by law, the Partnership shall indemnify and hold harmless each of the Indemnified Parties from and against any and all claims, liabilities, damages, losses, costs and expenses (including amounts paid in satisfaction of judgments, in compromises and settlements, as fines and penalties and legal or other costs and reasonable expenses of investigating or defending against any claim or alleged claim) of any nature whatsoever, known or unknown, liquidated or unliquidated, that are incurred by any Indemnified Party and arise out of or in connection with the affairs of the Partnership or any alternative investment vehicle through which Investments are made, including acting as a director or the equivalent of any entity in which an Investment is made, or the performance by such Indemnified Party of any of the General Partner's responsibilities hereunder or otherwise in connection with the matters contemplated herein; provided that:

(i) an Indemnified Party shall be entitled to indemnification hereunder only to the extent that (A) such Indemnified Party acted in good faith and (B) such Indemnified Party's conduct did not constitute fraud, intentional misconduct, gross negligence, a material violation of (to the extent applicable) United States federal securities laws, or a willful material breach of this Agreement; and

(ii) the Partnership's obligations hereunder shall not apply with respect to (A) economic losses incurred by the General Partner or any of its direct or indirect beneficial owners as a result of its owning an interest in the Partnership or in Investments, or (B) General Partner Expenses.

The satisfaction of any indemnification and any holding harmless pursuant to this Section 4.4(a) shall be from and limited to Partnership assets, and no Partner shall have any personal liability on account thereof; provided that each Limited Partner will be obligated to return any amounts distributed to it in order to fund any deficiency in the Partnership's indemnity obligations hereunder to the extent provided in Section 5.2(b). In determining whether an Indemnified Party acted in good faith, the Indemnified Party shall be entitled to rely on reports and written statements of the directors, officers, employees, agents, stockholders, members and partners of a Person in which the Partnership holds an Investment unless the Indemnified Party knows that such reports or written statements were not true and complete in a respect that is material to the matter in question.



(b) Expenses reasonably incurred by an Indemnified Party in defense or settlement of any claim that may be subject to a right of indemnification hereunder shall be advanced by the Partnership prior to the final disposition thereof upon receipt of an undertaking by or on behalf of the Indemnified Party to repay such amount to the extent that it shall be determined ultimately that such Indemnified Party is not entitled to be indemnified hereunder. No advances shall be made by the Partnership under this Section 4.4(b) without the prior written approval of the General Partner and, notwithstanding such approval, in respect of any action, suit or proceeding commenced by a Majority in Interest of the Limited Partners against any Indemnified Party.

(c) The right of any Indemnified Party to the indemnification provided herein shall be cumulative of, and in addition to, any and all rights to which such Indemnified Party may otherwise be entitled by contract or as a matter of law or equity or otherwise and shall extend to such Indemnified Party's successors, assigns and legal representatives.

(d) Any Person entitled to indemnification from the Partnership hereunder shall first seek recovery under any other indemnity or any insurance policies in respect of Portfolio Companies by which such Person is indemnified or covered, as the case may be, but only to the extent that the indemnitor with respect to such indemnity or the insurer with respect to such insurance policy provides (or acknowledges its obligation to provide) such indemnity or coverage on a timely basis, as the case may be, and, if such Person is other than the General Partner, such Person shall obtain the written consent of the General Partner prior to entering into any compromise or settlement which would result in an obligation of the Partnership to indemnify such Person; and if liabilities arise out of the conduct of the affairs of the Partnership and any other Person (including any Parallel Vehicle) for which the Person entitled to indemnification from the Partnership hereunder was then acting in a similar capacity, the amount of the indemnification provided by the Partnership shall be limited to the Partnership's proportionate share thereof as determined in good faith by the General Partner in light of its fiduciary duties to the Partnership and the Limited Partners. Any Person receiving indemnification payments under this Agreement shall reimburse the Partnership for such indemnification payments to the extent that such Person also receives payments under an insurance policy in respect of such matter.

(e) The General Partner may cause the Partnership to purchase, at the Partnership's expense, insurance to insure the General Partner or any other Indemnified Party against liability for any breach or alleged breach of their responsibilities under this Agreement or otherwise in connection with the Partnership or the General Partner.

#### 4.5. General Partner as Limited Partner.

(a) The General Partner shall also be a Limited Partner to the extent that it purchases or becomes a transferee of all or any part of the Interest of a Limited Partner, and to such extent shall be treated as a Limited Partner in all respects.

(b) Any Interest of a Limited Partner which is held by the General Partner or any of its Affiliates shall be voted and/or abstained on any matter in the same manner and

proportions as the aggregate Interests of the other Limited Partners are voted and/or abstained on such matter.

#### 4.6. Other Activities.

(a) *Restriction on Successor Fund.* Without the consent of at least a 66 $\frac{2}{3}$ % in Interest of the Limited Partners, neither the General Partner nor any of its Affiliates shall, directly or indirectly, hold a closing on another pooled investment fund (a “Successor Fund”) for which any of them acts as the manager or primary source of transactions and which has as its primary investment objective making privately negotiated equity and equity-related investments in companies based in, or having or pursuing operations in, the Target Region (other than any Parallel Vehicle) until the earlier of (i) the expiration or termination of the Commitment Period and (ii) such time as at least 25% of the Capital Commitments of the Non-Defaulting Partners have been invested in, or called for contribution for investment in, or committed to or reserved for, Investments. If a Successor Fund is organized after at least 25% of the Capital Commitments of the Non-Defaulting Partners are invested in, or called for contribution for investment in, or committed to or reserved for, Investments, then until the expiration or termination of the Commitment Period, a Successor Fund may only co-invest alongside the Partnership (and any Parallel Vehicle) on the same terms and conditions in all material respects, with amounts for investment allocated between the Partnership (and any Parallel Vehicle) and the Successor Fund on a basis that the General Partner believes in good faith to be fair and reasonable, unless the investment by the Partnership is legally or contractually prohibited or, as a result of the application of any law, regulation or governmental order could have a material adverse effect on the Partnership or the General Partner or any of its Affiliates.

(b) *Restrictions on Transactions with Affiliates.* Apart from transactions the terms of which are expressly contemplated or approved by this Agreement, the General Partner and its Affiliates shall not engage in any transaction (including any contract for services) with the Partnership or any Portfolio Company unless the terms of the transaction are on an arm’s-length basis and on terms which are no less favorable to the Partnership or such Portfolio Company than would be obtained in a transaction with an unaffiliated party; provided that the terms of any transaction approved by the Advisory Committee shall be deemed to be on an arm’s-length basis.

(c) Except as provided in Sections 4.6(a) and (b) above, this Agreement shall not be construed in any manner to preclude the General Partner, or any of their respective Affiliates, or any of their respective officers, directors, employees, partners or members, from engaging in any activity whatsoever permitted by applicable law, and the General Partner shall have no obligation to account to the Partnership for any profits derived from such activity.

#### 4.7. Valuation.

(a) All determinations of Fair Market Value to be made hereunder shall be made pursuant to the terms of this Section 4.7. For all purposes of this Agreement, all determinations of Fair Market Value which have been made in accordance with the terms of this Section 4.7 shall be final and conclusive on the Partnership and all Partners, their successors and assigns.

(b) (i) The Fair Market Value of securities which are Marketable Securities shall equal (A) in the case of securities which are primarily traded on a securities exchange, the average of their last sale prices on such securities exchange on each trading day during the ten trading-day period immediately prior to the date of determination, or if no sales occurred on any such day, the mean between the closing “bid” and “asked” prices on such day, and (B) if the principal market for such securities is, or is deemed to be, in the over-the-counter market, the average of the closing sale prices on each trading day during the ten trading day-period immediately prior to the date of the determination, as published by the National Association of Securities Dealers Automated Quotation System or similar organization, or if such price is not so published on any such day, the mean between the closing “bid” and “asked” prices, if available, on such day, which prices may be obtained from any reputable pricing service, broker or dealer.

(ii) For purposes of valuing in kind distributions, the date of determination shall mean (A) in the case of Marketable Securities, the date on which Limited Partners are notified that such distribution is to be made pursuant to Section 3.4(b)(i), and (B) in the case of non-Marketable Securities, the most recent date as of which a valuation has been determined pursuant to Section 4.7(c).

(c) The Fair Market Value of any Investments or of property received in exchange for any Investments which are not Marketable Securities shall be calculated not less frequently than annually and shall be determined by the General Partner.

## ARTICLE V

### The Limited Partners

#### 5.1. Management.

(a) Except as expressly provided in this Agreement, no Limited Partner shall have the right or power to participate in the management or affairs of the Partnership, nor shall any Limited Partner have the power to sign for or bind the Partnership or deal with third parties on behalf of the Partnership without the express written consent of the General Partner. Subject to the provisions of the Act, the exercise by any Limited Partner of any right conferred herein shall not be construed to constitute participation by such Limited Partner in the control of the business of the Partnership so as to make such Limited Partner liable as a general partner for the debts and obligations of the Partnership for purposes of the Act.

(b) Any Limited Partner may, upon notice to the General Partner, elect to hold all or any fraction of such Limited Partner’s Interest as a non-voting Interest, in which case such Limited Partner shall not be entitled to participate in any consent of the Limited Partners with respect to the portion of its Interest which is held as a non-voting Interest (and such non-voting Interest shall not be counted in determining the giving or withholding of any such consent). Except as provided in this Section 5.1, an Interest held as a non-voting Interest shall be identical in all regards to all other Interests held by Limited Partners. Any such election shall be irrevocable and shall bind the assignees of such Limited Partner’s Interest.

