AMENDED AND RESTATED

LIMITED PARTNERSHIP AGREEMENT

OF

JEFFERSON PARTNERS FUND IV (PA), L.P.

(A Delaware Limited Partnership)

Dated as of February 25, 2003

THE LIMITED PARTNERSHIP INTERESTS REPRESENTED BY THIS AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. INVESTORS SHOULD BE AWARE THAT THEY MAY BE REQUIRED TO BEAR THE RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

A LIMITED PARTNER MAY NOT SELL, ASSIGN, TRANSFER, PLEDGE OR OTHERWISE DISPOSE OF ALL OR ANY PART OF ITS INTEREST IN THE PARTNERSHIP UNLESS THE GENERAL PARTNER (AS DEFINED HEREIN) HAS CONSENTED THERETO.

IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE PERSON OR ENTITY CREATING THE SECURITIES AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THE SECURITIES OFFERED HEREBY HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

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JEFFERSON PARTNERS FUND IV (PA), L.P.

AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT

AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT (the "**Agreement**"), dated as of this 25th day of February, 2002 by and among JPIV GP, L.P., an Ontario limited partnership, as the General Partner; Daniel P. Finkelman ("**Mr. Finkelman**"), as the withdrawing limited partner; and those firms, corporations and other Persons listed in Schedule A attached hereto as Limited Partners. The General Partner and the Limited Partners are sometimes referred to herein collectively as the "**Partners**."

The General Partner and Mr. Finkelman formed a limited partnership by executing the Limited Partnership Agreement of Jefferson Partners Fund IV (PA), L.P., dated as of February 25, 2003 (as the same may be amended from time to time, the "**Partnership Agreement**"), and by filing with the Secretary of State of Delaware a Certificate of Limited Partnership on February 25, 2003.

Those persons and entities designated as Limited Partners in Schedule A desire to be admitted to the Partnership as Limited Partners.

The General Partner and the Limited Partners desire to amend the Partnership Agreement as hereinafter provided, and in consideration of the premises and the agreements herein contained and intending to be legally bound hereby, agree as follows:

A. Mr. Finkelman shall hereby withdraw from the Partnership as a limited partner.

B. The Limited Partners listed in Schedule A shall hereby be admitted to the Partnership as Limited Partners.

C. The Partnership Agreement shall hereby be amended and restated in its entirety to read as follows:

ARTICLE 1 — DEFINITIONS

1 DEFINITIONS; CURRENCY.

Capitalized terms used herein and not otherwise defined have the meanings assigned to them in Appendix I hereto. All references to $ and dollars herein shall refer to Canadian dollars unless otherwise indicated.

ARTICLE 2 — ORGANIZATION; POWERS

2.1 CONTINUATION OF LIMITED PARTNERSHIP.

The Partners agree to continue the Partnership subject to the terms of this Agreement in accordance with the Delaware Revised Uniform Limited Partnership Act, as amended from time to time (the "**Delaware Act**").

2.1.1 Name.

The name of the Partnership is "Jefferson Partners Fund IV (PA), L.P." The Partnership shall have the exclusive ownership and right to use the Partnership name as long as the Partnership continues. The General Partner may change the name of the Partnership at any time by written notice to the other Partners.

2.1.2 Address.

The principal office of the Partnership shall be located at its address set forth in Schedule A. The initial address of the Partnership's registered office in Delaware is Corporation Trust Center, 1209 Orange Street, Wilmington, County of New Castle, 19801, and its initial registered agent at such address for service of process is the Corporation Trust Company. The General Partner may change the locations of the principal office and registered office of the Partnership to such other locations as the General Partner may specify from time to time in a written notice to the other Partners.

2.2 POWERS.

Subject to all of the provisions of this Agreement, and in furtherance of the investment objectives set forth in 4.1, the Partnership may engage in any lawful activity for which limited partnerships may be organized under the laws of the State of Delaware and shall have all the powers available to it as a limited partnership organized under the laws of the State of Delaware.

ARTICLE 3 — PARTNERS

3.1 NAMES, ADDRESSES AND SUBSCRIPTIONS.

The name, address, facsimile number, e-mail address and Subscription of each Partner are set forth in Schedule A. The General Partner shall cause Schedule A to be revised, without the necessity of obtaining the consent of any other Partner, to reflect any changes in the identity or Subscriptions of the Partners occurring pursuant to the terms of this Agreement. The amount of Subscriptions of the Partners of the Partnership and subscriptions of the partners of the Parallel Funds shall in no event exceed $300 million in the aggregate.

3.2 LIMITED PARTNERS.

3.2.1 Limited Liability.

The liability of each of the Limited Partners to the Partnership under the Delaware Act shall be limited to any unpaid capital contributions that Limited Partner agreed to make to the Partnership pursuant to Article 6. In addition, in compliance with PSERS' enabling legislation, 24 Pa.C.S. Section 8521(i), the liability of PSERS to the Partnership shall be limited to the amount of its investment. The General Partner hereby confirms that this Agreement and the subscription agreement do not impose any personal indemnification obligations on PSERS and shall not be applied or construed to require PSERS to provide indemnification directly to any person or entity thereunder. PSERS, however, acknowledges that it is obligated as a Limited Partner to make capital contributions as called pursuant to the terms of this Agreement.

3.2.2 Effect of Death, Dissolution or Bankruptcy.

Upon the death, adjudicated incompetence, bankruptcy, liquidation or dissolution of a Limited Partner, the rights and obligations of that Limited Partner under this Agreement shall inure to the benefit of, and shall be binding upon, that Limited Partner's successor(s), estate or legal representative, and each such Person shall be treated as an assignee of that Limited Partner's interest for purposes of Article 11 until admitted as a Partner pursuant to that Article.

3.2.3 No Control of Partnership.

No Limited Partner shall have the right or power to: (a) withdraw or reduce its contribution to the capital of the Partnership except as otherwise provided herein; (b) cause the dissolution and winding up of the Partnership; or (c) demand or receive property in return for its Contribution except as otherwise provided herein. No Limited Partner, in that Person's capacity as such, shall take any part in the control of the

affairs of the Partnership, or undertake any transactions on behalf of the Partnership, or have any power to sign for or otherwise to bind the Partnership.

3.2.4 Admission of Additional Limited Partners.

3.2.4.1 Additional Subscriptions before Final Closing Date.

Subject to the provisions of this Agreement and with the approval of PSERS, during the period from the Initial Closing Date through March 31, 2003 (the "**Final Closing Date**"), the General Partner is authorized, but not obligated, to accept additional Subscriptions from the Partners and to select and admit other investors to the Partnership as additional Limited Partners. Any such additional Subscriptions shall be accepted and any such additional Limited Partners shall be admitted to the Partnership only if:

(a) Such Partner or additional Limited Partner contributes, on the date of its additional Subscription or admission, the same percentage of its Subscription as has been contributed by the other Limited Partners prior to such date and the other amounts, if any, required by 6.7; and

(b) No distribution has been made by the Partnership to the Partners pursuant to Article 7 prior to the date of such Partner's additional Subscription or such additional Limited Partner's admission other than distributions corresponding to amounts described in 8.3.

3.2.4.2 Accession to Agreement; consents of other Limited Partners.

Each Person who is to be admitted as an additional or substitute Limited Partner pursuant to this Agreement shall accede to this Agreement by executing, together with the General Partner, a counterpart signature page to this Agreement providing for such admission, which shall be deemed for all purposes to constitute an amendment to this Agreement providing for such admission, but shall not require the consent or approval of any other Partner.

(a) The General Partner shall make any necessary filings with the appropriate governmental authorities and take such actions as are necessary under applicable law to effectuate such admission.

(b) The admission of an additional or substitute Limited Partner to the Partnership shall be effective upon the execution of a counterpart signature page to this Agreement or such later effective date as is set forth in any written agreement executed by the General Partner and such newly admitted Limited Partner.

3.3 MANAGEMENT AND CONTROL OF PARTNERSHIP.

3.3.1 Management by General Partner.

As among the Partners, the management, policies and control of the Partnership shall be vested exclusively in the General Partner.

3.3.2 Powers of General Partner.

Except as otherwise explicitly provided herein, the General Partner shall have the power on behalf and in the name of the Partnership to implement any and all of the objectives of the Partnership and to exercise any and all rights and powers the Partnership may possess, including, without limitation, the power to cause the Partnership to make any elections available to the Partnership under applicable tax or other laws. No Person that is not a Partner, in dealing with the General Partner, shall be required to determine the General Partner's authority to make any commitment or engage in any undertaking on behalf of the Partnership, or to determine any fact or circumstance bearing upon the existence of the authority of the General Partner.

3.3.3 Time Commitments of General Partner and Principals.

3.3.3.1 General.

Except as otherwise provided in this 3.3.3 or with the prior consent of PSERS, the General Partner shall devote and shall cause the Principals to devote substantially all of their business time to the affairs and activities of the Partnership and Related Entities until the earliest to occur of:

(a) The date on which the Partnership is fully invested;

(b) The Commitment Period Expiration Date; or

(c) The date on which the Limited Partners elect to require the suspension restrictions as set forth in 6.8.

The period beginning on the date hereof and ending on such earliest date is referred to in this 3.3.3.1 as the "**Time and Attention Period.**" Prior to and for all periods after the expiration of the Time and Attention Period, the General Partner shall, at a minimum, devote and shall cause the Principals to devote such amount of their time to managing the affairs and activities of the Partnership and Related Entities as is reasonably necessary to manage such affairs and activities.

3.3.3.2 Fully invested; Related Entities.

For purposes of 3.3.3.1 and 3.3.3.3:

(a) The Partnership shall be deemed to be fully invested when at least 66-2/3% of the aggregate Subscriptions of all Partners (other than Defaulting Partners) have been invested, expended, committed or reserved for future investments in entities that are at such time already Portfolio Companies or for reasonably anticipated Partnership Expenses;

(b) The term "**Related Entities**" includes *only* (a) any Portfolio Company, (b) the Management Company and any other entity engaged in performing services for the Partnership or, at the Partnership's request, for any Portfolio Company; (c) any entity formed to co-invest with the Partnership, or which actually co-invests with the Partnership, in any Portfolio Investment (including, but not limited, to any Alternative Investment Vehicle or Parallel Fund); (d) any Successor Fund organized in compliance with 3.3.3.3; (e) a partnership or other entity serving, in effect, as a holding company in which the Partnership shall invest solely for the purpose of making a Portfolio Investment and (f) any Existing Fund and any portfolio company of an Existing Fund; and

(c) The parties acknowledge and agree that time spent by the Principals with respect to trade associations, charitable or non-profit organizations or similar organizations shall not be deemed "business time" hereunder.

3.3.3.3 Successor Funds.

Without the prior written consent of the Strategic Advisory Board and PSERS, neither the General Partner nor any Principal shall form or act as a general partner of, or the primary source of transactions for, a limited partnership or other investment vehicle with an investment strategy substantially similar to that of the Partnership other than a Related Entity (a "**Successor Fund**") prior to the expiration of the Time and Attention Period; *provided, however,* that this limitation shall in no way restrict the marketing of a Successor Fund to investors in this Partnership, any Parallel Fund or any Existing Fund prior to such date but shall prohibit any such marketing to any other person or entity prior to such date; *provided, further*, that the immediately preceding proviso shall in no way restrict activities with prospective investors prior to the time an offering memorandum with respect to a Successor Fund is first provided to any such investors. In addition to the foregoing, without the prior written consent of the Strategic Advisory Board and PSERS, the Partnership and any Parallel Fund shall be provided, in priority to the Successor Fund, with the opportunity to make any investment proposed to be made on behalf of a

Successor Fund by the General Partner or Principals, prior to the expiration of the Time and Attention Period (provided that solely with respect to the use of the term Time and Attention Period in this sentence, the percentage "66-2/3%" in 3.3.3.2 shall instead refer to the percentage "75%").

3.3.3.4 Parallel Funds.

The Partners acknowledge and agree that the General Partner and/or its Affiliates has already and may in the future form one or more parallel limited partnerships or other collective investment vehicles, including, without limitation, Jefferson Partners Fund IV, L.P. (the "**Main Fund**") (collectively, the "**Parallel Funds**") to invest in parallel with the Partnership. Notwithstanding any provision to the contrary contained herein, the following provisions shall apply with respect to the operation of the Partnership and all Parallel Funds:

(a) Except where restricted or prohibited by law, regulation, policy or rule applicable to the Partnership, the Parallel Funds and/or their respective investors, the Partnership will: (i) invest (on a *pro rata* basis based on relative capital commitments or as otherwise approved by the Strategic Advisory Board) in every investment made by any Parallel Fund on economic terms no more favorable than those available to such Parallel Fund; and (ii) divest at the same time and in the same percentage as such divestment by such Parallel Fund represents to such Parallel Fund's aggregate holdings in such Portfolio Company (or as otherwise approved by the Strategic Advisory Board); *provided, however*, that the Partnership shall not invest in any investment in which the Main Fund is not also an investor.

(b) The Partnership and all Parallel Funds shall share, *pro rata* on the basis of the respective aggregate commitments of the partners of the Partnership and such Parallel Funds, in any fees and expenses relating to Portfolio Investments, and any indemnification obligations under 12.2 or equivalent provisions in the limited partnership agreements of Parallel Funds, but expressly excluding any Management Fee, which will be paid separately by each entity; *provided, however*, that in the event indemnification is not available under any one or more of the limited partnership agreements governing the Partnership or any Parallel Fund, then such indemnification obligations shall be borne only by the funds with respect to which indemnification is available on a *pro rata* basis based on such funds' respective aggregate commitments of the partners of such funds; *provided, further*, that the Partnership shall in no event have indemnity obligations in excess of its *pro rata* share of the aggregate commitments of the partners of the Partnership and all Parallel Funds;

(c) Except as otherwise set forth herein, the Strategic Advisory Board will serve as the Strategic Advisory Board for the Partnership and all Parallel Funds and, to the extent practicable, shall make decisions and recommendations with respect to the Partnership and all Parallel Funds on a joint basis as if they were a single entity;

(d) Unless otherwise approved by the Strategic Advisory Board, no Parallel Fund shall be established after March 31, 2003;

(e) Notwithstanding any other provision hereof to the contrary, any Parallel Funds existing upon establishment of the Partnership shall sell or otherwise transfer to the Partnership a portion of any Portfolio Investments made prior to such establishment in order that each such Portfolio Investment will be held by the Partnership and such Parallel Fund on a *pro rata* basis, based on relative aggregate capital commitments; *provided, however,* that any such sale or transfer shall be made as soon as practicable after the establishment of the Partnership and *provided, further*, that the purchase price that the Partnership shall pay shall be equal to the cost thereof to such Parallel Fund plus an additional amount equal to the interest that would have been earned on the purchase price of each investment acquired, had such purchase price been invested on the date of acquisition at the Reference Rate plus 200 basis

points provided that the full amount thereof shall be treated as the purchase price of the investments and not as interest; and

(f) The General Partner is authorized to take such other actions as it determines are reasonably necessary or appropriate in order to effect the intention of the provisions of this 3.3.3.4 and the other provisions of this Agreement relating to the Parallel Funds in connection with the operation of the Partnership and the Parallel Funds.

3.3.3.5 Operational Rule.

Notwithstanding any provision in this 3.3.3 to the contrary, in the event that the General Partner shall form a Parallel Fund, all references to "*pro rata* basis" in 3.3.3.4 shall take into account the aggregate capital commitments of the Partnership and the Parallel Funds, collectively.

3.3.3.6 Alternative Investment Vehicles.

The General Partner in its discretion may form one or more entities on behalf of the Partnership for the purpose of making, managing or disposing of a Portfolio Investment or otherwise facilitating the participation by the Partnership (or certain Partners) in any Portfolio Investment upon its good faith determination that the use of such special purpose entity is consistent with the purposes of the Partnership, and in the best interest of the Partnership and appropriate to address legal, tax, regulatory or other investment interests of the Partnership (or one or more Partners) in respect of any such Portfolio Investment (each an "**Alternative Investment Vehicle**"). The terms and conditions of any such Alternative Investment Vehicle shall be substantially the same as the terms and conditions of the Partnership (including matters affecting regulated partners and allocations and distributions) or otherwise will be governed by and subject to the terms and conditions of this Agreement, as incorporated by reference in the constituent agreements of such Alternative Investment Vehicle, *except* to the extent that certain terms or conditions may not apply or otherwise shall be modified as necessary and appropriate to address the nature of the circumstances giving rise to the formation of the Alternative Investment Vehicle, as determined by the General Partner. The General Partner shall be permitted to structure the making of all or any portion of such Portfolio Investment through such Alternative Investment Vehicle and shall be authorized to apply the Drawdowns of the Partners to fund any such Alternative Investment Vehicle (or call for the Partners to pay Drawdowns directly to such Alternative Investment Vehicle) to the full extent necessary and appropriate, as determined by the General Partner, to carry out the investment purposes of the Partnership.

3.3.4 Activities of Partners.

3.3.4.1 Transactions between General Partner, Principals and Partnership.

For the sake of clarity, the provisions of this 3.3.4.1 shall under no circumstances relieve any party from complying with the provisions of 3.4.2.

(a) The General Partner and the Principals shall not enter into any transaction which, at the time of such transaction, would violate in any material way their obligations to the Partnership as described herein or which would make it impossible for the Partnership to carry on its intended activities.

(b) Without the prior approval of the Strategic Advisory Board or as specifically contemplated herein, the Partnership shall not engage in any investment or other financial transaction with the General Partner or any Principal, or any partner or Affiliate of the General Partner or any Principal other than transactions entered into in the ordinary course of the Partnership's

activities on terms no less favorable to the Partnership than are generally afforded to unrelated third parties in comparable transactions.

(c) The Partnership may, at any time up to and including the final closing date of the Partnership and/or the Parallel Funds (whichever occurs latest), purchase securities from or sell securities to any Parallel Fund, at cost plus the cost of capital (calculated at the Reference Rate), to the extent necessary to effect the intentions of 3.3.3.4.

(d) Further, notwithstanding any provision herein to the contrary, the Partners acknowledge and agree that the Management Company and/or its Affiliates may, from time to time, make loans to companies that are, or will subsequently become, Portfolio Companies. The General Partner may, in its discretion (but subject to all provisions of this Agreement other than this 3.3.4.1(d)), cause the Partnership to purchase from the Management Company or any such Affiliate any such loan or equity securities into which such loan has been converted so long as: (i) such purchase occurs within six months after the date on which such loan was first made; and (ii) the amount paid by the Partnership for such loan or Securities does not exceed the lesser of: (x) the cost basis of such loan or securities in the hands of the Management Company or such Affiliate; and (y) the fair market value of such loan or securities at the time of purchase. It is further understood and agreed that any interest, dividends or fees actually received by the Management Company or its Affiliates (whether paid in cash or in kind) in accordance with the terms of such loans or Securities shall reduce the Management Fee as set forth in Section 5.2.

3.3.4.2 Permitted activities.

Each Partner agrees that, subject to 3.3.3 and this 3.3.4, any Partner and its respective partners, members, officers, directors, employees and Affiliates may invest, participate, or engage in (for their own accounts or for the accounts of others), or may possess an interest in, other financial ventures and investment and professional activities of every kind, nature and description, independently or with others, including but not limited to: management of other investment partnerships; investment in, financing, acquisition or disposition of securities; investment and management counseling; providing brokerage and investment banking services; or serving as officers, directors, managers, consultants, advisers or agents of other companies, partners of any partnership, members of any limited liability companies or trustees of any trust (and may receive fees, commissions, remuneration or reimbursement of expenses in connection with these activities). Further, the Partners expressly agree that neither the Partnership nor any Partner shall have any rights in or to activities permitted by this 3.3.4 or to any fees, income, profits or goodwill derived therefrom. Further, for avoidance of doubt, other than as set forth in any Side Letter, neither the Partnership nor any Partner shall, solely by virtue of this Agreement, have any right, title or interest in or to any Successor Fund.

3.4 STRATEGIC ADVISORY BOARD.

3.4.1 Appointment; Removal.

The General Partner has established and shall maintain a committee (the **"Strategic Advisory Board"**), which shall be a committee consisting of a representative or nominee of each Limited Partner in the Partnership whose subscription is $10,000,000 or greater, as well as individuals who are senior business executives, entrepreneurs or community leaders in their respective fields and with, to the extent possible, relevant experience in the Partnership's Focus Sectors **("Industry Representatives")**. Except as a result of a vacancy upon resignation or removal, the Strategic Advisory Board shall be not less than five individuals, excluding employees of the General Partner. Not less than a majority of the members of the Strategic Advisory Board shall be representatives or nominees of Limited Partners or of limited partners of any Parallel Fund who are not employees or Affiliates of the General Partner, the Management Company or any of the Principals. Any member of the Strategic Advisory Board may resign upon

delivery of written notice from such member to the General Partner, and shall be deemed removed if the member represents a Limited Partner and such Limited Partner requests such removal in writing to the General Partner or becomes a Defaulting Partner. The General Partner shall as soon as commercially practicable fill any vacancy in the Strategic Advisory Board, whether created by such a resignation or removal or by the death of any member, in compliance with this Agreement and the limited partnership agreement(s) of any Parallel Fund. Notwithstanding the foregoing, for so long as the Pennsylvania Public School Employees' Retirement System ("**PSERS**") is a Limited Partner and is not in default under this Agreement or under its subscription agreement, PSERS shall be entitled to designate one individual reasonably acceptable to the General Partner to serve on the Strategic Advisory Board and shall be entitled to reimbursement by the Partnership (in accordance with 3.4.3) for all reasonable out-of-pocket expenses incurred by such individual in connection with attending the meetings of the Strategic Advisory Board. The General Partner will require each member of the Strategic Advisory Board to execute and deliver a confidentiality agreement with the Partnership and any Parallel Fund which shall, *inter alia*, prohibit such member from, except as and to the extent required by law, disclosing to any Person who is not a Partner or a member of the Strategic Advisory Board the identity of any Limited Partner or member of the Strategic Advisory Board without the prior written consent of such Limited Partner or member of the Strategic Advisory Board.

3.4.2 Duties.

The function of the Strategic Advisory Board (or its committees) shall be to:

(i) at the request of the General Partner, provide market insight and information to assist the General Partner in evaluating investment opportunities and in monitoring Portfolio Investments;

(ii) at the request of the General Partner, give its opinion to the General Partner with respect to valuations of Partnership assets or Partner's interests in accordance with the terms of the limited partnership agreement(s) of any Parallel Fund and this Agreement (for reference, please refer to 14.4);

(iii) approve or disapprove of any transaction or arrangement involving potential conflicts of interest between the Partnership and the Principals, the General Partner or the Management Company or any of their employees, shareholders or Affiliates;

(iv) approve or disapprove of any borrowings from a Partner or any of its Affiliates;

(v) approve or disapprove of any material transaction between the Partnership and the Principals, the General Partner or the Management Company or any of their employees, shareholders or Affiliates;

(vi) give its opinion to the General Partner on other issues that are presented to the Strategic Advisory Board by the General Partner;

(vii) approval of settlements under 12.2.3; and

(viii) undertake such other duties as are required by this Agreement or reasonably requested by the General Partner; *provided* that no member of the Strategic Advisory Board who is a representative or nominee of a Limited Partner shall have any right to approve or disapprove or deal with matters relating to a Parallel Fund in which the Partnership has no interest.

Notwithstanding any provision of this Agreement, the activities of the Strategic Advisory Board and each member thereof (acting in such capacity) shall be limited to those permitted under the Delaware Act for Persons who are not deemed to participate in the control of the affairs of the Partnership. Neither the Strategic Advisory Board, nor any member thereof (acting in such capacity) shall have the power to bind the Partnership or any authority to act for the Partnership or on its behalf.

3.4.3 Reimbursement of Expenses.

Members of the Strategic Advisory Board shall receive from the Partnership and each Parallel Fund, on a *pro rata* basis based on relative aggregate capital commitments, reimbursement for any reasonable out-of-pocket travel expenses incurred in connection with their attendance at meetings of the Strategic Advisory Board, but shall receive no fees or other compensation from the Partnership.

3.4.4 Voting; Adoption of Rules and Procedures; Certain Rules and Procedures.

The Strategic Advisory Board shall have the authority to adopt rules and procedures, not inconsistent with this Agreement and the limited partnership agreement(s) of the Parallel Funds, relating to the conduct of its affairs. More specifically, the Strategic Advisory Board shall adopt procedures governing its activities which shall include:

(i) that all decisions be by majority;

(ii) that meetings of the Strategic Advisory Board be held at least three times annually;

(iii) that a quorum shall be not less than a majority of the members; and

(iv) that (a) the employees, Affiliates or partners of the General Partner, the Management Company or a Principal and (b) Industry Representatives that neither represent nor are themselves Limited Partners or limited partners in any Parallel Fund, refrain from voting on any matter which the Strategic Advisory Board considers pursuant to 3.4.2(ii), (iii), (iv), (v) and (vii), 3.3.4.1, 4.2, 14.4.3 and 14.4.4;

provided however, that the member of the Strategic Advisory Board nominated by PSERS shall not be included in determining a majority of a quorum in the case of Parallel Fund decisions under the proviso to 3.4.2(viii).

Members of the Strategic Advisory Board may participate in a meeting of the Strategic Advisory Board by means of conference telephone or video conferencing by means of which all persons participating in the meeting can hear and be heard. Any member of the Strategic Advisory Board who is unable to attend a meeting of the Strategic Advisory Board may grant in writing to another member of the Strategic Advisory Board or any other Person such member's proxy to vote on any matter upon which action is taken at such meeting.

3.5 CO-INVESTMENT WITH PARTNERS.

Where the General Partner in good faith believes that co-investment opportunities within the scope of the Partnership's investment objectives and policies are available and appropriate, the General Partner intends, but will be under no obligation, to provide co-investment opportunities to Limited Partners who are represented on the Strategic Advisory Board before making such opportunities available to other Limited Partners or third parties who are not Partners (other than investors in any Parallel Fund who are represented on the Strategic Advisory Board, who may be offered the same opportunity). Any such opportunity shall if offered be offered to all such Limited Partners, and to all investors in a Parallel Fund who are represented on the Strategic Advisory Board *pro rata* based on the balances in the Capital Accounts of the Limited Partners. The terms of any such co-investment may be set by the General Partner in its sole discretion subject to acceptance by the potential investor; *provided* that any such investment in the same securities as those in which the Partnership invests shall be on terms no more favorable than the terms of the investment by the Partnership. The General Partner will send a written notice informing the Limited Partners of any such opportunity, specifying the terms and time period for response and indicating whether such terms are the same or less favorable than the terms of the investment by the Partnership. Each Limited Partner shall respond to the General Partner, within the time period identified in the written notice, in writing as to whether it desires to participate in any such co-investment opportunity. If the General Partner determines that the Partnership has incurred additional incremental expenses, fees or other charges as a result of the participation of such Limited Partner(s) in a

co-investment, such Limited Partner shall reimburse the Partnership for such Limited Partner's pro rata share of such amounts, and no such payments shall be treated as capital contributions hereunder. Each Limited Partner agrees and acknowledges that such Limited Partner must satisfy independently the investor qualification standards and other regulatory conditions applicable to any such co-investment and that, in any event, the Portfolio Company which is the subject of such co-investment shall reserve the final right to accept or reject the participation of such Limited Partner in the co-investment. The General Partner shall not provide investment advice to any Limited Partner with respect to any co-investment opportunity, and any Limited Partner participating in such co-investment opportunity shall be solely responsible for making its own decisions as to the merits of such opportunity. Upon the request of any Limited Partner represented on the Strategic Advisory Board, the Partnership will provide such Limited Partner with access to the Partnership's due diligence and internal analyses with sufficient notice prior to the closing of such transaction to facilitate such Limited Partner's co-investment; provided, however, that the General Partner may elect to limit, in whole or in part, any such Limited Partner's access to the such due diligence and internal analyses in the General Partner's reasonable discretion. Neither the Partnership nor the General Partner shall include, in any documents describing any co-investment opportunity offered to any Limited Partner, any recommendation to such Limited Partner as to the suitability of such investment for such Limited Partner. The Partners acknowledge that in no event shall the General Partner, the Partnership or any Affiliate act as or be required to register as a "broker" or "dealer" under any securities regulation (including the Securities Exchange Act of 1934 and state securities laws) in connection with any co-investment activities hereunder, and, that any co-investment opportunities that otherwise might be made available to the Partners will be limited accordingly.

ARTICLE 4 — PORTFOLIO INVESTMENTS AND LIMITATIONS

4.1 INVESTMENT OBJECTIVES.

The principal investment objective of the Partnership shall be to obtain returns by making, holding and disposing of privately negotiated equity and equity-related investments (hereinafter, "**Portfolio Investments**"). Portfolio Investments shall be made principally in the Partnership's Focus Sectors, principally in North America with an emphasis on Canada, in the form of long-term investments which are anticipated to produce capital gains and, to a lesser extent, current income. The Partnership's investments are expected to be principally in equity or equity-related Securities of privately held Portfolio Companies. Activities may also include the organization and consummation of management buyouts, recapitalizations and other strategic situations. The Partnership may also make, although to a lesser extent, investments in publicly traded companies, which will typically be small-capitalization companies (market capitalization of under $50 million) that have not reached liquidity levels to appeal to institutional investors.

4.2 INVESTMENT LIMITATIONS.

(a) Unless approved by the Strategic Advisory Board, not more than 15% of aggregate Subscriptions will be invested as equity in any single Portfolio Company, excluding Follow-On Investments, and Bridge Financings to a particular Portfolio Company may not exceed the aggregate amount of Remaining Commitments.

(b) Unless approved by the Strategic Advisory Board, not more than 20% of aggregate Subscriptions will be invested as equity in any single Portfolio Company, not including any Bridge Financings but including Follow-On Investments.

(c) Unless approved by the Strategic Advisory Board, not more than 20% of aggregate Subscriptions will be invested in publicly traded companies.

(d) Unless unanimously approved by the Strategic Advisory Board, not more than 25% of aggregate Subscriptions will be invested in companies that are not domiciled in Canada (for greater certainty, this does not include the use by Portfolio Companies of invested funds for the purposes of acquiring interests in companies that are not domiciled in Canada).

(e) The Partnership shall not invest in companies:

(i) whose interest-bearing debt to equity ratio is more than 30%. Equity is the company's enterprise value. This applies when investing in existing businesses. For companies yet to be formed, the debt to equity ratio is zero; or

(ii) whose total assets are made up solely of cash, including balances with banks, non-tangible assets and/or accounts receivable.

(f) The Partnership will not invest directly in real estate assets or in transactions based principally on the value of the underlying real estate, although the Partnership may invest in companies with substantial real estate holdings.