(c) Any Interest held for its own account by a Limited Partner that is a bank holding company, as defined in Section 2(a) of the BHC Act, or a non-bank subsidiary of such bank holding company, or a foreign bank subject to the BHC Act pursuant to the International Banking Act of 1978, as amended, or a subsidiary of any such foreign bank subject to the BHC Act (each, a “BHC Partner”), together with the Interests of all Affiliates who are Limited Partners that is determined initially at the time of admission of that Limited Partner, the withdrawal of another Limited Partner or any other event resulting in an adjustment in the relative Interests of the Limited Partners hereunder to be in the aggregate in excess of 4.99% (or such greater percentage as may be permitted under Section 4(c)(6) of the BHC Act) of the Interests of the Limited Partners, excluding for purposes of calculating this percentage portions of any other interests that are non-voting Interests pursuant to this Section 5.1 or any other section of the Agreement (collectively the “Non-Voting Interests”), shall be a non-voting Interest (whether or not subsequently transferred in whole or in part to any other person) and shall not be included in determining whether the requisite percentage in Interest of the Limited Partners have consented to, approved, adopted or taken any action hereunder, provided that such Non-Voting Interest shall be permitted to vote on any proposal to continue the business of the Partnership following a Disabling Event under Section 9.1(b) but not on the approval of a successor general partner under Section 8.1(b) or Section 9.1(b). Upon any Subsequent Closing, any withdrawal of a Limited Partner or any other event resulting in an adjustment in the relative Interests of the Limited Partners hereunder, a recalculation of the Interests held by all BHC Partners shall be made, and only that portion of the total Interest held by each BHC Partner and its Affiliates that is determined as of the applicable Subsequent Closing Date or the date of such withdrawal or other event, as applicable, to be in the aggregate in excess of 4.99% (or such greater percentage as may be permitted under Section 4(c)(6) of the BHC Act) of the Interests of the Limited Partners, excluding Non-Voting Interests as of such date, shall be a Non-Voting Interest. Notwithstanding the foregoing, at the time of admission to the Partnership, any BHC Partner may elect not to be governed by this Section 5.1(c) by providing written notice to the General Partner stating that such BHC Partner is not prohibited from acquiring or controlling more than 4.99% (or such greater percentage as may be permitted under Section 4(c)(6) of the BHC Act) of the voting Interests held by the Limited Partners pursuant to such BHC Partner’s reliance on Section 4(k) of the BHC Act. Any such election by a BHC Partner may be rescinded at any time by written notice to the General Partner, provided that any such rescission shall be irrevocable.

## 5.2. Liabilities of the Limited Partners.

(a) Except as provided by the Act or other applicable law and subject to the obligations to make Capital Contributions pursuant to Article III, to indemnify the Partnership and the General Partner as provided in Section 6 of Appendix A, to return distributions as provided in Section 5.2(b), and as otherwise expressly herein or required by applicable law, no Limited Partner shall have any personal liability whatsoever in its capacity as a Limited Partner, whether to the Partnership, to any of the Partners, or to the creditors of the Partnership, for the debts, liabilities, contracts, or other obligations of the Partnership or for any losses of the Partnership.

(b) *LP Clawback.* Except as required by the Act or other applicable law, no Limited Partner shall be required to repay to the Partnership, any Partner or any creditor of the Partnership all or any part of the distributions made to such Limited Partner pursuant to Article

III hereof; provided that, to the maximum extent permitted by law and subject to the limitations set forth in Section 5.2(c) below, each Partner (including any former Partner) may be required to return distributions made to such Partner or former Partner for the purpose of meeting such Partner's share of the Partnership's indemnity obligations under Sections 4.4 and 5.4(g), in an amount up to, but in no event in excess of, the aggregate amount of distributions actually received by such Partner from the Partnership. However, if, notwithstanding the terms of this Agreement, it is determined under applicable law that any Partner has received a distribution which is required to be returned to or for the account of the Partnership, any other Partner or creditors of the Partnership, then the obligation under applicable law of any Partner to return all or any part of a distribution made to such Partner shall be the obligation of such Partner and not of any other Partner. Any amount returned by a Partner pursuant to this Section 5.2 shall be treated as a contribution of capital to the Partnership. A Partner's share of the total give-back obligation under this Section 5.2(b) will be based on the amount of distributions received by such Partner arising out of the Investment giving rise to the Partnership's indemnity obligations under Sections 4.4 and 5.4(g); provided that, notwithstanding any other provision of this Agreement to the contrary, to the extent such indemnity obligations are not related to a particular Investment, or exceed the amount of distributions received by such Partner arising out of an Investment, then amounts required to be returned under this Section 5.2(b) will be funded out of distributions generally.

(c) *Restrictions on LP Clawback.* The obligation of a Limited Partner to return distributions made to such Limited Partner for the purpose of meeting the Partnership's indemnity obligations under Sections 4.4 and 5.4(g) shall be subject to the following limitations:

(i) no Limited Partner shall be required to return any distribution after the third anniversary of the date of such distribution; provided that if at the end of such period, there are any Proceedings then pending or any other liability (whether contingent or otherwise) or claim then outstanding, the General Partner shall so notify the Limited Partners at such time (which notice shall include a brief description of each such Proceeding (and of the liabilities asserted in such Proceeding) or of such liabilities and claims) and the obligation of the Limited Partners to return any distribution for the purpose of meeting the Partnership's indemnity obligations under Sections 4.4 and 5.4(g) shall survive with respect to each such Proceeding, liability and claim set forth in such notice (or any related Proceeding, liability or claim based upon the same or a similar claim) until the date that such Proceeding, liability or claim is ultimately resolved and satisfied; and provided, further, that the provisions of this clause (i) shall not affect the obligations of the Limited Partners under Section 14 of the Act or other applicable law;

(ii) if any Limited Partner is required to return a distribution after the date of payment of any Clawback Amount, such Limited Partner may set off against the amount required to be returned under this Section 5.2, an amount equal to the additional amount, if any, by which the Clawback Amount would have been increased if such distribution had been returned immediately prior to such date, and the General Partner shall provide such information as such Limited Partner may reasonably require in order to determine the amount of such set-off (and for purposes of subsequent calculations of the Carried Interest and the Clawback Amount, the General Partner shall be treated as not having received Carried Interest in the amount of such setoff); and

(iii) the aggregate amount of distributions which a Limited Partner may be required to return hereunder shall not exceed an amount equal to 50% of such Limited Partner's Capital Commitment.

5.3. Limited Partners' Outside Activities.

(a) *General.* Subject to Section 4.6 with respect to Limited Partners that are affiliated with the General Partner, a Limited Partner shall be entitled to and may have business interests and engage in activities in addition to those relating to the Partnership, including business interests and activities in direct competition with the Partnership and the entities in which the Partnership invests and may engage in transactions with, and provide services to, the Partnership or any such entity. Neither the Partnership, any other Partner nor any other Person shall have any rights by virtue of this Agreement in any business ventures of any Limited Partner, and a Limited Partner shall have no obligation to account to the Partnership or any other Partner for any profits earned by such Limited Partner in any such business venture.

(b) *Co-Investment.* The General Partner may in its sole and absolute discretion give certain Persons, including the General Partner and its Affiliates and their employees and its Affiliates, the Limited Partners and third parties, an opportunity to co-invest in particular Investments alongside the Partnership and any Parallel Vehicle; provided that such co-investment shall be made on the same economic terms and conditions as those on which the Partnership invests; and provided, further, that the General Partner and its Affiliates and its Affiliates shall have a priority right to co-invest with the Partnership before any such co-investments may be offered to Limited Partners.

## ARTICLE VI

### Expenses and Fees

6.1. General Partner Expenses. The Partnership shall not have any salaried personnel. The General Partner and its Affiliates, but not the Partnership or any Limited Partner, shall bear and be charged with the following costs and expenses of the Partnership's activities: (a) any costs and expenses of providing to the Partnership the office space, facilities, supplies, and necessary ongoing overhead support services for the Partnership's operations and (b) the compensation of the personnel of the General Partner and its Affiliates. (The expenses that the General Partner is obligated to pay under this Section 6.1 shall be collectively referred to as the "General Partner Expenses").

6.2. Management Fee.

(a) The Management Fee shall be paid in advance to the Investment Manager in the manner and on the dates set forth in Section 3.1(a). Prior to the expiration or termination of the Commitment Period, the Management Fee shall be equal to 1.5% per annum of the aggregate amount of Capital Commitments of the Limited Partners (other than Affiliates of the General Partner) as of the first day of the period in respect of which the Management Fee is then being paid. Thereafter, the Management Fee shall be equal to 1.5% per annum of the aggregate amount of Capital Contributions by the Limited Partners (other than Affiliates of the General

Partner) in respect of Investments which have not been the subject of a Disposition (such aggregate amount in either the preceding sentence or this sentence, the “Capital Under Management”).

(b) The Management Fee for any period in which the Management Fee is payable shall be pro-rated for the number of days in such period, and in the case of the last Management Fee period of the Partnership, the General Partner shall refund to each Limited Partner which paid a Management Fee in such period its Pro Rata Share of the amount of the Management Fee paid to the General Partner allocable to that portion of such period which is subsequent to the date of the Final Distribution.

(c) The Management Fee shall accrue and become payable to the Investment Manager as of the Closing Date based on total Capital Commitments as of the Final Closing Date, regardless of when a Limited Partner is actually admitted to the Partnership.

(d) The Management Fee may be paid from Capital Contributions as provided for in Section 3.1(a) or out of Investment Proceeds and Temporary Investment Proceeds. The General Partner also may cause the Partnership to borrow funds to pay the Management Fee pursuant to Section 4.2(c).

(e) The Partnership and the Limited Partners recognize that the General Partner and its Affiliates may receive Other Fees and agree that the Management Fee payable hereunder shall not be affected thereby.

### 6.3. Partnership Expenses.

(a) Except as otherwise provided in this Agreement, the Partnership shall bear and be charged with the costs and expenses of the Partnership’s operation (and shall promptly reimburse the General Partner, or their Affiliates, as the case may be, to the extent that any of such costs and expenses are paid by such entities) (the “Partnership Expenses”), including:

(i) fees, costs and expenses of any administrators, custodians, attorneys and accountants (including audit and certification fees and the costs of printing and distributing reports to Partners),

(ii) all out-of-pocket fees, costs and expenses, if any, directly incurred in developing, negotiating, structuring, holding and disposing of actual Investments, including any financing, legal, accounting, advisory and consulting expenses in connection therewith (to the extent not subject to any reimbursement of such costs and expenses by entities in which the Partnership invests or other third parties),

(iii) Broken Deal Expenses, to the extent not reimbursed by an entity in which the Partnership has invested or proposes to invest or other third parties,

(iv) brokerage commissions, custodial expenses and other investment costs actually incurred in connection with actual Investments,

(v) interest on and fees and expenses arising out of all borrowings made by the Partnership, including, but not limited to, the arranging thereof,

(vi) the costs of any litigation, directors and officers liability or other insurance and indemnification or extraordinary expense or liability relating to the affairs of the Partnership,

(vii) expenses of liquidating the Partnership,

(viii) any taxes (other than taxes described in Sections 3.4(g) and 10.6(a)), fees or other governmental charges levied against the Partnership and all expenses incurred in connection with any tax audit, investigation, settlement or review of the Partnership, and

(ix) the out-of-pocket expenses of the Advisory Committee.

(b) Partnership Expenses may be allocated against items of Investment Proceeds and Temporary Investment Income in a manner reasonably determined by the General Partner. Partners may be required to make Capital Contributions to the extent of their Unpaid Capital Commitments for the payment of such Partnership Expenses to the extent the Partnership does not have sufficient funds to pay such expenses. The General Partner also may cause the Partnership to borrow funds to pay Partnership Expenses pursuant to Section 4.2(c).

(c) The General Partner may withhold on a pro rata basis from any distributions amounts necessary to (i) create, in its sole discretion, appropriate reserves for expenses (including the Management Fee) and liabilities, contingent or otherwise, of the Partnership as well as for any required tax withholdings or (ii) make an Investment with respect to which the General Partner has issued a Payment Notice that provides for a Payment Date that is within 60 days from the date the General Partner would otherwise have been required to distribute such amounts to the Limited Partners pursuant to Section 3.4(c). Any amount retained pursuant to clauses (i) and (ii) of the preceding sentence shall be treated as though such amount had been distributed to the Limited Partners otherwise entitled thereto pursuant to Sections 3.4 and 3.5 on the date such Limited Partners would have been required to fund the amount specified in the Payment Notice and immediately recontributed thereby as Capital Contributions as of such date for all purposes hereof. Notwithstanding any provision to the contrary contained in this Agreement, the General Partner, shall not be required to make a distribution to a Partner on account of its interest in the Partnership if such distribution would violate the Act or any other applicable law.

## ARTICLE VII

### Books and Records and Reports to Partners

7.1. Books and Records. The General Partner shall keep or cause to be kept complete and appropriate records and books of account. Except as otherwise expressly provided herein, such books and records shall be maintained on a basis which allows the proper preparation of the Partnership's financial statements and tax returns. The books and records



shall be maintained at the principal office of the General Partner and shall be retained by the General Partner for a period of seven years after the termination and dissolution of the Partnership. Any Limited Partner or its duly authorized representatives shall be permitted to inspect the books and records of the Partnership for any proper purpose and make copies thereof consistent with reasonable confidentiality restrictions established by the General Partner at any reasonable time during normal business hours.

7.2. Income Tax Information. Within 120 days (subject to reasonable delays in the event of the late receipt of any necessary financial or tax statements from any Person in which the Partnership holds Investments) after the end of each Fiscal Year, the General Partner shall prepare and send, or cause to be prepared and sent, to each Person who was a Partner at any time during such Fiscal Year copies of such information as may be required for applicable income tax reporting purposes arising solely by reason of the Partnership's activities, and such other information as a Partner may reasonably request for the purpose of applying for refunds of withholding taxes or for other tax reporting purposes.

7.3. Reports to Partners.

(a) (i) Within 60 days (subject to reasonable delays in the event of the late receipt of any necessary financial or tax statements from any Person in which the Partnership holds Investments) after the end of each of the first three Fiscal Quarters of each Fiscal Year of the Partnership, the General Partner shall send to each Person who was a Partner during such period:

(A) the following financial statements for the Partnership:

(I) a balance sheet as of the end of such period,

(II) a statement of income or loss and a statement of Partners' capital for such period,

(B) a schedule of changes in Capital Account balances by Partner; and

(C) a schedule and summary description of each Investment owned by the Partnership as of the end of such Fiscal Quarter.

(ii) Within 120 days (subject to reasonable delays in the event of the late receipt of any necessary financial statements from any Person in which the Partnership holds Investments) after the end of each Fiscal Year of the Partnership, the General Partner shall send to each Person who was a Partner during such period:

(A) the financial statements set forth in Section 7.3(a)(i)(A) above, including a statement of cash flows, each prepared on an accrual basis and in accordance with GAAP, provided that Investments may be held on the Partnership's books at cost; and in the case of an annual report with respect to any Fiscal Year, an opinion of an internationally recognized accounting firm based upon their audit of such financial statements and a summary of the value of each

Investment held by the Partnership as of the end of such Fiscal Year, as valued in accordance with Section 4.7; and

(B) the schedules set forth in Sections 7.3(a)(i)(B) and (C) above.

(b) With reasonable promptness, the General Partner will deliver such other information available to the General Partner, including financial statements and reasonable computations, as any Limited Partner may from time to time reasonably request in order to comply with regulatory requirements, including tax and other reporting requirements, to which such Limited Partner is subject.

#### 7.4. Partnership Meetings.

(a) The General Partner shall hold an annual meeting of Partners beginning in the year 2010.

(b) The General Partner may call a special meeting of the Partnership by giving at least 14 days notice of the time and place of such meeting to each Limited Partner, which notice shall set out the agenda for such meeting. The General Partner shall promptly call a special meeting of the Partnership if a Majority in Interest of the Limited Partners request that a special meeting of the Partnership be so called. The General Partner shall give at least 21 days notice of the time and place of such meeting to each Limited Partner, which notice shall set out the agenda for such meeting.

(c) Any action required to be, or which may be, taken at any special meeting by the Partners may be taken in writing without a meeting if consents thereto are given by the General Partner and Limited Partners holding Interests in an amount not less than the amount that would be necessary to take such action at a meeting; provided that Limited Partners shall be given written notice of any such action taken pursuant to this Section 7.4(c).

(d) A Limited Partner may vote at any meeting either in person or by a proxy which such Limited Partner has duly executed in writing. The General Partner may permit Persons other than Partners to participate in a meeting; provided that no such Person shall be entitled to vote.

(e) The chairman of any meeting shall be a Person affiliated with and designated by the General Partner. A Person designated by the General Partner shall keep written minutes of all of the proceedings and votes of any such meeting. To the extent that the rules and procedures for the conduct of a meeting of the Limited Partners are not prescribed by this Agreement, such rules and procedures shall be determined by the chairman of the meeting.

(f) The General Partner may set in advance a record date for determining the Limited Partners entitled to notice of and to vote at any meeting or entitled to express consent to any action in writing without a meeting. No record date shall be less than 10 nor more than 60 days prior to the date of any meeting to which such record date relates nor more than 10 days after the date on which the General Partner sets the record date for any action by written consent.

(g) Any resolution, consent, approval or appointment made by the Limited Partners (or, as applicable, the Advisory Committee) in accordance with the provisions of this Agreement, shall be binding on all Limited Partners and their respective heirs, executors, administrators or other legal representatives, successors and assigns, whether or not, as applicable, such Limited Partner was present or represented by proxy at the meeting at which such resolution was passed and whether or not such Limited Partner voted against such resolution.

## ARTICLE VIII

### Transfers, Withdrawals and Default

#### 8.1. Transfer and Withdrawal of the General Partner.

(a) *Voluntary Transfer.* Without the consent of a Majority in Interest of the Limited Partners, the General Partner shall not have the right to assign, pledge or otherwise transfer its interest as the general partner of the Partnership to Persons other than its Affiliates, and the General Partner shall not have the right to withdraw from the Partnership; provided that without the consent of the Limited Partners the General Partner may, at the General Partner's expense, be reconstituted as or converted into a corporation, limited liability company or other form of entity (any such reconstituted or converted entity being deemed to be the General Partner for all purposes hereof) by merger, consolidation, conversion or otherwise, or transfer its Interest as the general partner of the Partnership to one of its Affiliates so long as (i) such reconstitution, conversion or transfer does not have material adverse tax or legal consequences for the Limited Partners and (ii) such other entity shall have assumed in writing the obligations of the General Partner under this Agreement, the Subscription Agreements and any other related agreements of the General Partner. In the event of an assignment or other transfer of all of its Interest as a general partner of the Partnership in accordance with this Section 8.1(a), its assignee or transferee shall be substituted in its place as general partner of the Partnership and immediately thereafter the General Partner shall withdraw as a general partner of the Partnership.

(b) *Disabling Event.* The General Partner shall cease to be the general partner of the Partnership upon the occurrence of a Disabling Event, and thereafter, except as required by applicable law, neither the General Partner nor its successors in interest shall have any of the powers, obligations or liabilities (save as regard any obligation or liability arising prior to or as a consequence of such Disabling Event) of a general partner of the Partnership under this Agreement or under applicable law. Subject to Section 9.1(b), upon the occurrence of any Disabling Event the Partnership shall be dissolved and wound up in accordance with the provisions of Section 9.2. If the General Partner shall cease to be the general partner of the Partnership upon the occurrence of a Disabling Event and all of the Limited Partners shall determine to continue the business of the Partnership pursuant to Section 9.1(b), notice of that determination shall be given to the General Partner by a party authorized by such Limited Partners to give such notice on behalf of such Limited Partners.

(c) A successor general partner selected pursuant to Section 9.1(b) shall be required to purchase for cash the General Partner's interest in the Partnership at a price equal to

the GP Interest Value, and upon liquidation pursuant to Section 9.1(b), the General Partner shall be entitled to receive an amount equal to the GP Interest Value.

(d) If a successor general partner selected pursuant to Section 9.1(b) is to purchase for cash the interest of the General Partner in the Partnership, within 30 days after the determination of the GP Interest Value, the General Partner shall sell, assign and transfer to the successor general partner all of the General Partner's right, title and interest in and to the Partnership and the Partnership's assets upon payment in cash of the GP Interest Value by such successor general partner.

## 8.2. Assignments/Substitutions by Limited Partners.

(a) A Limited Partner may not sell, assign, pledge, exchange or otherwise transfer its Interest in whole or in part to any Person (an "Assignee") without the prior written consent of the General Partner, which consent may be given or withheld in the sole and absolute discretion of the General Partner; provided that no such assignment or transfer shall be made unless:

(i) such assignment or transfer would not violate the Securities Act or any state securities or "Blue Sky" laws applicable to the Partnership or the Interest to be assigned or transferred;

(ii) such assignment or transfer would not cause the Partnership to lose its status as a partnership for United States federal income tax purposes or cause the Partnership to become subject to the 1940 Act;

(iii) such assignment or transfer would not cause the Partnership to be treated as a "publicly traded partnership" within the meaning of Section 7704 of the Code and the regulations promulgated thereunder;

(iv) such assignment or transfer would not cause a termination of the Partnership pursuant to Section 708 of the Code;

(v) such assignment or transfer would not cause all or any portion of the assets of the Partnership to constitute "plan assets" under ERISA or the Code or be subject to the provisions of ERISA or the Code; and

(vi) such assignment or transfer would not otherwise cause the Partnership or any Portfolio Company to violate any applicable law.