(g) The Partnership will not invest in any natural resource company (as such term is defined in The Securities Act (Ontario) and any regulations and rules promulgated thereunder).

(h) The Partnership will not invest in any entity in which any of the Principals, General Partner or the Management Company or any of their respective Affiliates, employees or shareholders has an interest and, subject to Strategic Advisory Board approval, investments in entities in which any other funds advised by the Principals, the General Partner or the Management Company or any of their respective Affiliates, employees or shareholders have an interest.

(i) Unless approved by the Strategic Advisory Board, the Partnership will not invest in any entity in which (to the knowledge of the General Partner) any Limited Partner, any Affiliate of a Limited Partner or any Person who holds any of the outstanding shares of a Limited Partner, has an interest; *provided, however,* that such restriction shall not apply to an investment in an entity in which any Limited Partner has acquired an interest solely in the capacity of an underwriter (as defined in The Securities Act (Ontario) and any regulations and rules promulgated thereunder).

(j) A guarantee by the Partnership of indebtedness or obligations of a company will be deemed to be an investment in such company in an amount equal to the amount of the guaranteed indebtedness or obligations.

(k) The Partnership's Total Investment in the securities of other pooled investment vehicles registered as investment companies under the Investment Company Act, or exempt from such registration pursuant to Section 3(c)(1) or Section 3(c)(7) of the Investment Company Act, (none of which shall be sponsored, directly or indirectly, by the General Partner or any Principal) shall not exceed 10% of the aggregate Subscriptions of all Partners, provided that no such investment shall result in the direct or indirect payment of a management fee or carried interest to the managers of such vehicles by the Limited Partners.

(l) For the avoidance of doubt, nothing in this Section 4.2 shall prevent the Partnership from (a) making short term investments in cash equivalents pending investment by the Partnership or (b) making bridge loans of less than one year in duration.

The above investment limitations shall be subject to the good faith interpretation of the General Partner. Solely with respect to this 4.2, the terms "Subscriptions", "Partners", "Limited Partners" and "Remaining Commitments" shall refer to such terms as used under this Agreement and equivalent terms under the limited partnership agreement(s) for the Parallel Funds (on an aggregate basis).

4.3 RETENTION AND REINVESTMENT OF DISTRIBUTABLE PROCEEDS.

4.3.1 Retention Through End of Commitment Period.

The General Partner in its discretion may cause the Partnership to retain any Distributable Proceeds received by the Partnership at any time up to and including the end of the Commitment Period and may use the amounts so retained to make Portfolio Investments, pay Partnership Expenses, or fund reserves for future Portfolio Investments or reasonably anticipated future Partnership Expenses; *provided, however*, that:

(a) After the end of the Commitment Period, no part of such retained amounts shall be used to make any Portfolio Investment, except to the extent that the General Partner would be permitted pursuant to 6.1.1.3 to call for a Drawdown to fund such Portfolio Investment (assuming, solely for this purpose, that the Remaining Commitments of the Partners were sufficient in amount to fund such investment); and

(b) In no event shall the initial Cost of all Portfolio Investments exceed 100% of the aggregate Subscriptions of the Partners.

4.3.2 Retention After Expiration of Commitment Period.

Notwithstanding the limitations set forth in 4.3.1, the General Partner in its discretion may cause the Partnership to retain without regard to whether the Commitment Period has elapsed, any amount of Distributable Proceeds that it reasonably deems necessary or advisable in order to enable the Partnership to satisfy its obligations to make the indemnification advances and payments required by 12.2, or to pay current and reasonably anticipated future Partnership Expenses.

4.4 BORROWING AND GUARANTEES.

4.4.1 Limitation on Borrowing.

The Partnership may (subject to any restrictions set forth in this Agreement) borrow money if such borrowing is approved by the Strategic Advisory Board.

4.4.2 Limitation on Guarantees.

The Partnership may guarantee the indebtedness of any Portfolio Company; *provided, however*, that the total amount guaranteed by the Partnership with respect to Portfolio Companies shall not exceed 10% of the aggregate Subscriptions of the Partners (or such greater percentage as is approved by the Strategic Advisory Board). In addition, the General Partner shall have the right, at its option, to cause the Partnership to guarantee loans or other debts, obligations, liabilities or extensions of credit, in either case on a secured or unsecured basis, for the purpose of (i) covering Partnership Expenses, or (ii) providing interim financing to the extent necessary to consummate the purchase of Portfolio Investments prior to the receipt of capital contributions; *provided* that the outstanding principal amount of such guarantees by the Partnership at any time shall not, in the aggregate, exceed 10% of total Subscriptions and provided further that no such guarantee may be provided unless the General Partner determines that providing a guarantee would not have any adverse effect on the tax position of any Partner.

ARTICLE 5 — FEES AND EXPENSES; MANAGEMENT FEE

5.1 ORGANIZATIONAL EXPENSES.

Upon completion of the Partnership's initial Drawdown, the Partnership shall reimburse the General Partner and its Affiliates for all Organizational Expenses incurred by any of them (subject to the limitations set forth in 5.3(j)).

5.2 MANAGEMENT FEE.

The Partnership shall pay to the Management Company an investment management fee (the "**Management Fee**") for services performed for the Partnership pursuant to the Investment Management Agreement, calculated and payable quarterly in advance (each such quarter, a "**Fee Period**"), for the period commencing on the Initial Closing Date and ending on the date that the Investment Management Agreement is terminated. The Management Fee for any Fee Period shall be pro-rated for the number of days in such period, and in the case of the last Fee Period the Management Company shall refund to the Partnership the amount of the Management Fee allocable to that portion of such period which is subsequent to such date. The Management Fee for a Fee Period shall be calculated as the product of X/Y and Z, where X is the aggregate Subscriptions of the Limited Partners, Y is the aggregate subscriptions of all partners in the Partnership and the Parallel Funds and Z is 2.0% per annum of the Base Amount (each such per annum percentage to be appropriately adjusted to account for the fact that the Fee Period is paid quarterly and not annually).

For this purpose the "**Base Amount**" means:

(i) during the Commitment Period, the amount calculated using the following formula:

A+B

; and

(ii) after the termination of the Commitment Period, the amount calculated using the following formula:

[A+B] minus [X+[YV]+[ZV]]

where,

A= the aggregate Subscriptions of the Partners determined as of the first day of the applicable Fee Period

B= the aggregate subscriptions of all partners in the Parallel Funds determined as of the first day of the applicable Fee Period

X= the sum of Realized Capital and the aggregate contributions of partners in all Parallel Funds which were applied to realized portfolio investments as of the first day of the applicable Fee Period

Y = the sum of management fees paid pursuant to this 5.2 and similar provisions and/or the investment management agreement of any Parallel Fund, in each case solely to the extent paid during the Commitment Period

Z = the sum of Organizational Expenses and Partnership Expenses incurred under this Agreement and similar expenses incurred under the limited partnership agreement(s) of any Parallel Fund, in each case solely to the extent incurred during the Commitment Period

T = X, adjusted to be calculated as of the last day of the Commitment Period

U = the sum of T and Unrealized Capital

V = T divided by U

Realized Capital = As of any time of determination, the sum of the aggregate Contributions of the Limited Partners attributable to all Portfolio Securities that have been sold, exchanged, redeemed, repurchased, distributed to the Limited Partners or otherwise disposed of, in whole or in part, for cash or marketable securities in a case where the marketable securities are received otherwise than on a tax-deferred basis for purposes of the Code.

Unrealized Capital = As of the last day of the Commitment Period, the sum of the aggregate Contributions of the Limited Partners attributable to all Portfolio Securities other than those that have been sold, exchanged, redeemed, repurchased, distributed to the Limited Partners or otherwise disposed

of, in whole or in part, for cash or marketable securities in a case where the marketable securities are received otherwise than on a tax-deferred basis for purposes of the Code.

Any increase in the Management Fee resulting from an increase in the total Subscriptions of all Partners to the Partnership shall be effective retroactive to the Initial Closing Date for increases in Subscriptions that occur in accordance with 3.2.4. The Management Fee for each calendar quarter shall be reduced by 80% of the amount of any director's fees, consulting fees, commitment fees, break-up fees, monitoring fees, success fees, any interest, dividends or fees received pursuant to 3.3.4.1(d) or other remuneration (excluding any reimbursements of out-of-pocket expenses, including taxes, if any) paid in cash during the prior calendar quarter to the General Partner (in its own capacity and not on behalf of the Partnership), Management Company or any Principal by Portfolio Companies for services rendered by such persons; *provided, however,* that the Management Fee shall not be reduced below zero. In the event that the amount of remuneration to be applied against the Management Fee exceeds the Management Fee for the following quarter, such excess shall be carried forward to reduce the Management Fee payable in subsequent quarters. Subject to 3.3.3.4(b), in the event the General Partner, Management Company or any Principal receives any such remuneration paid by any Portfolio Company in which the Partnership and any Existing Fund, Successor Fund and/or Parallel Fund hold an investment, the General Partner shall determine that portion of such amounts to be offset against the Management Fee hereunder based on the relative amounts invested in such Portfolio Company by the Partnership and such Existing Fund(s), Successor Fund(s) and/or Parallel Fund(s). In the event of any increase in the Management Fee as a result of an increase in Subscriptions to the Partnership, the amount of such increase calculated from the effective date thereof to the beginning of the first calendar quarter following such increase in Subscriptions shall be paid to the Management Company on the date of such increase in Subscriptions.

5.3 EXPENSES.

The General Partner or the Management Company shall assume all "normal operating expenses" of the Partnership (**"GP Expenses"**). Subject to the next sentence, normal operating expenses include (a) any costs and expenses of providing to the Partnership any office space, furniture, fixtures, equipment, facilities, supplies, internal bookkeeping and necessary ongoing overhead support services for the Partnership's operations, (b) the compensation of the personnel, consultants and agents of the General Partner and the Management Company, other than those specifically excluded in the next sentence, (c) all out-of-pocket expenses and travel expenses arising out of locating and investigating potential investment opportunities and out of business promotion activities, (d) Organizational Expenses to the extent that such expenses exceed the Partnership's *pro rata* share (based upon the percentage that the Subscriptions represent of the aggregate commitments of partners in the Partnership and any Parallel Funds) of $1,000,000 and (e) similar expenses to the extent that such expenses are not subject to reimbursement by the Partnership in the next sentence. The Partnership shall bear and be charged with the following costs and reasonable expenses of the Partnership (or, to the extent that such costs and expenses are common to the Partnership and any Parallel Funds, the Partnership's *pro rata* share of such costs and expenses based on the respective aggregate commitments of the Limited Partners and the partners in such Parallel Funds) and shall promptly reimburse the General Partner, the Management Company or their Affiliates, as the case may be, to the extent that any such costs and expenses are paid by such entities:

(a) all routine administrative expenses of the Partnership incurred in the ordinary course, the cost of the preparation of the annual audit, financial and tax returns and tax reports required for Partners or the Partnership, all reports to Partners prepared pursuant to 14.3, cash management expenses and routine legal and accounting expenses;

(b) all out-of-pocket costs and expenses, if any, incurred in holding, developing, negotiating, structuring, acquiring, monitoring and disposing of actual Portfolio Investments, Bridge

Financings and Temporary Investments, including without limitation any financing, legal and accounting expenses, and any expenses relating to the provision by experts in the underlying business and technologies of prospective Portfolio Companies of consulting or advisory services, in connection therewith (to the extent not subject to any reimbursement of such costs and expenses by Portfolio Companies);

(c) brokerage commissions, registration fees and expenses, custodial expenses and other investment costs, actually incurred in connection with Portfolio Investments;

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

(e) the out-of-pocket 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 (subject to 3.3.3.4(b) and Article 12);

(f) expenses of liquidating the Partnership;

(g) registration expenses and any taxes, 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;

(h) the expenses of the Advisory Board under 3.4 and annual meetings and special meetings of the Limited Partners;

(i) the Management Fee; and

(j) the Partnership's pro rata share (based upon the percentage that the Subscriptions represent of the aggregate commitments of partners in the Partnership and the Parallel Funds) of Organizational Expenses up to $1,000,000.

ARTICLE 6 — CAPITAL OF THE PARTNERSHIP

6.1 OBLIGATION TO CONTRIBUTE.

6.1.1 Drawdowns.

6.1.1.1 General.

Each Partner agrees to make payments of capital contributions to the Partnership, in accordance with and subject to the terms of this Agreement. The Subscription of the General Partner to the Partnership shall at all times equal at least the amount computed as X-Y, where X = 5% of the sum of (i) the aggregate Subscriptions of all Partners and (ii) the aggregate subscriptions of all partners in the Parallel Funds and Y = the aggregate subscription of the general partner of any Parallel Fund to such Parallel Fund. All payments of capital contributions shall be made at such times and in such amounts as are specified by the General Partner in Call Notices issued pursuant to 6.2, in separate drawdowns ("**Drawdowns**") as provided in this Article 6. No interest shall accrue on any capital contributions made by a Partner.

6.1.1.2 Drawdowns during Commitment Period.

The General Partner is authorized to make Drawdowns of capital contributions from time to time on or prior to the Commitment Period Expiration Date for any purpose contemplated under this Agreement.

6.1.1.3 Drawdowns after expiration of Commitment Period.

After the Commitment Period Expiration Date, the General Partner shall not be authorized to call for or accept (and the Partners shall not be obligated to make) any Drawdowns to fund new Portfolio Investments (*i.e.*, Portfolio Investments which the Partnership is not contractually obligated to make at such time) *other than* for:

(a) Portfolio Investments as to which, prior to the Commitment Period Expiration Date, the Partnership and the prospective Portfolio Company in which such investment is to be made (or its Affiliates) have signed a letter of intent or a definitive agreement setting forth the material terms and conditions of such investment;

(b) Existing investment commitments in existing Portfolio Companies; or

(c) Follow-On Investments.

For avoidance of doubt, the General Partner's authority to call for Drawdowns after the Commitment Period Expiration Date for purposes *other than* to fund Portfolio Investments shall not be affected by the Commitment Period Expiration Date.

6.2 CALL NOTICES.

6.2.1 General.

The General Partner shall specify the time of each Drawdown of capital contributions in a written notice (a "**Call Notice**") given to the Limited Partners prior to the date of such Drawdown (the "**Drawdown Date**"). The Call Notice shall also specify the name of the investment, if any, as to which the funds will be used, any other use of the funds, the total capital being called and the capital being called from the specific Limited Partners receiving the Call Notice. The Call Notice shall further contain a brief description (if not previously described in writing to the Limited Partners) of the identity, nature and business of the Portfolio Company relating to such investment, including, if applicable, that such company is a media company; *provided* that the General Partner may exclude other information (but not a general description of the nature and business of the Portfolio Company) if the General Partner determines that notifying the Limited Partners of such other information would risk jeopardizing such Portfolio Investment or would constitute a contravention of applicable securities laws.

6.2.2 Timing.

The General Partner shall give Call Notices to the Limited Partners by first class mail, electronic facsimile transmission or e-mail (at the address, facsimile number or e-mail address of such Limited Partner set forth in Schedule A), which shall be deemed delivered in accordance with 14.6.1, at least 10 Business Days prior to each Drawdown Date (provided that the initial Call Notice may be given 2 days prior to the Initial Drawdown Date).