In its sole and absolute discretion, the General Partner may condition any such assignment or transfer upon receipt of an opinion of responsible counsel (who may be counsel for the Partnership or the General Partner), which opinion and counsel shall be reasonably satisfactory to the General Partner. Each assigning Limited Partner agrees that it will pay all reasonable out-of-pocket expenses, including attorneys' fees, incurred by the Partnership in connection with any actual or proposed assignment or transfer of an Interest by such Limited Partner, except to the extent that the Assignee thereof agrees to bear such expenses.

(b) No Assignee of an Interest in the Partnership of a Limited Partner may be admitted as a substitute Limited Partner in the Partnership without the consent of the General Partner, which consent may be given or withheld in its sole and absolute discretion. An assignee of an Interest that is not admitted as a substitute Limited Partner shall be entitled only to allocations and distributions with respect to that Interest and shall have no rights to vote such Interest or to any information or accounting of the affairs of the Partnership and shall not have any of the other rights of a Partner pursuant to this Agreement.

(c) Any attempted assignment or substitution not made in accordance with this Section 8.2 shall be null and void.

### 8.3. Defaulting Limited Partner.

(a) Subject in all events to the provisions of Section 3.2, any Limited Partner that fails to make, when due, any portion of the Capital Contribution required to be contributed by such Limited Partner pursuant to this Agreement or to make any other payment required to be made by it hereunder when required to be made may, in the discretion of the General Partner, be charged an Additional Amount on the unpaid balance of any such Capital Contributions or other payments at 8.0% per annum from the date such balance was due and payable through the date full payment for such balance is actually made, and to the extent any of the foregoing amounts is not otherwise paid such amount may be deducted from any distribution to such Limited Partner. Any such Additional Amount owed to the Partnership shall be allocated and distributed to the other Partners funding such Capital Contribution or other payment pro rata to their fundings thereof (and, if there are no fundings in respect of any such Capital Contribution or other payment, pro rata to their Capital Commitments).

(b) If any Limited Partner fails to make, when due, any portion of the Capital Contribution required to be contributed by such Limited Partner pursuant to this Agreement or to make any other payment required to be made by it hereunder when required to be made, then the Partnership shall promptly provide written notice of such failure to such Limited Partner. If such Limited Partner fails to make such Capital Contribution or other payment within five (5) Business Days after receipt of such notice, then (i) such Limited Partner shall be deemed a “Defaulting Limited Partner” and (ii) the following Sections 8.3(c) through (h) shall apply.

(c) The General Partner shall have the right to determine, in its sole discretion, that whenever the vote, consent or decision of a Limited Partner or of the Partners is required or permitted pursuant to this Agreement, except as required by the Act, any Defaulting Limited Partner shall not be entitled to participate in such vote or consent, or to make such decision, and such vote, consent or decision shall be tabulated or made as if such Defaulting Limited Partner were not a Partner.

(d) The General Partner shall have the right in its sole discretion to either:

(i) determine that a Defaulting Limited Partner shall (A) not be entitled to make any further Capital Contributions to the Partnership; provided that the liability of such Defaulting Limited Partner to make Capital Contributions to the Partnership pursuant Sections 3.1(a)(iii), 3.1(a)(iv), 3.1(a)(v), and 5.2(b), and Section 6 of Appendix A shall in

any case remain unchanged as if such default had not occurred and (B) forfeit to the Non-Defaulting Partners as recompense for damages suffered, and the Partnership shall withhold (for the account of such other Partners), all distributions of Temporary Investment Income, Investment Proceeds and liquidating distributions that such Defaulting Limited Partner would otherwise receive, except to the extent of Investment Proceeds and the Final Distribution relating to Capital Contributions made by the Defaulting Limited Partner less any expenses, deductions or losses (including such defaulting Partner's share of the Aggregate Net Losses from Writedowns) allocated to such Limited Partner, provided that any amounts forfeited by the Defaulting Limited Partner or reduced by the General Partner pursuant to the preceding sentence shall be distributed among the other Non-Defaulting Partners in proportion to their Percentage Interests in the Investment or Partnership property giving rise to such distribution or, in the case of a distribution upon liquidation, in proportion to the liquidating distributions to them pursuant to Section 9.3, subject to the right of any such Partner not to have a distribution in kind made to it pursuant to Sections 3.4(b) and 9.3; or

(ii) assess up to a 33-1/3% reduction in the Capital Account balance and related Percentage Interest in Investments of the Defaulting Limited Partner.

(e) In the event that any Limited Partner defaults in making a Capital Contribution to the Partnership (or any alternative investment vehicle formed pursuant to Section 2.9) for any Investment, the General Partner may require all of the non-defaulting Limited Partners to increase their Capital Contributions by an aggregate amount equal to the Capital Contribution defaulted on; provided that no Limited Partner will be required to fund amounts in excess of its Unpaid Capital Commitment. If the General Partner elects to require such increase, the General Partner shall deliver to each Non-Defaulting Partner written notice of such default as promptly as practicable after its occurrence and, thereafter, with respect to each Investment, the General Partner shall as promptly as practicable deliver to each such Non-Defaulting Partner a Payment Notice in respect of the Capital Contribution which the Defaulting Limited Partner failed to make. Subject to the proviso set forth above in this Section 8.3(e), such Payment Notice shall (i) call for a Capital Contribution by each such Non-Defaulting Partner in an amount equal to the amount of such Non-Defaulting Partner's Pro Rata Share of such additional Capital Contribution and (ii) specify a Payment Date for such Capital Contribution, which date shall be at least five (5) Business Days from the date of delivery of such Payment Notice by the General Partner. If any Limited Partner is not required to make a Capital Contribution in accordance with this Section 8.3(e) because such Capital Contribution would be in excess of such Limited Partner's Unpaid Capital Commitment, then, subject to the proviso set forth in this Section 8.3(e), the General Partner shall send to each other Limited Partner which is not subject to such constraint and which is otherwise able to participate in such Investment a Payment Notice providing the amount of any additional Capital Contribution which such other Limited Partner shall be required to make as a result of such excess not being funded by the Limited Partner whose Unpaid Capital Commitment would have been exceeded, which amount shall bear the same ratio to the aggregate of the additional amounts payable by all such other Limited Partners as such other Limited Partner's Unpaid Capital Commitment bears to the Unpaid Capital Commitments of all such other Limited Partners. The provisions of this Section 8.3(e) shall operate successively until either all Limited Partners able to participate in such Investment are

subject to the constraint set forth above or the full amount of Capital Contribution of the Defaulting Limited Partner has been provided for.

(f) No right, power or remedy conferred upon the General Partner in this Section 8.3 shall be exclusive, and each such right, power or remedy shall be cumulative and in addition to every other right, power or remedy whether conferred in this Section 8.3 or now or hereafter available at law or in equity or by statute or otherwise. No course of dealing between the General Partner and any Defaulting Limited Partner and no delay in exercising any right, power or remedy conferred in this Section 8.3 or now or hereafter existing at law or in equity or by statute or otherwise shall operate as a waiver or otherwise prejudice any such right, power or remedy. In addition to the foregoing, the General Partner may in its sole discretion institute a lawsuit against any Defaulting Limited Partner for specific performance of its obligation to make Capital Contributions and any other payments to be made hereunder by a Limited Partner and to collect any overdue amounts hereunder, with interest on such overdue amounts calculated at the rate specified in Section 8.3(a), and each Limited Partner agrees to pay on demand all costs and expenses (including reasonable attorneys' fees) incurred by or on behalf of the Partnership in connection with the enforcement of this Agreement against such Limited Partner as a result of a default by such Limited Partner.

(g) Each Limited Partner acknowledges by its execution hereof that it has been admitted to the Partnership in reliance upon its agreements under this Section 8.3 (as well as the other provisions of this Agreement), that the General Partner and the Partnership may have no adequate remedy at law for a breach hereof and that damages resulting from a breach hereof may be impossible to ascertain at the time hereof or of such breach.

(h) For purposes of this Section 8.3, if any Defaulting Limited Partner is an entity the equity owners of which consist of two or more unaffiliated investors, the General Partner may, in its sole discretion, treat the owner of such entity that was responsible for such default as the Defaulting Limited Partner and may invoke the rights, powers and remedies specified herein separately with respect to such owner.

8.4. Further Actions. The General Partner shall cause this Agreement to be amended to reflect as appropriate the occurrence of any of the transactions referred to in this Article VIII as promptly as is practicable after such occurrence.

8.5. Admissions and Withdrawals Generally. Except as expressly provided in this Agreement, no Partner shall have the right to withdraw from the Partnership or to withdraw any part of its Capital Account and no additional Partner may be admitted to the Partnership. Each new Partner shall be admitted as a Partner upon the execution by or on behalf of it, and acceptance thereof by the General Partner, of an agreement pursuant to which it becomes bound by the terms of this Agreement. The names and addresses of all Persons admitted as Partners and their status as General Partner or a Limited Partner shall be maintained in the records of the Partnership.

8.6. Required/Elective Withdrawals.

(a) A Limited Partner may be required to withdraw from the Partnership if (i) in the reasonable judgment of the General Partner based upon an opinion of counsel to the Partnership, by virtue of that Limited Partner's Interest in the Partnership, the assets of the Partnership would be reasonably likely to be characterized as assets of any employee benefit plan for purposes of ERISA or the Code, or the Partnership or any Partner is reasonably likely to be subject to any requirement to register under the 1940 Act or (ii) in the reasonable judgment of the General Partner, a significant delay, extraordinary expense or material adverse effect on the Partnership or any of its Affiliates, any Person in which the Partnership holds Investments or any prospective investment is likely to result without such withdrawal.

(b) The General Partner shall require a Limited Partner to withdraw from the Partnership if such Limited Partner notifies the General Partner in writing that by reason of a change in any law, regulation or governmental order (including with respect to any BHC Partner, (i) Section 4 of the BHC Act or the rules, regulations and written governmental interpretations relating thereto (other than Section 4(k) of the BHC Act) and (ii) any law or regulation applicable to BHC Partners in the future that was not applicable immediately prior to the closing of such BHC Partner's investment in the Partnership) to which such Limited Partner is subject occurring after its admission to the Partnership, a violation of any such law, regulation or governmental order is likely to result without such withdrawal, provided that any such Limited Partner shall remain liable to the Partnership to the extent of any breach of a representation, warranty or covenant made by such Limited Partner to the Partnership arising out of or relating to such withdrawal.

(c) Withdrawals pursuant to this Section 8.6 will be effected by the Partnership's purchase of such Limited Partner's Interest in the Partnership at a price equal to the Appraised Value. In addition to cash consideration, the Partnership may pay in whole or in part for any purchase of a withdrawing Partner's Interest with securities (through a distribution in kind of Investments); the making of any such payment in kind shall be at the option of the General Partner after consultation with the withdrawing Partner, and such payment in kind shall be made in the form of the withdrawing Partner's pro rata share of each Investment of the Partnership; provided that if such distribution in kind would be reasonably likely to cause the withdrawing Limited Partner or the Partnership to suffer an adverse effect as a result of the application of law or, in the judgment of the General Partner, cause the Partnership to breach any contractual obligation of the Partnership, the General Partner or their respective Affiliates, then such Limited Partner and the General Partner shall each use its best efforts to make alternative arrangements for the sale or transfer into an escrow account of the Partnership of any such distribution on mutually agreeable terms; and provided, further, that a non-pro rata distribution in kind may be made with the consent of the withdrawing Limited Partner.

(d) In the event of any withdrawal of a Non-Defaulting Limited Partner from the Partnership pursuant to this Section 8.6, (i) the portion, if any, of the Investments attributable to the Carried Interest allocable to the General Partner with respect to such Limited Partner's Interest shall remain in the Partnership in cash or in kind, as the case may be, and shall be held solely for the account of the General Partner, (ii) the portion of such Limited Partner's Capital Account corresponding to such portion of the Investments shall be allocated to the Capital



Account of the General Partner and (iii) the General Partner shall be entitled to the proceeds from the disposition of such portion of the Investments at the time of their disposition.

(e) A Limited Partner seeking to withdraw pursuant to Section 8.6(b) shall supply such opinions of counsel and other information as the General Partner may reasonably request to verify such Limited Partner's right to withdraw pursuant thereto.

(f) To the extent practicable, a Limited Partner seeking to withdraw pursuant to Section 8.6(b) shall cooperate with the General Partner in seeking to arrange a transfer of such Limited Partner's Interest in lieu of such Limited Partner's withdrawal.

(g) Each Limited Partner shall be required to use its reasonable efforts to notify the General Partner as soon as reasonably practicable after it comes to such Limited Partner's attention that, by reason of a change in any law, regulation or governmental order to which such Limited Partner is subject occurring after its admission to the Partnership, a violation of any such law, regulation or governmental order is likely to result without such Limited Partner's withdrawal from the Partnership.

## ARTICLE IX

### Term and Dissolution of the Partnership

9.1. Term. The existence of the Partnership commenced on January \_\_\_\_, 2009, and shall continue until the Partnership is dissolved and subsequently terminated, which dissolution shall occur upon the first of any of the following events and, where required by the Act, upon a notice of dissolution signed by General Partner being filed with the Registrar of Partnerships (each an "Event of Dissolution"):

(a) The close of business on the eight-year anniversary of the Closing Date; provided that the General Partner in its discretion may extend such date for successive one-year periods up to a maximum of two years if the General Partner determines that such extension is in the best interests of the Partnership;

(b) The occurrence of a Disabling Event with respect to the General Partner; provided that the Partnership shall not be dissolved if, within 90 days after the Disabling Event, all of the Limited Partners agree in writing to continue the business of the Partnership and to the appointment, effective as of the date of the Disabling Event, of another General Partner which shall agree to purchase the interest of the disabled General Partner in the manner specified in Sections 8.1(c) and (d);

(c) After the expiration or termination of the Commitment Period, at the time as of which all Investments (including all Investments made through alternative investment vehicles in accordance with Section 2.9) have been disposed of and all commitments to make Investments have terminated or lapsed;

(d) The determination by the General Partner in good faith based on a written opinion of counsel to the Partnership that such earlier dissolution and termination is necessary or

advisable because there has been a materially adverse change in any applicable law or regulation or to avoid any violation of, or registration under, the 1940 Act, ERISA or Section 4975 of the Code;

(e) The determination by the General Partner at any time that such earlier dissolution and termination would be in the best interests of the Partners;

(f) At any time that there are no limited partners of the Partnership, unless the business of the Partnership is continued in accordance with the Act; or

(g) The entry of a decree of judicial dissolution under Section 15(2) of the Act.

9.2. Winding-up. Upon the occurrence of an Event of Dissolution, the Partnership shall be wound up and liquidated. The General Partner or, if there is no general partner or the dissolution results from the occurrence of a Disabling Event pursuant to Section 8.1(b), a liquidator appointed by a Majority in Interest of the Limited Partners shall proceed with the Dissolution Sale and the Final Distribution. In the Dissolution Sale, the General Partner or such liquidator shall use its best efforts to reduce to cash and cash equivalent items such assets of the Partnership as the General Partner or such liquidator shall deem it advisable to sell, subject to obtaining fair value for such assets and any tax or other legal considerations (including legal restrictions on the ability of a Limited Partner to hold any assets to be distributed in kind), over such time as is reasonably necessary to settle gradually and close the Partnership's business under the circumstances then applicable to the Partnership.

9.3. Final Distribution. After the Dissolution Sale, the proceeds thereof and the other assets of the Partnership shall be distributed in one or more installments in the following order of priority:

(a) To satisfy all creditors of the Partnership (including the payment of expenses of the winding-up, liquidation and dissolution of the Partnership), including the General Partner and other Partners who are creditors of the Partnership, to the extent otherwise permitted by law, either by the payment thereof or the making of reasonable provision therefor (including the establishment of reserves, in amounts established by the General Partner or such liquidator); and

(b) The remaining proceeds, if any, plus any remaining assets of the Partnership, shall be applied and distributed to the Partners in accordance with the positive balances of the Partners' Capital Accounts, and the General partner with respect to the carried Interest, as determined after taking into account all adjustments to Capital Accounts for the Partnership taxable year during which the liquidation occurs, by the end of such taxable year or, if later, within 90 days after the date of such liquidation; provided that liquidating distributions shall be made in the same manner and amounts as distributions under Section 3.5 and Article VIII if such distributions would result in the Partners receiving a different amount than would have been received pursuant to a liquidating distribution based on Capital Account balances. For purposes of the application of this Section 9.3 and determining Capital Accounts on liquidation, all unrealized gains, losses and accrued income and deductions of the Partnership shall be treated as realized and recognized immediately before the date of distribution. If a Limited Partner shall, upon the advice of counsel, determine that there is a reasonable likelihood that any distribution in

kind of an asset would cause such Limited Partner to be in violation of any law, regulation or governmental order, such Limited Partner and the General Partner or the liquidator shall each use its best efforts to make alternative arrangements for the sale or transfer into an escrow account or a trust of any such distribution on mutually agreeable terms.

#### 9.4. General Partner Clawback.

(a) If as of the Clawback Determination Date, distributions of Carried Interest to the General Partner have been made with respect to any Limited Partner (other than a Defaulting Limited Partner) and the aggregate distributions of Carried Interest to the General Partner with respect to such Limited Partner exceeds 20% of the sum of (I) the Cumulative Net Distributions with respect to such Limited Partner and (II) the aggregate distributions of Carried Interest to the General Partner with respect to such Limited Partner (such excess amount being the “Excess 20% Amount”), determined after giving effect to all transactions through the Clawback Determination Date, then the General Partner shall be obligated to return promptly to the Partnership the Clawback Amount with respect to such Limited Partner. The payment of such amount to the Partnership shall constitute full satisfaction by the General Partner of its obligations (the “Clawback Obligation”) under this Section 9.4 in respect of such Limited Partner. The Partnership shall distribute any amount so returned to such Limited Partner. Payments pursuant to this Section 9.4(a) may be made by or on behalf of the General Partner either in cash or, at the election of the General Partner, by the return of securities previously distributed to the General Partner by the Partnership valued at their Fair Market Value at the time returned to the Partnership.

(b) If a successor general partner acquires the General Partner’s interest in the Partnership pursuant to Section 8.1(d), the General Partner shall pay to the Partnership on the date of sale of its interest to the successor general partner pursuant to Section 8.1(d), for distribution to the Limited Partners entitled thereto, an amount equal to the aggregate amount that would be payable pursuant to Section 9.4(a) on such date as if such date were the Clawback Determination Date, determined on the assumption that all remaining Investments were sold for their Fair Market Values determined pursuant to Section 4.7 and the proceeds therefrom were distributed to the Partners. The payment of such amount to the Partnership shall constitute full satisfaction by the General Partner of its Clawback Obligation under this Section 9.4. The Giveback Obligation of a successor general partner under this Section 9.4 shall be calculated as if the Partnership had made all remaining Investments, at a purchase price equal to their Fair Market Values determined pursuant to Section 4.7, on the date of the successor general partner’s admission to the Partnership.

(c) If a Limited Partner withdraws pursuant to Section 8.6, the General Partner shall pay to the Partnership on the date of such withdrawal, for distribution to such Limited Partner, an amount equal to the aggregate amount that would be payable pursuant to Section 9.4(a) on such date as if such date were the Clawback Determination Date, determined on the assumption that all remaining Investments were sold for their valuations determined pursuant to Section 4.7 and the proceeds therefrom were distributed to the Partners. The payment of such amount to the Partnership shall constitute full satisfaction by the General Partner of its obligations under this Section 9.4 with respect to such Limited Partner.

ARTICLE X

Miscellaneous

10.1. Waiver of Accounting and Partition. Except as may be otherwise required by law, each Partner hereby irrevocably waives any and all rights that it may have to maintain an action for an accounting or for partition or similar action of any of the Partnership's property.

10.2. Power of Attorney. Each Limited Partner hereby irrevocably constitutes and appoints the General Partner, with full power of substitution, the true and lawful attorney-in-fact and agent of such Limited Partner, to execute, acknowledge, verify, swear to, deliver, record and file, in its or its assignee's name, place and stead, all in accordance with the terms of this Agreement, all instruments, documents and certificates which may from time to time be required by the laws of the United States of America, the Cayman Islands, any other jurisdiction in which the Partnership conducts or plans to conduct its affairs, or any political subdivision or agency thereof to effectuate, implement and continue the valid existence and affairs of the Partnership, including the power and authority to verify, swear to, acknowledge, deliver, record and file:

(a) all certificates and other instruments, including any amendments to this Agreement or to the Certificate and any filing of a statement of changes in registered particulars of the Partnership pursuant to Section 10 of the Act, which the General Partner deems appropriate to form, qualify or continue the Partnership as a limited partnership (or a partnership in which the limited partners have limited liability) in the Cayman Islands and all other jurisdictions in which the Partnership conducts or plans to conduct its affairs,

(b) any amendments to this Agreement or any other agreement or instrument which the General Partner deems appropriate to (i) effect the addition, substitution or removal of any Limited Partner or General Partner pursuant to this Agreement or (ii) effect any other amendment or modification to this Agreement, but only if such amendment or modification is duly adopted in accordance with the terms hereof,

(c) all conveyances and other instruments which the General Partner deems appropriate to reflect the dissolution and termination of the Partnership pursuant to the terms hereof, including a Notice of Dissolution pursuant to Section 15 of the Act,

(d) all instruments relating to transfers of Interests of Limited Partners or to the admission of any substitute Limited Partner, including executing transfer documents on behalf of a Defaulting Limited Partner pursuant to Section 8.3,

(e) certificates of assumed name and such other certificates and instruments as may be necessary under the fictitious or assumed name statutes from time to time in effect in the Cayman Islands and all other jurisdictions in which the Partnership conducts or plans to conduct its affairs,

(f) all agreements and instruments necessary or advisable to consummate any Investment pursuant to Section 2.9, including the execution of the organizational documents with respect to an alternative investment vehicle (and amendments thereto consistent with Section 2.9),

(g) any election pursuant to section 954(b)(4) of the Code to exclude income of a “controlled foreign corporation” from classification as “subpart F income.”