6.2.3 Rescission; Postponement; Default.

Any Drawdown in respect of which a Call Notice has been given pursuant to 6.2.2 may be rescinded or postponed by the General Partner one or more times. The General Partner shall give prompt written notice to each Limited Partner by facsimile of any such rescission or postponement, whereupon any rescheduled Drawdown Date shall constitute the Drawdown Date for all purposes under this Agreement. A notice of postponement shall restate the entire Call Notice and indicate to the Limited Partners any material changes in the information contained in the original Call Notice. In addition, solely in the case of a default pursuant to 6.3 or 6.4, the General Partner may issue a revised Call Notice with at least 5 days' notice by facsimile or e-mail.

6.3 FAILURE TO MAKE REQUIRED PAYMENT.

6.3.1 Delay Penalty.

6.3.1.1 General.

Except to the extent such Limited Partner is excused pursuant to any provision of this Agreement from paying all or any part of its capital contribution pursuant to a Drawdown, upon any failure by a Limited Partner to pay in full when due the capital contribution to be paid by it on a Drawdown Date, interest will accrue at the Default Rate on the outstanding unpaid balance of such capital contribution, from but

excluding the date that the General Partner notifies such Limited Partner in writing that it is in default until the earlier of the date of payment of such capital contribution or such time, if any, as such Limited Partner becomes a Defaulting Partner.

6.3.1.2 Payment before designation as a Defaulting Partner.

If such Limited Partner fails to pay any such amount after it receives written notice of such failure but pays such amount (together with any accrued interest thereon) prior to the time it becomes a Defaulting Partner, the General Partner shall reflect in the records of the Partnership the amount paid by such Partner, with such amount treated as payment first of accrued interest to the extent thereof; *provided, however*, that no such payment of interest shall increase such Partner's Contribution or reduce its Remaining Commitment.

6.3.1.3 Designation as Defaulting Partner.

A Limited Partner that has failed to make a payment in satisfaction of such Partner's Subscription (together with any interest or other amounts due) pursuant to a Call Notice by the close of business on the date that is three Business Days after the relevant Drawdown Date and has also failed to make such payment on or before the date that is five Business Days after the General Partner has given written notice to such Limited Partner that it intends to designate such Partner as a Defaulting Partner under this 6.3.1.3 shall be deemed to be a "**Defaulting Partner**."

6.3.2 Default Charge.

6.3.2.1 Imposition.

The Partners agree that the damages suffered by the Partnership as the result of any failure by a Partner to make a capital contribution or other payment to the Partnership that is required by this Agreement cannot be estimated with reasonable accuracy. As liquidated damages for such default (which each Partner hereby agrees are reasonable), the General Partner shall have the right in its sole discretion to (a) reduce the Contribution and Capital Account of a Defaulting Partner by an amount equal to 50% of such Defaulting Partner's Subscription at the time of the default (the "**Default Charge**"), (b) convert the Defaulting Partner's interest in the Partnership to a Non-Voting Interest, and/or (c) withhold distributions to a Defaulting Partner as set forth in 6.3.3. Notwithstanding any of the foregoing, where there exists a conflict of interest, as determined by the General Partner acting reasonably, between the principals of a Defaulting Partner and the principals of the General Partner, no decisions shall be made by the General Partner in respect of the exercise or non exercise of any remedies under this 6.3.2.1 without first obtaining the approval of the Strategic Advisory Board.

6.3.2.2 Reallocation.

(a) The amount of any Default Charge levied upon a Defaulting Partner shall immediately become unrestricted funds of the Partnership and shall be allocated:

(1) As to the Contribution amount, to and among the respective Contributions of the non-defaulting Partners in proportion to their respective Contributions; and

(2) As to the Capital Account amount, to and among the respective Capital Accounts of the non-defaulting Partners in proportion to the positive balances in their respective Capital Accounts.

(b) For purposes of 6.3.2.2(a):

(1) The amount by which a Defaulting Partner's Contribution or Capital Account is reduced shall in no case exceed the Defaulting Partner's Contribution or the positive balance in such Defaulting Partner's Capital Account, respectively, immediately before the reduction;

(2) If either the Contribution or the Capital Account of the Defaulting Partner otherwise would be reduced below zero by the imposition of the full amount of any Default Charge, that Contribution or the balance in that Capital Account shall be reduced to zero and any excess of the full amount of the Default Charge over the amount of the Defaulting Partner's Contribution or the positive balance in its Capital Account immediately before such reduction, as appropriate, shall be carried over and applied to reduce such Defaulting Partner's Contribution or the balance in its Capital Account, as appropriate, at such subsequent time or times as that Contribution is greater than zero or that Capital Account has a positive balance; and

(3) Any increase in the Contributions or Capital Accounts of non-defaulting Partners as the result of the imposition of a Default Charge shall occur only at such time or times as the corresponding reduction in the Defaulting Partner's Contribution or Capital Account occurs.

(c) Any reduction in a Defaulting Partner's Contribution shall result in a corresponding reduction in the Priority Return Amount and Return Base of the Defaulting Partner.

6.3.3 Limitation on Distributions to Defaulting Partner.

The General Partner may cause the Partnership to withhold any distributions that otherwise would be made to a Defaulting Partner and use for any purpose any amounts otherwise distributable to such Defaulting Partner until such time as the General Partner determines to distribute such amounts or until such time as the Partnership makes its final liquidating distribution, whichever occurs sooner.

6.3.4 Effect of Default on Remaining Interest in Partnership.

6.3.4.1 No automatic reduction in Remaining Commitment.

The application of the aforesaid liquidated damages provisions shall not relieve any Defaulting Partner of such Partner's obligation to make all payments of its capital contributions pursuant to Drawdowns when due, unless the General Partner determines that no additional capital contribution shall be accepted from the Defaulting Partner, in which case the General Partner shall so notify such Defaulting Partner in writing, and, as of the date that such notice is sent to the Defaulting Partner, such Defaulting Partner's Remaining Commitment shall be reduced to zero.

6.3.4.2 Discretionary reduction in Remaining Commitment.

The General Partner may determine that no additional capital contribution shall be accepted from the Defaulting Partner, in which case the General Partner shall so notify such Defaulting Partner in writing.

6.3.4.3 Reduction of Contribution and Capital Account to zero.

In the event that each of the Defaulting Partner's Contribution and the balance in its Capital Account have been reduced to zero and either (a) the Remaining Commitment of each Partner (other than any Defaulting Partner) has been reduced to zero, or (b) the General Partner has determined that such Defaulting Partner shall not be permitted to make any further capital contributions to the Partnership, such Defaulting Partner's interest in the Partnership shall be extinguished completely and the Partnership shall have no further obligation of any nature to such Person.

6.3.5 Other Remedies.

The Partnership shall have all other remedies available under law to a limited partnership organized under the Delaware Act to enforce the collection from the Defaulting Partner of any unpaid capital contributions for which a Drawdown Notice has been issued, any interest owed by such Partner as provided in 6.3.1.1, all costs of collection (including attorneys' fees), and interest at the Default Rate on all such costs from the date paid. All such other remedies shall be cumulative.

6.4 DEFAULT DUE TO CHANGE IN LAW.

6.4.1 General.

If, at any time before a Drawdown Date, a Limited Partner shall obtain and deliver to the Partnership an opinion of counsel reasonably acceptable as to form, substance and choice of counsel to the General Partner to the effect that all future payments by such Limited Partner of its Remaining Commitment (including, but not limited to, any part of the Drawdown due on such date) will be unlawful or that there is a material and substantial likelihood that all such payments will be unlawful, in each case as a result of changes in laws or regulations applicable to such Limited Partner occurring after the date of such Limited Partner's admission to the Partnership, then such Limited Partner shall have no further right or obligation to pay any part of its Remaining Commitment.

6.4.2 Effect of Permitted Nonpayment.

In the event that any Limited Partner is excused, pursuant to 6.4.1, from its obligation to make additional payments to the Partnership:

(a) Such Limited Partner shall not, by reason of its failure to pay such portion, be deemed to be a Defaulting Partner for any purpose under this Agreement;

(b) Such Limited Partner's Remaining Commitment shall be reduced to zero; and

(c) The General Partner may adjust subsequent Partnership allocations and distributions, to the extent necessary and feasible, so that the aggregate amounts allocated and distributed by the Partnership to such Partner over the term of the Partnership are equal to the aggregate amounts that would have been allocated and distributed to such Partner if such Partner's Subscription had been equal at all times to its Contribution as of the Date on which the General Partner received the opinion required by 6.4.1; *provided*, *however*, that the General Partner shall not be required to make such adjustments if and to the extent such adjustments would adversely affect the remaining Partners.

6.5 AMOUNT OF CONTRIBUTIONS.

6.5.1 APPORTIONMENT AMONG PARTNERS.

The General Partner shall calculate the capital contribution to be made by each Partner pursuant to a Drawdown so that such Partner's capital contribution to be made pursuant to that Drawdown bears the same relationship to such Partner's Remaining Commitment as the aggregate capital contributions to be made by all Partners pursuant to such Drawdown bears to the aggregate Remaining Commitments of all Partners, except as explicitly provided in this Agreement.

6.5.2 Form.

Except as otherwise provided in this Agreement, all capital contributions shall be made to the Partnership by wire or other transfer of immediately available Canadian funds by 11:00 a.m. (Toronto, Ontario time) on the relevant Drawdown Date to the account designated by the General Partner for such purpose.

6.5.3 No Partial Payments in Respect of Drawdowns.

Each Partner shall be obligated to make payment in full of each Drawdown on the relevant Drawdown Date together with any and all interest or other amounts due thereon, and no Partner shall make (nor shall the Partnership be obligated to accept) any partial payments as to any Drawdown, except as otherwise explicitly provided in this Agreement.

6.6 RETURN OF CONTRIBUTIONS SUBJECT TO SUBSEQUENT DRAWDOWN.

6.6.1 Unused Contributions.

In the event that the Partners have made capital contributions subject to Drawdowns and the General Partner determines that any portion of such capital contributions is not likely to be invested in one or more Portfolio Investments or applied to the payment or reimbursement of expenses or other purposes, then the General Partner may cause the Partnership to promptly distribute part or all of the amount of any such capital contributions which have not been so invested or applied, together with any income earned thereon from Temporary Investments made with such capital contributions, to the Partners who made such capital contributions, in proportion to each such Partner's capital contribution made pursuant to the relevant Call Notice.

6.6.2 Returns to Fund Permitted Reinvestments.

In the event that the General Partner, with the consent of the Strategic Advisory Board, determines that all or any portion of a distribution of Distributable Proceeds should be subject to subsequent Drawdown (in compliance with 6.1.1) in order to enable the Partnership to invest 100% of the aggregate Subscriptions of all Partners in Portfolio Investments (as contemplated by and subject to any limitations imposed by this Agreement), the General Partner shall deliver written notice to each Partner at the time of such distribution of the percentage of the distribution made to such Partner that is subject to subsequent Drawdown (which percentage shall be uniform for all Partners receiving such distribution), and that percentage of such distribution shall be treated for purposes of 6.6.3 as a return of such Partner's Contribution.

6.6.3 Effect of Return of Contributions.

6.6.3.1 Reduction in Contributions; increase in Remaining Commitments.

The Contribution of any Partner receiving a payment or distribution pursuant to 6.6.1 or 6.6.2 shall be reduced (but not below zero) by the amount of its Contribution returned to such Partner, and such Partner's Remaining Commitment shall be increased, on a dollar-for-dollar basis, by the amount of that reduction. Increases to a Partner's Return Base shall be made on a provisional basis when that Partner makes a capital contribution, subject to later reversal to the extent of any distribution of that capital contribution pursuant to 6.6.1 that reduces such Partner's Contribution and increases such Partner's Remaining Commitment. No Partner's Remaining Commitment shall be increased, however, by any amounts paid or distributed to such Partner pursuant to 6.6.1 that are attributable to interest or other income or gains ("**Partner Interest**") earned on Temporary Investments made by the Partnership with such capital contributions prior to their return to the contributing Partner, so that with respect to such returned amounts, the distributee Partner is credited with any such Partner Interest, rather than 8% Distribution Preference amounts, for the period during which such capital contributions were held by the Partnership.

6.6.3.2 Use of returned amounts.

Any part of its Contribution returned to any Partner pursuant to this 6.6 shall be available to the Partnership for subsequent Drawdowns, subject to the limitations set forth in this Agreement.

6.7 CONTRIBUTIONS AND PAYMENTS ON ADMISSION OF ADDITIONAL LIMITED PARTNERS

6.7.1 ADJUSTMENT TO AGGREGATE SUBSCRIPTIONS.

Upon the admission of any additional Limited Partner in accordance with 3.2.4.1, the General Partner shall amend or supplement Schedule A to reflect the name, address and Subscription of such additional Limited Partner; (b) the Subscription of any such additional Limited Partner shall be included thereafter in the Partnership's aggregate Subscriptions; and (c) the Subscription of the General Partner shall be increased (if necessary) to the amount then required by 6.1.1.1.

6.7.2 Contributions and Payments on Admission.

Each additional Limited Partner admitted to the Partnership after the Initial Drawdown Date shall pay to the Partnership, by wire transfer of immediately available funds on the date of its admission as a Limited Partner, contributions representing the same percentage of its Subscription as the percentage which each other Partner has been required to contribute of its Subscription prior to such date. For any Limited Partner admitted at a closing held after the Initial Drawdown Date as a "**Late Admission Charge**" (and not as an amount increasing such Partner's Contribution), an amount equal to interest on the amount contributed pursuant to the preceding clause at the Reference Rate plus 200 basis points, compounded daily, from the date(s) that such Limited Partner would have contributed the component portions of such amount if it had been admitted at the Initial Closing shall be charged to such Limited Partner.

6.7.3 Intent of Partners.

Each Partner acknowledges and agrees that the intent of this 6.7 is to allow such additional Limited Partner to obtain an indirect interest (based on the Partner's relative Subscriptions) in each Portfolio Investment and Temporary Investment held by the Partnership at the time such additional Limited Partner makes such initial capital contribution and to cause such additional Limited Partner to bear its proportionate share (based on the Partner's relative Subscriptions) of any Partnership Expenses paid prior to or concurrently with the admission of such additional Limited Partners, in each case in exchange for the payments required by this 6.7. Subject to the foregoing, each additional Limited Partner shall be treated in all respects as if it had been an original Limited Partner of the Partnership, and shall be subject to all the obligations of the Limited Partners hereunder including, without limitation, the obligation to make all subsequent capital contributions required by 6.1.

6.7.4 Increases in Subscriptions of Existing Partners.

For purposes of 6.7.1, the acceptance of additional Subscriptions after the Initial Drawdown Date from any existing Limited Partner that was originally admitted as a Limited Partner prior to the Initial Drawdown Date shall be treated as an admission of an additional Limited Partner occurring after that date.

6.7.5 Distributions to Other Partners.

Upon the admission of an additional Limited Partner, the Partnership shall distribute to the Partners (other than any Limited Partners admitted on such admission date) an amount equal to the Late Admission Charge paid by such additional Partner pursuant to 6.7.2, which shall be apportioned among such previously admitted Partners in proportion to their respective Contributions but shall not increase the Remaining Commitment of any Partner receiving such distribution.

6.8 SUSPENSION OF CALL NOTICES.

In the event that Folk fails to devote such time to the Partnership as is required under 3.3.3 (hereinafter, a "**Suspension Event**") for any reason, the General Partner shall within 30 days notify the Limited Partners that a Suspension Event has occurred. Such notice shall specify the date of a meeting to be held within 90 days of the date of such notice to address a plan regarding a replacement for Folk or an alternate management structure. If PSERS delivers in writing an election to require the following suspensions within 90 days after the meeting referred to in the immediately preceding sentence has been held, from and after any such election:

(a) The Partnership shall not thereafter make any new investments (except for investments described in 6.1.1.3 (irrespective of whether the Commitment Period has expired)) in any entity, unless and until PSERS agrees to remove such suspension; and

(b) The General Partner shall not issue any Call Notices for any purpose, other than for investments described in 6.1.1.3 (irrespective of whether the Commitment Period has expired) and for the payment of Partnership Expenses, unless and until PSERS agrees to remove such

suspension. For avoidance of doubt, except as specifically provided above, or in 11.4, during the period in which any suspension is in effect under this 6.8, the General Partner shall continue to act on behalf of the Partnership and to perform its functions hereunder and shall have all the rights and privileges of the General Partner hereunder.

ARTICLE 7 — DISTRIBUTIONS

7.1 AMOUNT, TIMING AND FORM.

7.1.1 General.

(a) Except as otherwise provided in this Agreement, the General Partner shall determine the amount, timing and form (whether in cash or in kind) of all distributions made by the Partnership.

(b) Notwithstanding anything to the contrary in this Article 7, the General Partner in its sole discretion may elect not to receive part or all of any distribution to which it otherwise would be entitled under this Agreement and cause that amount to be distributed to all Partners in proportion to their respective Contributions; *provided, however*, that the General Partner, in its discretion, may subsequently distribute to itself, out of funds available therefor, any amounts that it has previously elected not to receive pursuant to this 7.1.1(b), without regard to the other provisions of this Article 7, but subject to any restoration obligation of the General Partner described in 7.6.

7.1.2 Distributions in Kind.

7.1.2.1 Freely Tradable Securities.

Except as authorized by the General Partner after consultation with the Strategic Advisory Board, all distributions made before the commencement of the liquidation of the Partnership's assets pursuant to Article 10 shall consist of cash or Freely Tradable Securities.

7.1.2.2 Apportionment of distributions.

Each class of securities to be distributed in kind shall be distributed to the Partners in proportion to their respective shares of the proposed distribution as provided in Article 7 or Article 10, as the case may be, except to the extent that a disproportionate distribution of such securities is necessary in order to avoid distributing fractional shares. For purposes of the preceding sentence, each lot of stock or other securities having a separately identifiable tax basis or holding period shall be treated as a separate class of securities.

7.2 DISCRETIONARY DISTRIBUTIONS.

7.2.1 General.

Except as otherwise explicitly provided in this Agreement, all distributions prior to the commencement of the liquidation of the Partnership's assets pursuant to Article 10 shall be made in accordance with this 7.2. All distributions made pursuant to this 7.2, other than Tax Distributions, are referred to herein as "**Discretionary Distributions**."

7.2.2 Priorities.

Distributions of Distributable Proceeds (other than Tax Distributions and liquidating distributions) shall be made to the Partners as follows:

(a) First, 100% to all Partners (other than any Defaulting Partner) in proportion to their respective Priority Return Amounts, until each Partner has received aggregate distributions of Distributable Proceeds equal to such Partner's Priority Return Amount;

(b) Second, 100% to all Partners (other than any Defaulting Partner) in proportion to their respective 8% Distribution Preferences until each Partner has received aggregate distributions of Distributable Proceeds equal to such Partner's 8% Distribution Preference; and

(c) Thereafter, to all Partners (other than any Defaulting Partner) in the amounts and proportions necessary to ensure, as promptly as possible and to the extent feasible, that all Distributable Proceeds distributed by the Partnership since its inception in excess of the Partners' aggregate Priority Return Amounts shall have been distributed 80% to all Partners (other than any Defaulting Partner) in proportion to their respective Contributions and 20% to the General Partner (over and above the General Partner's share of the 80% distribution).

7.2.3 Operational Rules.

For purposes of 7.2.2:

(a) Tax Distributions made to any Partner shall be taken into account as if distributions of equivalent amounts had been made to such Partner pursuant to 7.2.2 rather than 7.3;

(b) Distributions made to any Partner pursuant to 6.6 shall be disregarded; and

(c) All distributions made to any Partner's predecessors in interest shall be treated as having been made to such Partner.

7.2.4 Certain Distributions Made to Holdback Account.

The Partnership shall establish a custodial account (with a custodian of its choosing that is a recognized financial institution) for the benefit of the General Partner and the general partner of any Parallel Fund (the "**Holdback Account**") for the purpose of holding certain distributions otherwise distributable directly to the General Partner pursuant to this Agreement and distributed to the general partner of any Parallel Fund pursuant to the limited partnership agreement(s) of any Parallel Fund, all as more fully set forth in this 7.2.4.

(a) All Holdback Distributions shall be deposited in the Holdback Account until the aggregate amount of the assets paid into the Holdback Account equals the lesser of (i) 10% of the Subscription of PSERS; or (ii) the excess of the Subscription of PSERS over the aggregate amount of distributions made to PSERS since the inception of the Partnership. In the event that the total value of the assets in the Holdback Account exceeds the lesser of (i) or (ii) above at any time, such excess amount shall be distributed immediately to the General Partner and the general partner of any Parallel Fund.

(b) All assets in the Holdback Account shall be distributed to the General Partner and the general partner of any Parallel Fund at any time that PSERS has received aggregate distributions since the inception of the Partnership in an amount equal to its Contributions and in the event the provisions of 11.2.1(d) are triggered.

(c) The General Partner and the general partner of any Parallel Fund shall be entitled to receive an annual tax distribution from the Holdback Account with respect to taxable income attributable to the assets in the Holdback Account. The amount of such distributions shall be calculated in accordance with the principles set forth in 7.3.1 (without regard to the other provisions of 7.3, except for 7.3.2(c)) and equivalent provisions in the limited partnership agreement for any Parallel Fund, as applicable. At the time of any proposed tax distribution from the Holdback Account as provided in this 7.2.4(c), the General Partner shall provide a certificate to PSERS setting forth its calculation of the tax distribution amount. PSERS shall have ten (10) Business Days after the transmittal of such certificate to object to the calculation of the tax distribution amount, and, in the case of any such objection, PSERS shall state briefly the reasons therefor in a timely written notice to the General Partner. If

PSERS does not object to the calculation of the tax distribution amount within such ten (10) Business Days, PSERS shall be deemed to have consented to such calculation. Within five (5) Business Days of receipt of such a written notice of objection, the General Partner shall, at the cost and expense of the Partnership, submit the dispute between the General Partner and PSERS to the Partnership's independent public accountants for resolution as promptly as practicable. The determination by such independent public accountants as to whether the calculation of the tax distribution amount was properly made in accordance with this 7.2.4(c) shall be final, conclusive and binding on all parties hereto.

(d) The General Partner, on behalf of the general partner of any Parallel Fund and for its own account, shall direct the custodian to invest any cash in the Holdback Account in one or more Temporary Investments. The General Partner, on behalf of the general partner of any Parallel Fund and for its own account, may direct the custodian to hold, dispose of, or otherwise manage any securities held in the Holdback Account in its sole discretion. The General Partner, on behalf of the general partner of any Parallel Fund and for its own account, may substitute cash or cash equivalents for other property in the Holdback Account in its sole discretion and may direct the custodian to implement any such substitution.

(e) If, after the Partnership makes its final liquidating distribution, PSERS has not received aggregate distributions since the inception of the Partnership in an amount equal to or greater than its Contributions, then the Partnership shall pay to PSERS out of the Holdback Account an amount equal to the excess of PSERS's Contributions over the aggregate distributions made to PSERS (and its predecessors) since the inception of the Partnership, reduced by the amount (if any) that the General Partner is required to return to the Partnership pursuant to 7.6. To the extent the assets held in the Holdback Account are insufficient to make the payment described in the first sentence of this 7.2.4(e), such payment shall be reduced, and neither the General Partner nor the general partner of any Parallel Fund shall have any obligation whatsoever to compensate PSERS for any shortfall. If there are assets remaining in the Holdback Account after all payments to PSERS pursuant to this 7.2.4(e) have been made, such assets shall be distributed to the General Partner and the general partner of any Parallel Fund.

(f) Any amounts distributed from the Holdback Account to the General Partner and the general partner of any Parallel Fund shall be in such proportions as the General Partner may reasonably determine.

(g) Any general partner of any Parallel Fund that is not already a party to this Agreement shall be a third party beneficiary of the provisions of this 7.2.4 provided that such General Partner is controlled by the Principals.

7.3 TAX DISTRIBUTIONS; OTHER SPECIAL DISTRIBUTIONS.

7.3.1 Tax Distributions — General.

Except as provided in 7.3.2, the Partnership shall distribute to the General Partner in cash, with respect to each fiscal year, either during such year or within 90 days thereafter, an amount (a "**Tax Distribution**") equal to the aggregate U.S. federal, Canadian federal, provincial, state and local income tax liability the General Partner would have incurred as a result of the General Partner's ownership of an interest in the Partnership, determined:

(a) As if the General Partner were a natural person resident in the Designated Jurisdiction; and

(b) As if the General Partner were subject to tax on all taxable income and gains allocated to the General Partner by the Partnership with respect to such fiscal year (net of all items of

deductible loss or expenses so allocated but excluding expenses otherwise deductible by a natural person only under Section 212 of the Code) at the highest marginal rates provided for under applicable federal and Designated Jurisdiction income tax laws (taking into account, in determining federal taxable income, any allowable deduction for Designated Jurisdiction taxes), as determined from time to time by the General Partner, without reference to the carryover of any items of Partnership loss and expense, and calculated with respect to the character of items of income, gain, loss, deduction and credit at the Partnership level.

(c) At the time of any proposed tax distribution as provided in this 7.3.1, the General Partner shall provide a certificate to PSERS setting forth its calculation of the tax distribution amount. PSERS shall have ten (10) Business Days after the transmittal of such certificate to object to the calculation of the tax distribution amount, and, in the case of any such objection, PSERS shall state briefly the reasons therefor in a timely written notice to the General Partner. If PSERS does not object to the calculation of the tax distribution amount within such ten (10) Business Days, PSERS shall be deemed to have consented to such calculation. Within five (5) Business Days of receipt of such a written notice of objection, the General Partner shall, at the cost and expense of the Partnership, submit the dispute between the General Partner and PSERS to the Partnership's independent public accountants for resolution as promptly as practicable. The determination by such independent public accountants as to whether the calculation of the tax distribution amount was properly made in accordance with this 7.3.1 shall be final, conclusive and binding on all parties hereto.

7.3.2 Tax Distributions — Limitations.

(a) The aggregate amount of Tax Distributions may be reduced or not made with respect to any fiscal year if and to the extent determined by the General Partner.

(b) The amount of any Tax Distributions shall be determined without regard to any items of income, gain, loss or expense specially allocated to the General Partner pursuant to 8.3, since it is intended that the net amount of any such income and expense allocated to the General Partner (if a positive number) will be distributed to the General Partner pursuant to 7.3.4.

(c) If any person who, directly, indirectly or by attribution owns an interest in the General Partner, is subject to any tax imposed by a non-United States taxing jurisdiction in connection with such ownership, the General Partner may cause the Partnership to make a special distribution to the General Partner, equal in the aggregate to such tax.

7.3.3 Coordination of Tax Distributions and Other Distributions.

Discretionary Distributions made to the General Partner in cash pursuant to 7.2 during any fiscal year shall reduce dollar-for-dollar the amount of distributions that may be considered Tax Distributions to which the General Partner would have been entitled pursuant to 7.3.1 and 7.3.2 with respect to such fiscal year if the General Partner had exercised its discretion to make such Tax Distributions.

7.3.4 Other Special Distributions.

(a) Distributions of cash corresponding to amounts of Partnership income and gains (net of Partnership expenses and losses) that have been specially allocated to the Partners pursuant to 8.3 shall be made, at such time or times as the General Partner in its discretion shall determine and subject to the availability of funds therefor, to the Partners to whom net positive amounts of such income and gains have been allocated, in proportion to such allocations.

(b) No distribution made to any Partner pursuant to 7.3.4(a) shall be taken into account for purposes of 7.2.2 or 7.3.3 in determining the amount previously distributed to such Partner (it being intended that all amounts so allocated and distributed effectively shall be treated for

this purpose as if such amounts had been earned outside the Partnership by the Partners receiving such allocations).

7.4 TAX LIABILITY MATTERS.

7.4.1 General.

If the Partnership incurs any obligation to pay directly any amount in respect of taxes, including but not limited to withholding taxes imposed on any Partner's or former Partner's share of the Partnership's gross or net income and gains (or items thereof), income taxes, and any interest, penalties or additions to tax ("**Tax Liability**"), or the amount of cash or other property to which the Partnership otherwise would be entitled is reduced as a result of withholding by other parties in satisfaction of any such Tax Liability:

(a) All payments by the Partnership in satisfaction of that Tax Liability and all reductions in the amount of cash or fair market value of property to which – but for such Tax Liability – the Partnership would have been entitled shall be treated, pursuant to this 7.4, as distributed to those Partners or former Partners to which the related Tax Liability is attributable;

(b) Notwithstanding any other provision of this Agreement, subsequent distributions to the Partners shall be adjusted by the General Partner in an equitable manner so that, after all such adjustments have been made and to the extent feasible, the burden of taxes withheld at the source or paid by the Partnership is borne by those Partners to which such tax obligations are attributable (determined pursuant to 7.4.3); and

(c) The General Partner may cause any amount treated pursuant to 7.4.1(a) as distributed to any Partner or former Partner at any time that exceeds the amount (if any) of distributions to which such Person is then entitled under any provision of this Agreement to be treated for all purposes of this Agreement as if that excess amount had been loaned to such Person, in which event the General Partner shall cause the Partnership to give prompt written notice to such Person of the date and amount of such loan.

7.4.2 Repayment of Any Amounts Treated as Loans.

Each Partner covenants, for itself, its successors, assigns, heirs and personal representatives, that such Person shall pay any amount due to the Partnership at any time after notice of any loan described in 7.4.1(c) has been given, but not later than 30 days after the Partnership delivers a written demand to such Person for such repayment (which demand may be made at any time prior to or after the dissolution of the Partnership or the General Partner or the withdrawal of such Person or its predecessors from the Partnership); *provided, however*, that if any such repayment is not made within such 30-day period:

(a) Such Person shall pay interest to the Partnership at the Reference Rate for the entire period commencing on the date on which the Partnership paid such amount or the reduction in the amount to which the Partnership would have been entitled – but for a Tax Liability – occurred and ending on the date on which such Person repays such amount to the Partnership together with all accrued but previously unpaid interest; and

(b) The Partnership, at the discretion of the General Partner, shall (1) collect such unpaid amounts (including interest) from any distributions that otherwise would be made by the Partnership to such Person and/or (2) subtract from the Capital Account of such Person, no later than the day prior to the Partnership's initial liquidating distribution, the amount of any such unpaid amounts (including unpaid interest) not so collected, in each case treating the amount so collected or subtracted as having been distributed to such Person at the time of such collection or subtraction.