Such attorney-in-fact and agent shall not, however, have the right, power or authority to amend or modify this Agreement when acting in such capacities, except to the extent authorized herein. This power of attorney shall terminate upon the bankruptcy, dissolution, disability or incompetence of the General Partner. The power of attorney granted herein shall be deemed to be coupled with an interest, shall be irrevocable, shall survive and not be affected by the dissolution, bankruptcy or legal disability of the Limited Partner and shall extend to its successors and assigns; and may be exercisable by such attorney-in-fact and agent for all Limited Partners (or any of them) required to execute any such instrument, and executing such instrument acting as attorney-in-fact. Any Person dealing with the Partnership may conclusively presume and rely upon the fact that any instrument referred to above, executed by such attorney-in-fact and agent, is authorized, regular and binding, without further inquiry. If required, each Limited Partner shall execute and deliver to the General Partner within ten (10) calendar days after the receipt of a request therefor, such further designations, powers of attorney or other instruments as the General Partner shall reasonably deem necessary for the purposes hereof.

### 10.3. Amendments.

(a) Except as required by law, this Agreement may be amended or supplemented by the written consent of the General Partner and a Majority in Interest of the Limited Partners; provided that no such amendment shall:

(i) increase any Limited Partner’s Capital Commitment, reduce its share of the Partnership’s distributions, income and gains, increase its share of the Partnership’s losses or increase its share of the Management Fee payable by such Limited Partner or adversely affect the limited liability of such Limited Partner hereunder without the written consent of each Limited Partner so affected (for the avoidance of doubt, none of the foregoing shall be deemed to include the admission of a new or substitute Limited Partner in accordance herewith),

(ii) change the percentage of interests of Limited Partners, or Combined Limited Partners, as the case may be, (the “Required Interest”) necessary for any consent required hereunder to the taking of an action unless such amendment is approved by Limited Partners who then hold interests equal to or in excess of the Required Interest for the subject of such proposed amendment,

(iv) amend this Section 10.3 in a manner adverse to a Limited Partner without the consent of such Limited Partner, or

(v) make any amendment to Section 5.1(c) or any provision of this Agreement specifically dealing with the rights of BHC Partners that are exclusive to such BHC

Partners, in each case in a manner adverse to the BHC Partners without the consent of a Majority in Interest of the Limited Partners who are BHC Partners.

Notwithstanding the foregoing, this Agreement may be amended by the General Partner without the consent of the Limited Partners to (v) change the name of the Partnership pursuant to Section 2.2, (w) cure any ambiguity or correct or supplement any provision hereof which is incomplete or inconsistent with any other provision hereof or correct any printing, stenographic or clerical error or omissions, provided that such amendment does not adversely affect the interests of any of the Limited Partners, (x) amend Sections 2 to 5 of Appendix A pursuant to Section 5 thereof, (y) make changes negotiated with Limited Partners admitted at a Subsequent Closing (or limited partners admitted at the closing of a Parallel Vehicle) so long as the changes do not adversely affect the rights and obligations of any existing Limited Partner as a whole in any material respect and the amendment is not objected to by Limited Partners representing 20% or more of the Partnership's Capital Commitments within five (5) Business Days of being given notice thereof and (z) make any amendment that is not objected to in writing by any Limited Partner within 20 Business Days after notice of such amendment is given to all Limited Partners. Notice of any amendment pursuant to the foregoing clauses (y) and (z) shall include (i) a prominent statement to the effect that the General Partner intends to amend this Agreement in the manner set forth in the proposed amendment if no objection is received from any Limited Partner and (ii) the date by which Limited Partners must give notice of any such objection. Each Limited Partner will receive a copy of any amendment passed pursuant to clauses (v)-(z) above.

(b) The General Partner shall have the right to amend this Agreement without the approval of any other Partner to the extent the General Partner reasonably determines, based upon written advice of tax counsel to the Partnership, that the amendment is necessary to provide assurance that the Partnership will not be treated as a "publicly traded partnership" under Section 7704 of the Code and the regulations promulgated thereunder; provided that (i) such amendment shall not change the relative economic interests of the Partners, reduce any Partners' share of distributions, or increase any Partner's Capital Commitment or its liability hereunder and (ii) the General Partner provides a copy of such written advice and amendment to the Limited Partners at least twenty (20) Business Days prior to the effective date of any such amendment and a Majority in Interest of the Limited Partners shall not have made a reasonable objection to such amendment prior to the effective date of such amendment.

#### 10.4. Confidentiality.

(a) All communications between the General Partner or the Investment Manager, on the one hand, and any Limited Partner, on the other, shall be presumed to include confidential, proprietary, trade secret and other sensitive information and, unless otherwise agreed to in writing by the General Partner, each Limited Partner will maintain the confidentiality of information which is non-public information furnished by the General Partner regarding the General Partner and the Partnership (including information regarding any Person in which the Partnership holds, or contemplates acquiring, any Investments) received by such Limited Partner in accordance with such procedures as it applies generally to information of this kind (including procedures relating to information sharing with Affiliates), except (i) as otherwise required by governmental regulatory agencies (including tax authorities in connection with an audit or other similar examination of such Limited Partner), self-regulating bodies, law,

legal process, or litigation in which such Limited Partner is a defendant, plaintiff or other named party (provided that in each case the General Partner is, to the extent practicable, given prior notice of any such required disclosure), (ii) to directors, employees and representatives of such Limited Partner and its Affiliates who need to know the information and who are informed of the confidential nature of the information and agree to keep it confidential or (iii) to third-party advisors to such Limited Partner and its Affiliates who need to know the information and who are informed of the confidential nature of the information and directed to keep it confidential. Without limitation of the foregoing, each Limited Partner acknowledges that notices and reports to Limited Partners hereunder may contain material non-public information concerning, among other things, Portfolio Companies and agrees not to use such information other than in connection with monitoring its investment in the Partnership and agrees in that regard not to trade in securities on the basis of any such information.

(b) Notwithstanding the provisions of Section 10.4(a) above, the General Partner agrees that each Limited Partner that (i) itself is an investment partnership or other collective investment vehicle having reporting obligations to its limited partners or other investors and (ii) has prior to the closing of its subscription for Interests notified the General Partner in writing that it is electing the benefits of this Section 10.4(b) may, in order to satisfy such Limited Partner's reporting obligations, provide on a confidential basis the following information to such Persons regarding the Partnership and any Portfolio Companies: (i) the cost of the Partnership's investment in a Portfolio Company and the percentage interest of the Portfolio Company acquired by the Partnership, (ii) a description of the business of the Portfolio Company and information regarding the industry and geographic location of the Portfolio Company, (iii) the book value of a Portfolio Company on the last day of the quarter (as reported by the Partnership to such Limited Partners in the Partnership's financial statements under Section 7.3) and (iv) a brief description of the investment strategy of the Partnership. Notwithstanding the foregoing, in no event may any such Limited Partner disclose any other confidential information regarding the Partnership, the General Partner, the Investment Manager or any of their Affiliates or any information regarding the Partnership's pending acquisition or pending disposition of a Portfolio Company or proposed Portfolio Company without the prior written consent of the General Partner.

(c) Notwithstanding anything in this Agreement to the contrary, to comply with Treasury Regulation Section 1.6011-4(b)(3)(i), each Limited Partner (and any employee, representative or other agent of such Limited Partner) may disclose to any and all persons, without limitation of any kind, the U.S. federal income tax treatment and tax structure of the Partnership or any transactions undertaken by the Partnership, it being understood and agreed, for this purpose, (1) the name of, or any other identifying information regarding (a) the Partnership or any existing or future investor (or any Affiliate thereof) in the Partnership, or (b) any investment or transaction entered into by the Partnership, and (2) any performance information relating to the Partnership or its investments, does not constitute such tax treatment or tax structure information.

10.5. Entire Agreement. This Agreement and the other agreements referred to herein (including any other agreements between the General Partner or the Partnership and a Limited Partner) constitute the entire agreement among the Partners and between the Partners and the Initial Limited Partner with respect to the subject matter hereof and supersede any prior

agreement or understanding among or between them with respect to such subject matter. The representations and warranties of the Limited Partners in, and the other provisions of, the Subscription Agreements shall survive the execution and delivery of this Agreement. The parties hereto acknowledge that the Partnership or the General Partner, without any further act, approval or vote of any Partner, may enter into side letters or other writings with individual Limited Partners which have the effect of establishing rights under, or altering or supplementing, the terms of, this Agreement. The parties hereto agree that any rights established, or any terms of this Agreement altered or supplemented, in a side letter with a Limited Partner shall govern solely with respect to such Limited Partner (but not any of such Limited Partner's assignees or transferees unless so specified in such side letter) notwithstanding any other provision of this Agreement.

10.6. Severability. Each provision of this Agreement shall be considered severable and if for any reason any provision which is not essential to the effectuation of the basic purposes of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable and contrary to the Act or existing or future applicable law, such invalidity shall not impair the operation of or affect those provisions of this Agreement which are valid. In that case, this Agreement shall be construed so as to limit any term or provision so as to make it enforceable or valid within the requirements of any applicable law, and in the event such term or provision cannot be so limited, this Agreement shall be construed to omit such invalid or unenforceable provisions.