7.4.3 Operational Rule.

The General Partner, after consulting with the Partnership's accountants or other advisors, shall determine the amount (if any) of any Tax Liability attributable to any Partner taking into account any differences in the Partners' status, nationality or other characteristics. Any such determination regarding the amount of Tax Liability attributable to particular Partners shall be based on the manner in which the jurisdiction imposing the related tax would attribute that Tax Liability and, in making any such determination, the General Partner shall be entitled to treat any Partner as ineligible for an exemption from or reduction in rate of such tax under a tax treaty or otherwise except to the extent that such Partner provides the General Partner with such written evidence (including but not limited to forms or certificates executed by its managers and/or beneficial owners) as the General Partner or the relevant tax authorities may require to establish such Partner's (or some or all of its beneficial owners') entitlement to such exemption or reduction. The intent of this 7.4 is to ensure, to the maximum extent feasible, that the burden of any taxes withheld at the source or paid by the Partnership is borne by those Partners to which such tax obligations are attributable, and this 7.4 shall be interpreted and applied accordingly.

7.4.4 Partnership Obligation.

For purposes of this 7.4, any obligation to pay any amount in respect of any Tax Liability (including any interest, penalties or additions to tax) incurred by the General Partner or its partners with respect to income of or distributions made to any other Partner or former Partner shall constitute a Partnership obligation.

7.5 CERTAIN DISTRIBUTIONS PROHIBITED.

Anything in this Article 7 to the contrary notwithstanding:

(a) No distribution shall be made to any Partner if, and to the extent that, such distribution would not be permitted under Section 17-607(a) or 17-804(a) of the Delaware Act; and

(b) No distribution other than a Tax Distribution shall be made to any Partner to the extent that such distribution, if made, would cause the deficit balance, if any, in the Capital Account of such Partner (determined without regard to any allocations made pursuant to Appendix II) to exceed such Partner's Restoration Amount or would further reduce an existing balance (as so determined) that is already negative in an amount exceeding such Partner's Restoration Amount.

7.6 RETURN BY GENERAL PARTNER OF CERTAIN DISTRIBUTIONS.

7.6.1 General.

In the event that, as of the date of the Partnership's final liquidating distribution, it is determined that the General Partner has received distributions from the Partnership in aggregate amounts exceeding the Target Amount, the General Partner shall return such excess distributions to the Partnership, subject to the limitation set forth in 7.6.3.

(a) Any such return shall be made within 90 days after the date of the liquidation of the Partnership. For this purpose, (1) the date of the liquidation of the Partnership shall be the date on which the Partnership has ceased to be a going concern, and (2) the Partnership shall not be deemed to have ceased to be a going concern until it has sold, distributed or otherwise disposed of all of its Portfolio Investments.

(b) In no event shall this 7.6.1 be enforceable for the benefit of any Person other than the Limited Partners, their successors and their assigns.

7.6.2 **Target Amount.**

The Target Amount, with respect to distributions to the General Partner (that is, the aggregate amount distributed to the General Partner that the General Partner is entitled to under this Agreement to *retain*), is the sum of:

(a) the aggregate amount of distributions that the General Partner would have received from the Partnership since its inception if the General Partner had timely made all of its contributions to the Partnership pursuant to Drawdowns as a Limited Partner and held no interest as a general partner (and another Person had served as General Partner under this Agreement); and

(b) an amount equal to the Cumulative Net Gain of the Partnership since its inception multiplied by 20%.

7.6.3 **Limitation; Liability.**

(a) In no event shall the General Partner be required to return to the Partnership, pursuant to 7.6.1, an amount greater than the aggregate amount of distributions previously received by the General Partner from the Partnership, *reduced by* the sum of (1) the amounts described in 7.6.2, (2) the aggregate amount of Tax Distributions for each fiscal period since the Partnership's inception to which the General Partner would have been entitled pursuant to 7.3.1 if all such distributions had been made and no reductions in the amount of any such distribution had occurred pursuant to 7.3.2(a), 7.3.3 or any other provision of this Agreement and (3) the aggregate tax liability of the direct and indirect shareholders of the General Partner in respect of distributions made by the General Partner to its shareholders which distributions were sourced directly or indirectly from distributions made to the General Partner from the Partnership, less any taxes refunded to the General Partner as a result of distributions made by the General Partner to its shareholders; *provided, however*, that the determination of the aggregate amount of Tax Distributions to which the General Partner would have been entitled shall take into account the tax liability that the General Partner would have incurred on any gains that the General Partner would have realized if all property distributed in kind by the Partnership to the General Partner had been sold by the General Partner for its fair market value immediately after its distribution to the General Partner. The Partners intend that, after the Partnership's final liquidating distribution and before the returns otherwise required of the General Partner pursuant to this 7.6, the General Partner shall have a negative Capital Account balance equal to the amount (if any) that it is required pursuant to 7.6 to return, and this Agreement shall be interpreted and applied accordingly.

(b) The General Partner shall cause each of its partners that are recipients of the General Partner's "carried interest" in the Partnership to agree in writing to be severally but not jointly liable for the General Partner's obligations to return distributions pursuant to 7.6.1, but solely to the extent of their respective proportionate shares of distributions actually received by them from the General Partner (other than amounts attributable to Tax Distributions on their shares of the General Partner's "carried interest") in excess of the sum of their respective capital contributions to the General Partner and distributions attributable to such capital contributions.

ARTICLE 8 — ACCOUNTS; ALLOCATIONS

8.1 CAPITAL ACCOUNTS.

8.1.1 Creation and Maintenance.

There shall be established on the books of the Partnership a capital account for each Partner (such Partner's "**Capital Account**") that shall be:

(a) *Increased* by (1) any capital contributions made to the Partnership by such Partner pursuant to this Agreement, (2) any part of a Default Charge added to the Capital Account of such Partner pursuant to 6.3.2, and (3) any amounts from time to time in the nature of income or gain added to the Capital Account of such Partner pursuant to 8.2, 8.3, 8.4 or 8.5 or Appendix II; and

(b) *Decreased* by (1) any distributions made to such Partner, (2) any Default Charge subtracted from the Capital Account of such Partner pursuant to 6.3.2; and (3) any amounts in the nature of loss, deduction or expense subtracted from the Capital Account of such Partner pursuant to 8.2, 8.3, 8.4 or 8.5 or Appendix II.

8.1.2 Accounting for Distributions in Kind.

For purposes of maintaining Capital Accounts when Partnership property is distributed in kind:

(a) The Partnership shall treat such property as if it had been sold for its fair market value on the date of distribution as determined in accordance with 14.4;

(b) Any difference between the fair market value as so determined and the Cost of such property shall constitute Net Gain or Loss or Non-Portfolio Income or Loss (as appropriate) and shall be allocated to the Capital Accounts of the Partners pursuant to 8.2 or 8.3; and

(c) The Capital Account of any Partner receiving a distribution in kind shall be reduced by an amount equal to the fair market value of such property on the date of distribution (net of any liabilities secured by such distributed property that such Partner is considered to assume or take subject to under Section 752 of the Code).

8.1.3 Compliance with Treasury Regulations.

The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Section 704(b) of the Code and Treasury Regulations Section 1.704-1(b), and shall be interpreted and applied in a manner consistent with such regulations. In the event that the General Partner shall determine that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto, are computed in order to comply with such regulations, the General Partner may make such modification, provided that it is not likely to have a material effect on the amounts distributable to any Partner pursuant to Articles 7 or 10 or the timing of such distributions.

8.2 ALLOCATIONS OF NET GAIN OR LOSS.

8.2.1 Net Gain.

As of the end of each fiscal year of the Partnership and after giving effect to the special allocations set forth in 8.3, 8.4 and 8.5 and Appendix II, the Net Gain (if any) of the Partnership for such fiscal year shall be allocated to the Capital Accounts of the Partners as follows:

(a) First, to all Partners, in proportion to the respective amounts of Net Loss (if any) previously allocated to each such Partner pursuant to 8.2.2(c) and not offset by prior allocations of Net Gain made pursuant to this 8.2.1(a), an amount of Net Gain equal to the aggregate amount of such Net Loss;

(b) Second, to all Partners, in proportion to their respective Preferential Return Allocations, an amount of Net Gain equal to the aggregate amount of all such Preferential Return Allocations; and

(c) Third, to all Partners, in the amounts and proportions necessary to ensure that, as promptly as possible and to the extent feasible that the Cumulative Net Gain of the Partnership for all periods since its inception shall have been allocated 80% to all Partners in proportion to their respective Contributions and 20% to the General Partner.

8.2.2 Net Loss.

As of the end of each fiscal year of the Partnership and after giving effect to the special allocations set forth in 8.3, 8.4 and 8.5 and Appendix II, the Net Loss (if any) of the Partnership for such fiscal year shall be allocated to the Capital Accounts of the Partners as follows:

(a) First, to all Partners, in proportion to the respective amounts of Net Gain (if any) previously allocated to each such Partner pursuant to 8.2.1(c) and not offset by prior allocations of Net Loss made pursuant to this 8.2.2(a), an amount of Net Loss equal to the aggregate amount of such Net Gain (if any);

(b) Second, to all Partners, in proportion to the respective amounts of Net Gain (if any) previously allocated to each such Partner pursuant to 8.2.1(b) and not offset by prior allocations of Net Loss made pursuant to this 8.2.2(b), an amount of Net Loss equal to the aggregate amount of such Net Gain (if any);

(c) Third, to all Partners in proportion to their respective Contributions.

8.2.3 Operational Rules.

In making allocations of Net Gain or Net Loss pursuant to this Article 8, the General Partner is authorized to separate these aggregate amounts into their components and allocate the components separately in order to further the intent of the provisions of this Agreement. For purposes of the definitions set forth in Appendix I and the other allocation provisions of this Article 8 and unless the context otherwise requires, any gross gain treated and allocated by the General Partner pursuant to this 8.2.3 as Net Gain shall constitute Net Gain; any gross loss treated and allocated by the General Partner pursuant to this 8.2.3 as Net Loss shall constitute Net Loss; and any Net Gain or Net Loss specially allocated pursuant to this 8.2.3 shall be treated as allocated pursuant to the relevant provisions of 8.2.1 or 8.2.2. Further, notwithstanding 8.2.2 hereof, the General Partner shall have the authority to allocate Net Loss to and among the Partners so as to ensure as promptly as possible that 8.2.1(c) shall have been satisfied.

8.3 OTHER SPECIALLY ALLOCATED ITEMS.

As of the end of each fiscal year of the Partnership and after giving effect to the special allocations set forth in Appendix II, the following items shall be specially allocated in the manner set forth below.

8.3.1 Non-Portfolio Income or Loss.

The Non-Portfolio Income or Loss of the Partnership for such fiscal year shall be allocated to the Partners in proportion to their respective Contributions.

8.3.2 Delayed Payment Interest.

The Delayed Payment Interest (if any) of the Partnership for such fiscal year shall be allocated to all Partners other than the Partner liable to pay such interest in proportion to their respective Contributions.

8.3.3 Special Allocation of Expenses; Other Items

In general, as provided in 8.3.1, items of Partnership loss and expense not attributable to investments in Portfolio Securities (including, but not limited to, Partnership Expenses) and not otherwise specifically

allocated above shall be allocated to the Partners in proportion to their respective Contributions; subject to the following:

(a) Partnership Expenses attributable to additional Management Fee payments described in 5.2 that are incurred as a result of the admission of an additional Limited Partner or an increase in the Subscription of an existing Limited Partner shall be specially allocated to that Limited Partner so that, after all such allocations have occurred, such Limited Partner's Capital Account has been reduced by an amount equal to the increases in its Capital Account attributable to its additional capital contributions made pursuant to 6.7.2; and

(b) Partnership Expenses (other than those specially allocated pursuant to 8.3.3(a)) that have been allocated tentatively to the Partners in proportion to their respective Contributions shall be reallocated *to* each Limited Partner admitted after the Initial Closing Date in an amount equal to the additional capital contribution made by such Limited Partner pursuant to 6.7.2 as a Late Admission Charge, and *from* other Limited Partners in proportion to the amounts distributable to each of them pursuant to 6.7.5 so that, after all such reallocations have occurred and have been taken into account in determining the balances in the Partners' Capital Accounts: (1) the Capital Account of each such new Limited Partner has been reduced by an amount equal to the increases in its Capital Account attributable to its additional capital contributions made pursuant to 6.7.2, and (2) Partnership Expenses tentatively allocated to each other Limited Partner in proportion to its respective Contribution have been reduced through such reallocations by the amount distributable to that other Limited Partner pursuant to 6.7.5. To the extent that the allocations required by this 8.3.3 cannot be effected using Partnership Expenses attributable to the year in which such admission or increase in Subscriptions occurs, appropriate adjustments shall be made in allocations of Partnership Expenses for succeeding fiscal years.

The General Partner shall have the authority to interpret and apply the provisions of this 8.3.3 in any reasonable fashion.

8.3.4 Transfer Expenses.

The unpaid Transfer Expenses (if any) of the Partnership for such fiscal year shall be allocated to the transferor or the transferee of the Partnership interest involved to the extent required by 11.2.6.2.

8.4 ALLOCATIONS WHEN INTERESTS CHANGE.

8.4.1 General.

If any Person is admitted to the Partnership (or the Subscription of any existing Partner is increased) after the Initial Closing Date, the General Partner shall adjust subsequent allocations of items of Partnership income, gain, loss and expense otherwise provided for in this Article 8 and Appendix II as necessary so that, after such adjustments have been made each Partner (including but not limited to any Partners admitted after the Initial Closing Date and all Partners whose Subscriptions have been increased after the Initial Closing Date) shall have been allocated an aggregate amount of such items equal in amount to the aggregate amount of such items such Partner would have been allocated if it had been admitted to the Partnership on the Initial Closing Date with a Subscription equal to that set forth in Schedule A after such schedule has been revised to reflect such Partner's admission or the increase in its Subscription.

8.4.2 Limitations.

The allocations otherwise required by 8.4.1 shall be limited to the extent necessary to ensure that:

(a) No item of income, gain or deductible loss realized (or deemed to have been realized on a distribution in kind) before the admission of any new Partner shall be allocated to such Partner pursuant to 8.4.1;

(b) Allocations to any existing Partner of income, gain or deductible loss realized (or deemed to have been realized on a distribution in kind) prior to the increase in the Subscription of such Partner shall be limited to those permitted by Section 706 of the Code; and

(c) Allocations made pursuant to this 8.4 shall be subject to the requirements of 8.3.3.

8.5 LIMITATION ON LOSS ALLOCATIONS.

8.5.1 General.

(a) If and to the extent that any allocation of Partnership items in the nature of loss or expense to any Partner would cause such Partner's Capital Account to be negative by an amount which exceeds such Partner's Restoration Amount or would further reduce an existing balance that is already negative in an amount that exceeds such Partner's Restoration Amount, then such item(s) shall be allocated first to the Capital Accounts of the other Partners in proportion to the positive balances in their respective Capital Accounts until all such Capital Accounts are reduced to zero, then to the Capital Accounts of Partners with Restoration Amounts, in proportion to their respective Restoration Amounts, until each such Partner's Capital Account is negative in an amount equal to such Partner's Restoration Amount, and then to the Capital Account of the General Partner.

(b) An allocation pursuant to 8.5.1(a) shall be made only if and to the extent that the deficit in such Partner's Capital Account would exceed such Partner's Restoration Amount after all allocations required by this Article 8 have been made tentatively as if 8.5 and Appendix II were not included in this Agreement.

8.5.2 Offset.

In the event that any special allocations of losses or expenses are made pursuant to 8.5.1, items of gross Partnership income and gain from subsequent periods shall be specially allocated to offset, to the extent feasible and as promptly as possible, such special allocations of loss or expense.

8.6 TIMING OF ALLOCATIONS.

8.6.1 Year-End Allocations.

The General Partner shall cause the allocations required by this Agreement to be made no less frequently than as of the end of each fiscal year.

8.6.2 Gains and Losses on Distributions in Kind.

(a) Any Net Gain or Loss deemed to have been realized pursuant to 8.1.2 on a distribution of property in kind shall be allocated, immediately prior to the time such distribution is made, to and among the Partners' Capital Accounts on the same basis as an equivalent amount of Net Gain or Loss would be allocated for a hypothetical fiscal year ending immediately prior to such distribution.

(b) For this purpose, there shall be taken into account any Net Gain or Loss attributable to distributions in kind previously made during the fiscal year but, for administrative convenience, there shall not be taken into account other items of Partnership income, gain, loss or deduction realized or incurred since the end of the prior fiscal year except as provided in 8.6.3.

8.6.3 Adjustment in Timing of Allocations.

The General Partner, in its discretion, may cause the Partnership to make the allocations described in Article 8 (other than allocations for tax purposes pursuant to Part 4 of Appendix II) at a time other than as of the end of a fiscal year on the basis of an interim closing of the Partnership's books at such time. In that event, each short fiscal period attributable to any such interim closing shall constitute a fiscal year for purposes of this Article 8.

ARTICLE 9 — DURATION OF THE PARTNERSHIP

9.1 TERM OF PARTNERSHIP.

The Partnership shall continue until the fifth anniversary of the date set forth in subsection (i) of the definition of Commitment Period (including the proviso thereto, if applicable), unless it is sooner dissolved as provided in this Article 9 or by operation of law.

9.2 DISSOLUTION UPON WITHDRAWAL OF GENERAL PARTNER.

(a) The Partnership shall be dissolved if there shall occur with respect to the General Partner any of the events of withdrawal described in Sections 17-402(a)(2) through 17-402(a)(11) of the Delaware Act.

(b) If the General Partner suffers an event that, with the passage of the period specified in the Delaware Act, becomes an event of withdrawal under Section 17-402(a)(4) or (5) of the Delaware Act, the General Partner shall notify each Limited Partner of the occurrence of such event within 30 days after the occurrence of such event (or within the maximum time then permitted under the Delaware Act).

(c) The Partnership shall not be dissolved in the event of the dissolution, death, bankruptcy, insolvency, incompetence, disability, substitution or admission of any Limited Partner, or any other similar event involving the existence, status or organization of a Limited Partner.

9.3 DISSOLUTION BY THE GENERAL PARTNER AND THE LIMITED PARTNERS.

The General Partner may dissolve the Partnership at any time with the consent of PSERS on not less than 90 days' prior written notice of such dissolution to the other Partners.

9.4 EXTENSION OF TERM; DISSOLUTION BY GENERAL PARTNER.

(a) It is contemplated by the Partners that the Partnership shall dissolve and commence its winding up in accordance with 9.1 without any further action being required by any of the Partners, unless sooner dissolved pursuant to this Article 9 or by operation of law.

(b) Notwithstanding the foregoing, the term of the Partnership may be extended for up to two (2) additional one-year periods by the General Partner to ensure an orderly liquidation of Partnership assets. The General Partner shall notify the Limited Partners promptly of any such extension.

(c) In addition, the General Partner may, in its sole discretion, elect to dissolve the Partnership after the Commitment Period Expiration Date after the expiration of 10 days from the date as of which all Portfolio Investments have been disposed of.

ARTICLE 10 — LIQUIDATION OF ASSETS ON DISSOLUTION

10.1 GENERAL.

At dissolution, the Partnership's assets shall be liquidated in an orderly manner. The General Partner shall be the liquidator to wind up the affairs of the Partnership pursuant to this Agreement; *provided, however*, that if there shall be no remaining General Partner at that time, PSERS may designate one or more other Persons to act as the liquidator(s) instead of the General Partner. Any such liquidator, other than the General Partner, shall be a "liquidating trustee" within the meaning of Section 17-101(9) of the Delaware Act.

10.2 LIQUIDATING DISTRIBUTIONS.

(a) The liquidator(s) shall pay or provide for the satisfaction of the Partnership's liabilities and obligations to creditors. In performing their duties, the liquidator(s) are authorized to sell, exchange or otherwise dispose of the assets of the Partnership in such reasonable manner as the liquidator(s) shall determine to be in the best interest of the Partners.

(b) Any Net Gain or Loss, Non-Portfolio Income or Loss, or other items realized in connection with the liquidation of the Partnership's assets shall be allocated among the Partners pursuant to Article 8 (including, as the case may be, Appendix II), and the remaining assets of the Partnership shall then be distributed to the Partners in cash (to the extent feasible) or in kind in proportion to the positive balances in their respective Capital Accounts (and, if a distribution in kind is necessary, after allocating any Net Gain or Loss or Non-Portfolio Income or Loss, realized or unrealized, that is attributable to such distribution).

(c) During the liquidation of the Partnership, the liquidator(s) shall furnish to the Partners the financial statements and other information specified in 14.3.

10.3 EXPENSES OF LIQUIDATOR(S).

(a) The expenses incurred by the liquidator(s) in connection with winding up the Partnership, all other losses or liabilities of the Partnership incurred in accordance with the terms of this Agreement, and reasonable compensation for the services of the liquidator(s) shall be borne by the Partnership.

(b) If the General Partner serves as the liquidator, it shall not be entitled to additional compensation for providing services in such capacity as long as the Management Company is receiving a Management Fee from the Partnership.

10.4 DURATION OF LIQUIDATION.

(a) A reasonable time shall be allowed for the winding up of the affairs of the Partnership in order to minimize any losses otherwise attendant upon such a winding up.

(b) The liquidator(s) shall use their reasonable best efforts to carry out the liquidation in conformity with the timing requirements of Treasury Regulation Section 1.704-1(b)(2)(ii)(g), but will not be bound to do so or liable in any way to any Partner for failure to do so.

10.5 NO LIABILITY FOR RETURN OF CAPITAL.

10.5.1 General.

The liquidator(s), the General Partner and their respective members, partners, officers, directors, employees, consultants, agents and Affiliates shall not be personally liable for the return of the capital contributions of any Partner to the Partnership. For the sake of clarity, nothing in the preceding sentence shall relieve any party from compliance with 7.2.4.

10.5.2 No Limited Partner Deficit Restoration Obligation.

No Limited Partner shall be obligated to restore to the Partnership any amount with respect to a negative Capital Account.

10.6 LIQUIDATING TRUST.

If upon the liquidation of the Partnership the assets thereof shall include any securities that are not Freely Tradable Securities, then in lieu of distributing to PSERS its share of such securities, the General Partner shall use its reasonable best efforts to dispose of such securities. In the event the General Partner is unable to dispose of such securities within a reasonable period of time, the General Partner shall give PSERS at least ten business days prior written notice of its intention to make a distribution in kind of such securities to PSERS. PSERS may within such notice period elect, by written notice to the General Partner or liquidator, as applicable, to decline the receipt of such distribution in kind. In the event that PSERS elects to decline the receipt of such distribution in kind, the General Partner or liquidator, as the case may be, shall hold such securities for the benefit of PSERS until such securities are liquidated, which may include organizing a liquidating trust for such purpose. The General Partner shall liquidate such securities at the same time and on the same terms as the General Partner's liquidation of its own holdings of such securities. PSERS shall bear only its *pro rata* share of the out of pocket expenses of such liquidating trust (based on the percentage the securities held on behalf of PSERS in the trust represents as a portion of the total securities held in such trust).

ARTICLE 11 — LIMITATIONS ON TRANSFERS AND WITHDRAWALS OF PARTNERSHIP INTERESTS

11.1 TRANSFERS OF GENERAL PARTNER'S INTEREST.

Except as otherwise provided herein, the General Partner shall not assign, pledge, mortgage, hypothecate, sell or otherwise dispose of or encumber (collectively, "**Transfer**") all or any part of its general partnership interest, except (i) in connection with the change or technical reconstitution of the form of legal entity of the General Partner or (ii) with the consent of PSERS. Any other attempted Transfer of the General Partner's interest shall be void.

11.2 TRANSFERS OF LIMITED PARTNERSHIP INTERESTS.

11.2.1 General.

(a) No Transfer of a Limited Partner's interest in the Partnership, in whole or in part, shall be made other than pursuant to this 11.2. Any attempted Transfer of all or any part of the interest in the Partnership of a Limited Partner without compliance with this Agreement shall be void.

(b) Every Transfer shall be subject to all of the terms, conditions, restrictions and obligations set forth in this Agreement.

(c) Each Transfer shall be evidenced by a written agreement, in form and substance reasonably satisfactory to the General Partner, that is executed by the transferor, the transferee(s) and the General Partner.

(d) Notwithstanding any other provision hereof, in the event PSERS makes a Transfer, the provisions of 7.2.4 and 12.2.5.5 shall automatically be extinguished and deleted and shall be of no further force and effect.

11.2.2 **Consent of General Partner.**

The prior written consent of the General Partner shall be required for any Transfer of part or all of any Limited Partner's economic interest in the Partnership.

11.2.3 **Publicly Traded Partnership Provisions.**

11.2.3.1 General.

In order to permit the Partnership to qualify for the benefit of a "safe harbor" under Section 7704 of the Code, the General Partner shall not cause or permit any offering of interests in the Partnership to be registered under the Securities Act or to become "traded on an established securities market," and shall withhold its consent to any Transfer that, to the General Partner's knowledge after reasonable inquiry, would otherwise be accomplished by a trade on a "secondary market (or the substantial equivalent thereof)," in each case within the meaning of Sections 7704 or 469(k) of the Code and the applicable Treasury Regulations.

11.2.3.2 No recognition of non-permitted Transfers.

No Transfer of any Partnership interest (as defined in Treasury Regulation Section 1.7704-1(a)(2)) or portion thereof or derivative interest therein shall be permitted or recognized (within the meaning of Treasury Regulation Section 1.7704-1(d)) by the Partnership or the General Partner if and to the extent that (a) if such Transfer were made, such Transfer would fail to qualify as a "transfer not involving trading" pursuant to Treasury Regulation Section 1.7704-1(e), and (b) immediately after such Transfer, if made, the Partnership, either as a result of such Transfer or otherwise, would fail to qualify for the safe harbor for "private placements" set forth in Treasury Regulation Section 1.7704-1(h), and (c) immediately after such Transfer, the Partnership, either as a result of the Transfer or otherwise, would fail to qualify for the "lack of actual trading" safe harbor set forth in Treasury Regulation Section 1.7704-1(j), unless the General Partner determines that such Transfer would not otherwise cause the Partnership to be treated as a publicly traded partnership under Section 7704(b) of the Code.

11.2.3.3 Required representations by parties.

(a) The transferor and transferee shall provide the General Partner, in connection with any proposed Transfer, written representations to the effect that:

(1) The proposed Transfer will not be effected on or through (A) a United States national, regional or local securities exchange, (B) a foreign securities exchange or (C) an interdealer quotation system that regularly disseminates firm buy or sell quotations by identified brokers or dealers (including, without limitation, Nasdaq);

(2) Such Person is not, and its proposed Transfer or acquisition (as the case may be) will not be made by, through or on behalf of (A) a Person, such as a broker or a dealer, making a market in interests in the Partnership, or (B) a Person who makes available to the public bid or offer quotes with respect to interests in the Partnership; and

(3) Such Person is a "qualified purchaser" as defined in Section 2(a)(51) of the Investment Company Act of 1940, as amended.

(b) The transferor and transferee(s) shall provide such additional written representations as the General Partner reasonably may request.

(c) The General Partner and counsel to the Partnership shall be permitted to rely upon any representations made by the transferor and transferee(s) pursuant to 11.2.3.3(a) or 11.2.3.3(b), and on written representations from other Partners made prior to or contemporaneously with such proposed Transfer. The General Partner may waive its right to obtain any representations otherwise required by 11.2.3.3(a).

11.2.4 Other Prohibited Legal Consequences.

No Transfer shall be permitted, and the General Partner shall withhold its consent with respect thereto, if such Transfer would:

(a) Result in the Partnership's assets becoming "plan assets" of any employee benefit plan that is subject to Title I of ERISA;

(b) Result in violation of the registration requirements of the Securities Act;

(c) Require the Partnership to register as an investment company under the Investment Company Act of 1940, as amended;

(d) Require the General Partner to register as an investment adviser under the Investment Advisers Act of 1940, as amended;

(e) Result in the Partnership being classified for U.S. federal income tax purposes as an association taxable as a corporation;

(f) Result in the Partnership being subject to U.S. federal income tax at the entity level under Section 7704 of the Code; or

(g) Cause the Partnership to undergo a technical termination for U.S. federal tax purposes if such termination would be likely to cause material adverse U.S. federal tax consequences, or the incurrence of material additional expense, by the Partnership or any Partner.

11.2.5 Opinion of Counsel.

Any Transfer otherwise permitted hereunder shall be made only upon receipt by the Partnership of a written opinion of counsel for the Partnership, or of other counsel reasonably satisfactory to the Partnership, in form and substance satisfactory to the General Partner, as to compliance with 11.2.3 and 11.2.4 hereof and such other legal matters as the General Partner may reasonably request. The General Partner may waive the requirement to deliver an opinion pursuant to this 11.2.5.

11.2.6 Transfer Expenses.

11.2.6.1 Required reimbursement.

The transferor of any interest in the Partnership hereby agrees to reimburse the Partnership, at the request of the General Partner, for any expenses reasonably incurred by the Partnership or the General Partner in connection with such Transfer, including any legal (including an opinion of counsel pursuant to 11.2.5), accounting and other expenses ("**Transfer Expenses**"), whether or not such Transfer is consummated.

11.2.6.2 Collection.

(a) At its election, the General Partner may seek reimbursement of such Transfer Expenses either through a direct reimbursement by the transferor or through a charge to the transferor's Capital Account.

(b) If the transferor has not reimbursed the Partnership for any Transfer Expenses incurred by the Partnership in consummating a Transfer within 30 days after the General Partner has delivered to such Partner written demand for payment, the General Partner may charge the transferee's Capital Account with any such Transfer Expenses.

11.2.7 Admission of Substituted Limited Partners.

11.2.7.1 General.

Any transferee of a Partnership interest transferred in accordance with the provisions of this Article 11 shall be admitted as a substituted Limited Partner only with the General Partner's prior written consent to such substitution (which may be withheld for any reason or for no reason). Without the prior written

consent of the General Partner to such substitution and the written opinion of counsel required by 11.2.5 (or waiver thereof by the General Partner), no transferee of a Partnership interest shall be admitted as a substituted Limited Partner.

11.2.7.2 Effect of admission.

Except as set forth in 11.2.1(d), the transferee of an interest in the Partnership transferred pursuant to Article 11 that is admitted to the Partnership as a substituted Limited Partner shall succeed to the rights and liabilities of the transferor Limited Partner and, after the effective date of such admission, the Subscription, Contribution and Capital Account of the transferor shall become the Subscription, Contribution and Capital Account, respectively, of the transferee, to the extent of the interest transferred.

11.2.8 Status of Transferee Not Admitted as Partner.

11.2.8.1 Permitted Transfer.

(a) Any transferee in a Transfer made in accordance with this Article 11 shall have all the economic rights of a Limited Partner with respect to the interest transferred, to the maximum extent permitted by the Delaware Act and the Code.