10.7. Notices. All notices, reports, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if (i) mailed, registered mail, first-class postage paid, (ii) sent by overnight mail or courier, (iii) transmitted via facsimile, or (iv) delivered by hand, if to any Limited Partner, at such Limited Partner's address, or to such Limited Partner's facsimile number, as set forth in such Limited Partner's Subscription Agreement, and if to the Partnership or to the General Partner, to the General Partner, 1501 Broadway, 26<sup>th</sup> Floor, New York, NY 10036 (with copies thereof to: \_\_\_\_\_), or to such other person or address as any Partner shall have last designated by notice to the Partnership, and in the case of a change in address by the General Partner, by notice to the Limited Partners. Any notice, report, request, demand and other communication will be deemed received (i) if sent by certified or registered mail, return receipt requested, when actually received, (ii) if sent by overnight mail or courier, when actually received, (iii) if sent by facsimile transmission, on the date sent, and (iv) if delivered by hand, on the date of receipt.

10.8. Governing Law and Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the Cayman Islands. In particular, the Partnership is formed pursuant to the Act, and the rights and liabilities of the Partners shall be as provided therein, except as herein otherwise expressly provided, and the Partners submit to the nonexclusive jurisdiction of the courts of the Cayman Islands in any action suit or proceeding based on or arising under this Agreement. Notwithstanding the foregoing, Sections 4.3 and 4.4 of this Agreement shall be governed and construed in accordance with the laws of the State of Delaware in the United States and the Partners hereby submit to the nonexclusive jurisdiction of New York courts with respect to the construction of those provisions, without regard to the application of principles of conflicts of laws. The Limited Partners hereby waive as a defense



that any such action, suit or proceeding brought in such courts has been brought in an inconvenient forum or that the venue thereof may not be appropriate and, furthermore, agree that venue in the Cayman Islands or New York for any such action, suit or proceeding is appropriate.

10.9. Successors and Assigns. Except with respect to the rights of Indemnified Parties hereunder, none of the provisions of this Agreement shall be for the benefit of or enforceable by the creditors of the Partnership and this Agreement shall be binding upon and inure to the benefit of the Partners, the Initial Limited Partner and their legal representatives, heirs, successors and permitted assigns.

10.10. Counterparts. This Agreement may be executed in one or more counterparts, including by facsimile, all of which shall constitute one and the same instrument.

10.11. Interpretation.

(a) Wherever from the context it appears appropriate, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in either the masculine or the neuter gender shall include the masculine, the feminine and the neuter. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation.”

(b) Whenever in this Agreement a Person is permitted or required to make a decision (i) in its “sole discretion,” “sole and absolute discretion” or “discretion” or under a grant of similar authority or latitude, the Person shall be entitled to consider any interests and factors as it desires, including its own interests, and shall, to the fullest extent permitted by applicable law, have no duty or obligation to give any consideration to any interest or factors affecting the Partnership or any other Person, or (ii) in its “good faith” or under another express standard, the Person shall act under such express standard and shall not be subject to any other or different standards imposed by this Agreement or any other agreement contemplated herein or by relevant provisions of law or in equity or otherwise.

10.12. Headings. The section headings in this Agreement are for convenience of reference only, and shall not be deemed to alter or affect the meaning or interpretation of any provisions hereof.

10.13. Delivery of Certificate, etc. The General Partner shall as promptly as is reasonably practicable provide a copy of the Certificate of Registration of the Partnership, the Certificate, this Agreement and each amendment to the Certificate pursuant to Section 10 of the Act or this Agreement to each Limited Partner.

10.14. Partnership Tax Treatment. The Partners intend for the Partnership to be treated as a partnership for United States federal income tax purposes and no election to the contrary shall be made.

10.15. Counsel to the Partnership. Counsel to the Partnership may also be counsel to the General Partner and its Affiliates. The Partnership has initially selected Akin Gump Strauss Hauer & Feld LLP and Walkers (together, the “Partnership Counsel”) as legal counsel to the Partnership. Each Limited Partner acknowledges that the Partnership Counsel do

not represent any Limited Partner in the absence of a clear and explicit agreement to such effect between the Limited Partner and the Partnership Counsel (and that only to the extent specifically set forth in that agreement), and that in the absence of any such agreement the Partnership Counsel shall owe no duties directly to a Limited Partner. In the event any dispute or controversy arises between any Limited Partner and the Partnership, or between any Limited Partner or the Partnership, on the one hand, and the General Partner (or an Affiliate thereof) that the Partnership Counsel represent, on the other hand, then each Limited Partner agrees that the Partnership Counsel may represent either the Partnership or the General Partner (or its Affiliate), or both, in any such dispute or controversy to the extent permitted by applicable rules of professional conduct, and each Limited Partner hereby consents to such representation. Each Limited Partner further acknowledges that, whether or not the Partnership Counsel have in the past represented such Limited Partner with respect to other matters, the Partnership Counsel have not represented the interests of any Limited Partner in the preparation and negotiation of this Agreement.

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IN WITNESS WHEREOF, parties hereto have caused this Agreement to be executed as a deed on the date first above written.

GENERAL PARTNER:

ZMC Investors, L.P.



By: \_\_\_\_\_

Name: Paul J. Manafort

Title: Partner

Authorized Signatory

LIMITED PARTNER:

Group DF Real Estate

By: \_\_\_\_\_

Name: David Brown

Title:

Authorized Signatory

## APPENDIX A

### CAPITAL ACCOUNTS AND ALLOCATION OF PROFITS AND LOSSES

#### 1. Capital Accounts.

(a) A separate capital account (the “Capital Account”) shall be established and maintained for each Partner. The Capital Account of each Partner shall be credited with such Partner’s Capital Contributions to the Partnership, all Profits allocated to such Partner pursuant to Section 2 and any items of income or gain which are specially allocated pursuant to Section 3 or otherwise pursuant to this Agreement; and shall be debited with all Losses allocated to such Partner pursuant to Section 2, any items of loss or deduction of the Partnership specially allocated to such Partner pursuant to Section 3 or otherwise pursuant to this Agreement, and all cash and the Carrying Value of any property (net of liabilities assumed by such Partner and the liabilities to which such property is subject) distributed by the Partnership to such Partner. To the extent not provided for in the preceding sentence, the Capital Accounts of the Partners shall be adjusted and maintained in accordance with the rules of Treasury Regulations Section 1.704-1(b)(2)(iv), as the same may be amended or revised; provided that such adjustment and maintenance does not have a material adverse effect on the economic interests of the Partners. Any references in any section of this Agreement to the Capital Account of a Partner shall be deemed to refer to such Capital Account as the same may be credited or debited from time to time as set forth above. In the event of any transfer of any interest in the Partnership in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the transferred interest.

(b) Except as provided in Section 9.4 of the Agreement, no Partner shall be required to pay to the Partnership or to any other Person the amount of any negative balance which may exist from time to time in such Partner’s Capital Account, including at the time of liquidation of the Partnership.

2. Allocations of Profits and Losses. Except as otherwise provided in this Agreement, Profits, Losses and, to the extent necessary, individual items of income, gain, loss or deduction of the Partnership shall be allocated among the Partners in a manner such that the Capital Account of each Partner, immediately after making such allocation and after taking into account amounts specially allocated pursuant to Section 3 or any other provision of this Agreement, is, as nearly as possible, equal (proportionately) to (i) the distributions that would be made to such Partner pursuant to Section 3.5 of the Agreement if the Partnership were dissolved, its affairs wound up and its assets sold for cash equal to their Carrying Value, all Partnership liabilities were satisfied (limited with respect to each nonrecourse liability to the Carrying Value of the assets securing such liability), including the Partnership’s share of any liabilities of an entity treated as a partnership for U.S. federal income tax purposes of which the Partnership is a partner, and the net assets of the Partnership were distributed in accordance with Section 3.5 of the Agreement to the Partners immediately after making such allocation, minus (ii) such Partner’s share of Partnership Minimum Gain and Partner Nonrecourse Debt Minimum Gain, computed immediately prior to the hypothetical sale of assets, minus (iii) in the case of the General Partner, any obligation of the General Partner to make a contribution to the Partnership

pursuant to Section 9.4 of the Agreement if the Partnership were liquidated at such time, plus (iv) in the case of each Limited Partner (other than Affiliates of the General Partner), such Limited Partner's share of the amount of the contribution of the General Partner referred to in clause (iii) hereof (if it had been made at such time), minus (v) such Partner's obligation to make contributions to the Partnership pursuant to Section 5.2 of the Agreement.

3. Special Allocation Provisions. Notwithstanding any other provision in this Appendix A:

(c) *Minimum Gain Chargeback.* If there is a net decrease in Partnership Minimum Gain or Partner Nonrecourse Debt Minimum Gain (determined in accordance with the principles of Treasury Regulations Sections 1.704-2(d) and 1.704-2(i)) during any Partnership taxable year, the Partners shall be specially allocated items of Partnership income and gain for such year (and, if necessary, subsequent years) in an amount equal to their respective shares of such net decrease during such year, determined pursuant to Treasury Regulations Sections 1.704-2(g) and 1.704-2(i)(5). The items to be so allocated shall be determined in accordance with Treasury Regulations Section 1.704-2(f). This Section 3(a) is intended to comply with the minimum gain chargeback requirements in such Treasury Regulations Sections and shall be interpreted consistently therewith; including that no chargeback shall be required to the extent of the exceptions provided in Treasury Regulations Sections 1.704-2(f) and 1.704-2(i)(4).

(d) *Qualified Income Offset.* In the event any Partner unexpectedly receives any adjustments, allocations, or distributions described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) or (6), items of Partnership income and gain shall be specially allocated to such Limited Partner in an amount and manner sufficient to eliminate the deficit balance in his Capital Account created by such adjustments, allocations or distributions as promptly as possible; provided, that an allocation pursuant to this Section 3(b) shall be made only to the extent that a Partner would have a deficit Adjusted Capital Account Balance in excess of such sum after all other allocations provided for in this Appendix A have been tentatively made as if this Section 3(b) were not in this Agreement. This Section 3(b) is intended to comply with the "qualified income offset" requirement of the Code and shall be interpreted consistently therewith.

(e) *Gross Income Allocation.* In the event any Limited Partner has a deficit Capital Account at the end of any Fiscal Year which is in excess of the sum of (i) the amount such Partner is obligated to restore, if any, pursuant to any provision of this Agreement, and (ii) the amount such Partner is deemed to be obligated to restore pursuant to the penultimate sentences of Treasury Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5), each such Limited Partner shall be specially allocated items of Partnership income and gain in the amount of such excess as quickly as possible; provided that an allocation pursuant to this Section 3(c) shall be made only if and to the extent that a Limited Partner would have a deficit Capital Account in excess of such sum after all other allocations provided for in this Appendix A have been tentatively made as if Section 3(b) and this Section 3(c) were not in this Agreement.

(f) *General Partner Expenses.* To the extent, if any, that General Partner Expenses and any items of loss, expense or deduction resulting therefrom are deemed to constitute items of Partnership loss or deduction rather than items of loss or deduction of the

General Partner, (i) the General Partner shall be deemed to have made a Capital Contribution to the Partnership in the amount of such General Partner Expenses, and (ii) such General Partner Expenses and other items of loss, expense or deduction shall be allocated 100% to the General Partner.

(g) *Payee Allocation.* In the event any payment to any Person that is treated by the Partnership as the payment of an expense is recharacterized by a taxing authority as a Partnership distribution to the payee as a partner, such payee shall be specially allocated an amount of Partnership gross income and gain as quickly as possible equal to the amount of the distribution.

(h) *Nonrecourse Deductions.* Nonrecourse Deductions shall be allocated 0.2% to the General Partner and the remainder to the other Limited Partners in accordance with their respective Capital Account balances.

(i) *Partner Nonrecourse Deductions.* Partner Nonrecourse Deductions for any taxable period shall be allocated to the Partner who bears the economic risk of loss with respect to the liability to which such Partner Nonrecourse Deductions are attributable in accordance with Treasury Regulations Section 1.704-2(j).

(j) *Certain Interest Expense.* Interest expense described in Section 4.2(c) of the Agreement shall be specially allocated pro rata to the Partners other than those Partners making a Capital Contribution pursuant to Section 4.2(c) of the Agreement.

(k) *Special Allocation.* Any special allocation of income or gain pursuant to Section 3(b) or (c) hereof shall be taken into account in computing subsequent allocations pursuant to Section 2 and this Section 3(i), so that the net amount of any items so allocated and all other items allocated to each Partner shall, to the extent possible, be equal to the net amount that would have been allocated to each Partner if such allocations pursuant to Section 3(b) or (c) had not occurred.

(l) *Management Fee Expense.* Management Fee expense shall be allocated to the Partners in accordance with their contributions in respect thereof.

(m) *Organizational Expenses.* Organizational Expenses shall be allocated to the Partners in accordance with their Capital Contributions in respect thereof.

#### 4. Tax Allocations.

(a) For income tax purposes only, each item of income, gain, loss and deduction of the Partnership shall be allocated among the Partners in the same manner as the corresponding items of Profits and Losses and specially allocated items are allocated for Capital Account purposes; provided that in the case of any Partnership asset the Carrying Value of which differs from its adjusted tax basis for United States federal income tax purposes, income, gain, loss and deduction with respect to such asset shall be allocated solely for income tax purposes in accordance with the principles of Sections 704(b) and (c) of the Code (in any manner determined by the General Partner) so as to take account of the difference between Carrying Value and adjusted basis of such asset.

(b) If the Partnership makes in-kind distributions pursuant to Section 3.4(b) of the Agreement, then, for United States federal income tax purposes only, taxable gain and taxable loss on the Disposition of such Investment shall be specially allocated among the Partners such that, to the maximum extent possible, Partners who receive cash or other proceeds from such Disposition rather than in-kind distributions shall be allocated taxable gain and loss equal to the amount of taxable gain and loss they would have been allocated, with respect to the amount of the Investment sold on their account, if such Investment had been sold by the Partnership and no in-kind distributions were made, Partners who receive in-kind distributions will be allocated no taxable gain or loss with respect to such in-kind distribution and any remaining taxable gain or loss will be allocated to the General Partner or its Affiliates (other than the Partnership). For purposes of this paragraph, taxable gain and taxable loss will be computed without regard to any adjustments described in Section 734(b) or Section 743(b) of the Code.

5. Other Allocation Provisions. The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulations Section 1.704-1(b) and shall be interpreted and applied in a manner consistent with such regulations. Sections 2 to 5 hereof may be amended at any time by the General Partner if necessary to comply with such Treasury Regulations or to ensure that allocations hereunder give economic effect to provisions of this Agreement.

6. Tax Advances.

(a) To the extent the General Partner reasonably determines that the Partnership is required by law to withhold or to make tax payments on behalf of or with respect to any Partner (e.g., backup withholding taxes) (“Tax Advances”), the General Partner may withhold such amounts and make such tax payments as so required. All Tax Advances made on behalf of a Partner shall, at the option of the General Partner, (i) be promptly paid to the Partnership by the Partner on whose behalf such Tax Advances were made or (ii) be repaid by reducing the amount of the current or next succeeding distribution or distributions which would otherwise have been made to such Partner or, if such distributions are not sufficient for that purpose, by so reducing the proceeds of liquidation otherwise payable to such Partner. Whenever the General Partner selects option (ii) pursuant to the preceding sentence for repayment of a Tax Advance by a Partner, for all other purposes of this Agreement such Partner shall be treated as having received all distributions (whether before or upon liquidation) unreduced by the amount of such Tax Advance. To the fullest extent permitted by law, each Partner hereby agrees to indemnify and hold harmless the Partnership and the other Partners from and against any liability (including any liability for taxes, penalties, additions to tax or interest) with respect to income attributable to or distributions or other payments to such Partner.

(b) The General Partner may (as it in its sole discretion may determine) receive a cash advance against distributions of Carried Interest to the General Partner to the extent that distributions of Carried Interest actually received by the General Partner during a Fiscal Year are not sufficient for the General Partner or any of its beneficial owners (whether such interests are held directly or indirectly) to pay when due any income tax (including estimated income tax) imposed on it or them, calculated using the Assumed Income Tax Rate that is attributable to income allocated to the General Partner for such Fiscal Year hereunder. Amounts of Carried Interest otherwise to be distributed to the General Partner pursuant to

Section 3.5 shall be reduced by the amount of any prior advances made to the General Partner pursuant to this Section 10.6(b) until all such advances are restored to the Partnership in full.

7. Definitions

Adjusted Capital Account Balance: With respect to any Partner, the balance of such Partner's Capital Account adjusted (i) by taking into account the adjustments, allocations and distributions described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6) and (ii) by adding to such balance such Partner's share of Partnership Minimum Gain and Partner Nonrecourse Debt Minimum Gain determined pursuant to Treasury Regulations Section 1.704-2(g) and 1.704-2(i)(5). The foregoing definition of Adjusted Capital Account Balance is intended to comply with the provisions of Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

Capital Account: As defined in Section 1(a).

Carrying Value: With respect to any Partnership asset, the asset's adjusted basis for United States federal income tax purposes, except that the Carrying Values of all Partnership assets shall be adjusted to equal their respective fair market values (as reasonably determined by the General Partner), in accordance with the rules set forth in Treasury Regulations Section 1.704-1(b)(2)(iv)(f), except as otherwise provided herein, immediately prior to: (a) the date of the acquisition of any additional Interest by any new or existing Partner in exchange for more than a de minimis Capital Contribution; (b) the date of the distribution of more than a de minimis amount of Partnership property (other than a pro rata distribution) to a Partner; or (c) any other date specified by Treasury Regulations; provided that adjustments pursuant to clauses (a), (b) or (c) above shall be made only if the General Partner reasonably determines that such adjustments are necessary or appropriate to reflect the relative economic interests of the Partners. The Carrying Value of any Partnership asset distributed to any Partner shall be adjusted immediately prior to such distribution to equal its Fair Market Value. In the case of any asset that has a Carrying Value that differs from its adjusted tax basis, Carrying Value shall be adjusted by the amount of depreciation calculated for purposes of the definition of "Profits and Losses" rather than the amount of depreciation determined for United States federal income tax purposes.

Code: The United States Internal Revenue Code of 1986, as the same may be amended from time to time.

Nonrecourse Deductions: As defined in Treasury Regulations Section 1.704-2(b). The amount of Partnership Nonrecourse Deductions for a Fiscal Year equals the net increase, if any, in the amount of Partnership Minimum Gain during that Fiscal Year, determined according to the provisions of Treasury Regulations Section 1.704-2(c).

Partner Nonrecourse Debt Minimum Gain: An amount with respect to each partner nonrecourse debt (as defined in Treasury Regulations Section 1.704-2(b)(4)) equal to the Partnership Minimum Gain that would result if such partner nonrecourse debt were treated as a nonrecourse liability (as defined in Treasury Regulations Section 1.752-1(a)(2)) determined in accordance with Treasury Regulations Section 1.704-2(i)(3).



Partner Nonrecourse Deductions: As defined in Treasury Regulations Section 1.704-2(i)(2).

Partnership Minimum Gain: As defined in Treasury Regulations Sections 1.704-2(b)(2) and 1.704-2(d).

Profits and Losses: For each Fiscal Year or other period, the taxable income or loss of the Partnership, or particular items thereof, shall be determined in accordance with the accounting method used by the Partnership for United States federal income tax purposes with the following adjustments: (a) all items of income, gain, loss or deduction allocated other than pursuant to Section 2 or Section 3(i) shall not be taken into account in computing such taxable income or loss; (b) any income of the Partnership that is exempt from United States federal income taxation and not otherwise taken into account in computing Profits and Losses shall be added to such taxable income or loss; (c) if the Carrying Value of any asset differs from its adjusted tax basis for United States federal income tax purposes, any gain or loss resulting from a disposition of such asset shall be calculated with reference to such Carrying Value; (d) upon an adjustment to the Carrying Value of any asset (other than an adjustment in respect of depreciation), pursuant to the definition of Carrying Value, the amount of the adjustment shall be included as gain or loss in computing such taxable income or loss; (e) if the Carrying Value of any asset differs from its adjusted tax basis for United States federal income tax purposes the amount of depreciation, amortization or cost recovery deductions with respect to such asset for purposes of determining Profits and Losses shall be an amount which bears the same ratio to such Carrying Value as the United States federal income tax depreciation, amortization or other cost recovery deductions bears to such adjusted tax basis (provided that if the United States federal income tax depreciation, amortization or other cost recovery deduction is zero, the General Partner may use any reasonable method for purposes of determining depreciation, amortization or other cost recovery deductions in calculating Profits and Losses); and (f) except for items in (a) above, any expenditures of the Partnership not deductible in computing taxable income or loss, not properly capitalizable and not otherwise taken into account in computing Profits and Losses pursuant to this definition shall be treated as deductible items.

Treasury Regulations: The United States federal income tax regulations promulgated under the Code, as such Treasury Regulations may be amended from time to time. All references herein to specific sections of the Treasury Regulations shall be deemed also to refer to any corresponding provisions of succeeding Treasury Regulations.