(b) Until and unless the transferee of part or all of the interest of a Limited Partner is admitted to the Partnership as a substituted Limited Partner pursuant to 11.2.7, however, (1) that transferee shall have no right to participate with the Limited Partners in any votes taken or consents granted or withheld by the Limited Partners hereunder, and (2) the transferor shall remain liable to the Partnership for all contributions and other amounts payable with respect to the transferred interest to the same extent as if no Transfer had occurred.

11.2.8.2 Non-permitted Transfer.

(a) Unless and until all requirements set forth in this Article 11 have been satisfied with respect to a proposed Transfer, the General Partner shall use its reasonable best efforts to ensure that the Partnership continues to treat the transferor as the sole owner of the interest in the Partnership purportedly transferred, makes no distributions to the purported transferee and does not furnish to such Person any tax or financial information regarding the Partnership, and shall otherwise use its reasonable best efforts to ensure that the Partnership does not treat the purported transferee as an owner of any interest in the Partnership (either legal or equitable), unless otherwise required by law.

(b) The Partnership shall be entitled to seek injunctive relief, at the expense of the putative transferor, to prevent any such purported Transfer.

11.2.9 Multiple Ownership; Other Provisions.

11.2.9.1 Multiple ownership.

In the event of any Transfer which shall result in multiple ownership of any Limited Partner's interest in the Partnership, the General Partner may require one or more trustees or nominees to be designated as representing a portion of or the entire interest transferred for the purpose of receiving all notices which may be given, and all payments which may be made, under this Agreement and for the purpose of exercising all rights which the transferor as a Limited Partner has pursuant to the provisions of this Agreement.

11.2.9.2 Covenants of Limited Partners.

Each Limited Partner agrees with all other Partners that it will not make any Transfer of all or any part of its interest in the Partnership except in accordance with the provisions of this Article 11.

11.3 NO WITHDRAWAL RIGHTS.

No Partner shall have the right to withdraw its capital and profits from the Partnership, or to demand and receive any Partnership property in exchange for such Partner's interest in the Partnership, except to the extent explicitly set forth in this Agreement.

11.4 REMOVAL OF GENERAL PARTNER.

11.4.1 Removal.

The General Partner may be removed from its position as such only for Cause, upon at least 30 days' notice, by the written action of PSERS. For purposes of this Agreement, "Cause" shall mean any act that (i) constitutes fraud, a felony, gross negligence in the management of the Partnership, a willful breach of a fiduciary duty arising under this Agreement, or a willful breach of a material contractual obligation arising under this Agreement; and (ii) in the reasonable judgment of PSERS, clearly reflects an unfitness to serve in a management capacity with regard to the Partnership.

11.4.2 Effects of Removal.

Following the withdrawal or removal of the General Partner under this 11.4 or the occurrence of any other event that otherwise terminates the General Partner's status as a constituent general partner of the Partnership under the Delaware Act, the General Partner's share of allocations and distributions under Articles 7 and 8 shall be unchanged, but its Partnership interest shall otherwise be that of a Limited Partner; *provided, however*, that nothing in this paragraph shall relieve the General Partner of any actual liability under applicable law for any act that constitutes Cause. If the General Partner is removed in accordance with 11.4.1, the suspension provisions set forth in 6.8(a) and (b) (first sentence only) shall be in effect unless and until PSERS determines otherwise.

ARTICLE 12 — EXCULPATION AND INDEMNIFICATION

12.1 EXCULPATION.

12.1.1 General.

(a) No Covered Person shall be liable to the Partnership or any Partner for any action taken or omitted to be taken by such Covered Person or for any action taken or omitted to be taken by any Partner or other person with respect to the Partnership except to the extent such actions or omissions arise out of: (1) such Covered Person's own failure to exercise the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of a venture capital enterprise with similar purposes ("**Due Care**"); (2) the Covered Person's material violation of any law, including but not limited to material violation of any federal or state securities laws, which violation resulted in a material adverse effect on the Partnership or the Limited Partners; (3) such Covered Person's material breach of this Agreement or any agreement between the Partnership, on the one hand, and the General Partner, the Management Company or any of their Affiliates, on the other hand, in any case which breach resulted in a material adverse effect on the Partnership or the Limited Partners; or (4) such Covered Person's self dealing, bad faith or willful misconduct.

(b) For purposes of 12.1.1(a), "**Covered Person**" shall mean the General Partner (including without limitation the General Partner acting as Tax Matters Partner or as liquidator), its partners, each officer, director, shareholder, member and partner of the partners of the General Partner, each Principal, the Management Company, and each partner, member,

shareholder, officer, director, employee, consultant, individual serving in a venture partner capacity, or Affiliate of any of the foregoing.

12.1.2 Reserved.

12.1.3 Strategic Advisory Board Members; Liquidators.

12.1.3.1 Strategic Advisory Board Members.

No member of the Strategic Advisory Board (other than members that are Affiliates of the General Partner) or Limited Partner who may have designated such member shall be liable to the Partnership or any Partner for any action or omission of such member or Limited Partner in connection with the Strategic Advisory Board; *provided that* the conduct of such member or Limited Partner did not constitute willful malfeasance. No member of the Strategic Advisory Board that is an Affiliate of the General Partner or Limited Partner who may have designated such member shall be liable to the Partnership or any Partner for any action or omission of such member or Limited Partner in connection with the Strategic Advisory Board; *provided that* the conduct of such member or Limited Partner did not arise out of a case described in 12.1.1(a)(1) – (4). No member of the Strategic Advisory Board who is not an Affiliate of the General Partner or any Limited Partner that is not an Affiliate of the General Partner who may have designated such member shall be liable to the Partnership, the General Partner or any of the Limited Partners for breach of any fiduciary duties he, she or it may have as a member of the Strategic Advisory Board.

12.1.3.2 Liquidator(s).

No Person other than the General Partner serving as liquidator pursuant to Article 10 shall be liable to the Partnership or any Partner for any loss suffered by the Partnership or any Partner which arises out of any action or omission of such Person, except to the extent that such action or omission arises out of a case described in 12.1.1(a)(1)-(4); *provided, however*, that this 12.1.3.2 shall not affect the General Partner's right to exculpation pursuant to 12.1.1.

12.1.4 Advice of Experts.

No Covered Person, no member of the Strategic Advisory Board or Limited Partner who may have designated such member shall be liable to the Partnership or any Partner with respect to any action or omission taken or suffered by any of them in good faith if such action or omission is taken or suffered in reliance upon and in accordance with the reasonable opinion or advice as to matters of law of legal counsel, or as to matters of accounting of accountants, or as to matters of valuation of investment bankers or appraisers, *provided* that any such professional or firm is selected (i) in the case of any Covered Person, by such Covered Person with Due Care and (ii) in the case of any member of the Strategic Advisory Board (or Limited Partner who may have designated such member), by any such Person with reasonable care.

12.2 INDEMNIFICATION.

12.2.1 General.

The General Partner, its partners, employees, each Principal, the Management Company, each liquidating trustee (if any), each partner, shareholder, member, manager, director, officer, employee, consultant, and individual serving in a venture partner capacity and Affiliate of any of the foregoing and each member of the Strategic Advisory Board and any Limited Partner who may have designated such member (each, an "**Indemnitee**") shall be indemnified, subject to the other provisions of this Agreement and to the extent permitted by applicable law, by the Partnership (only out of Partnership assets, including the proceeds of liability insurance) against any claim, demand, controversy, dispute, cost, loss, damage, expense (including reasonable attorneys' fees), judgment and/or liability (collectively, "**Loss**") incurred by or imposed upon the Indemnitee in connection with any action, suit or proceeding (including any

proceeding before any administrative or legislative body or agency), to which the Indemnitee may be made a party or otherwise involved or with which the Indemnitee shall be threatened, by reason of the Indemnitee's being at the time the cause of action arose or thereafter, the General Partner (including without limitation the General Partner acting as Tax Matters Partner), a partner, employee, consultant, and individual serving in a venture partner capacity, a Principal, the Management Company, shareholder, partner, director, officer, manager, employee, consultant, and individual serving in a venture partner capacity or Affiliate of any of the foregoing, a liquidating trustee (if any), or a member of the Strategic Advisory Board or a Limited Partner who may have designated such member, or a director, officer, manager, partner, shareholder, member, employee, consultant, and individual serving in a venture partner capacity of any other organization in which the Partnership owns or has owned an interest or of which the Partnership is or was a creditor, which other organization the Indemnitee serves or has served as director, officer, member, partner, shareholder, employee, consultant, and individual serving in a venture partner capacity at the request of the Partnership (whether or not the Indemnitee continues to serve in such capacity at the time such action, suit or proceeding is brought or threatened).

12.2.2 Limitations on Indemnification.

Notwithstanding 12.2.1, no indemnification pursuant to this Article 12 shall be permitted if the Loss arises out of a case described in 12.1.1(a)(1) – (4) or in the case of any Indemnitee's claim for indemnification arising out of any claim brought by an Affiliate of the General Partner (other than a Portfolio Company, prior Portfolio Company or an Affiliate thereof); *provided, however*, that indemnification for actions or omissions in connection with the Strategic Advisory Board of a member of the Strategic Advisory Board (other than members that are Affiliates of the General Partner) or of a Limited Partner who may have designated such member shall be permitted unless the Loss arises out of the conduct of such member or Limited Partner that constitutes willful malfeasance.

12.2.3 Effect of Settlement.

If any Indemnitee believes he, she or it may seek indemnification from the Partnership pursuant to Article 12 due to a proposed settlement of a claim, it shall so notify the Partnership and the Strategic Advisory Board and shall present to the Strategic Advisory Board any such proposed settlement arrangement for the approval of Strategic Advisory Board members who are the designees of limited partners holding greater than 85% in interest of the limited partners of the Fund (voting together as a single class), which approval shall not be unreasonably withheld or delayed. The Partnership and all Parallel Funds are referred to in this 12.2.3 as the **"Fund."** No Indemnitee shall enter into any such settlement agreement without such approval of the Strategic Advisory Board. Please reference 3.3.3.4(b) and 12.2.5.3 for a discussion of shared expenses among the Partnership and the Parallel Funds.

12.2.4 Advance Payment of Expenses.

Subject to 12.2.5.3, the Partnership shall pay the expenses incurred by an Indemnitee in defending a civil or criminal action, suit or proceeding, or in opposing any claim arising in connection with any potential or threatened civil or criminal action, suit or proceeding, in advance of the final disposition of such action, suit or proceeding, upon receipt of an enforceable undertaking by such Indemnitee to repay such payment if the Indemnitee shall be determined to be not entitled to indemnification for such expenses pursuant to this Article 12; *provided, however*, that in such instance the Indemnitee is not defending an actual or threatened claim, action, suit or proceeding against the Indemnitee by the Partnership and/or, the General Partner or any Limited Partner (or by the Indemnitee against the Partnership and/or the General Partner or any Limited Partner); *provided, further,* that any advances made by this Partnership of an amount equal to this Partnership's pro rata portion of an advance of $500,000 or more (calculated based on aggregate subscriptions of this Partnership and all Parallel Funds) shall be first approved by PSERS.

12.2.5 **Other Provisions.**

12.2.5.1 Successors.

The foregoing right of indemnification shall inure to the benefit of the executors, administrators, personal representatives, successors or assigns of each such Indemnitee.

*12.2.5.2 **Rights to indemnification from other sources.***

The rights to indemnification and advancement of expenses conferred in this 12.2 shall not be exclusive of any other right to which any Indemnitee may have or hereafter acquire under any law, statute, rule, regulation, charter document, by-law, contract or agreement. Each Indemnitee shall use reasonable efforts to pursue indemnification from the Portfolio Companies (if any) involved and coverage from any available insurance policies before seeking indemnification from the Partnership. The General Partner shall use reasonable efforts to ensure that each Portfolio Company obtains directors and officers' liability insurance, if available at reasonable rates.

*12.2.5.3 **Sharing of Expenses with Related Funds.***

The following shall be subject to the provisions of 3.3.3.4(b), which are hereby incorporated by reference:

(a) With regard to any claim for indemnification pursuant to 12.2 which relates to a common activity of the Partnership, any Parallel Fund, Existing Fund or Successor Fund, it is intended that the Partnership shall be required to pay only its proportionate share of the total amounts actually paid with respect to such claim by any or all of the Partnership, any Parallel Fund, any Existing Fund or any Successor Fund.

(b) For purposes of 12.2.5.3(a), the Partnership's proportionate share of any such claim shall be determined based on the aggregate commitments to the capital of the Partnership relative to the aggregate commitments to the capital of such other funds.

(c) In the event that any claim for indemnification relates only to or is caused solely by the activities or existence of only one of the Partnership or such other funds, any liability to make payments in satisfaction of such claim shall be borne fully by that party.

(d) The General Partner and each Principal agree to use their respective reasonable best efforts to cause any Parallel Fund, Existing Fund and Successor Fund to adhere to the principles of shared indemnification set forth in this 12.2.5.3.

*12.2.5.4 **Discretionary limitation by General Partner.***

Notwithstanding 12.2.1, the General Partner may limit or eliminate indemnification payments that otherwise would be made by the Partnership to any Indemnitee *other than* a member of the Strategic Advisory Board or a Person serving as liquidator pursuant to Article 10.

*12.2.5.5 **Suspension of Commitment Period.***

In the event that the Partnership is required to indemnify one or more Indemnitees under this 12.2 in connection with two or more unrelated matters, each of which results in an indemnification obligation of the Partnership of $500,000 or more, then PSERS may elect to invoke the suspension provisions set forth in 6.8(a) and (b) with respect to its Subscription, provided that written notice of such election is delivered to the General Partner within 20 days of the date the General Partner sends notification of the second such indemnification obligation. PSERS shall have the same suspension rights upon each subsequent indemnification event of $500,000 or more.

12.3 LIMITATION BY LAW.

If any Covered Person or Indemnitee or the Partnership itself is subject to any federal, provincial or state law, rule or regulation which restricts the extent to which any Person may be exonerated or indemnified by the Partnership, then the exoneration provisions set forth in 12.1 and the indemnification provisions set forth in 12.2 shall be deemed to be amended, automatically and without further action by the General Partner or the Limited Partners, to the minimum extent necessary to conform to such restrictions.

ARTICLE 13 - AMENDMENTS, VOTING AND CONSENTS

13.1 AMENDMENTS.

13.1.1 Consent of Partners.

Subject to 13.2, the terms and provisions of this Agreement may be waived, modified, terminated or amended only with the prior written consent of the General Partner and PSERS, including all required approvals of the Commonwealth of Pennsylvania.

13.1.2 Notice of Amendments.

The General Partner shall furnish copies of any amendments to this Agreement to all Partners.

13.2 VOTING AND CONSENTS.

Notwithstanding 13.1.1, the references in the following sections of this Agreement to the vote or consent of a specific group of Limited Partners shall be deemed to mean the vote or consent of the limited partners or specific class or group thereof of the Partnership and the Parallel Funds acting together as a single group, and this Agreement and the limited partnership agreement(s) of the Parallel Funds shall be construed accordingly: the proviso to subsection (i) of the definition of "Commitment Period" in Appendix I and 13.1.1 (but solely with respect to waivers, modifications, terminations or amendments with respect to the proviso to subsection (i) of the definition of "Commitment Period" in Appendix I). In addition, to the extent this Agreement expressly requires additional votes or consents, such votes or consents shall also be required. Except to the extent required by applicable law, Defaulting Partners shall be deemed to hold Non-Voting Interests during the period when such Partners are Defaulting Partners under this Agreement and their consent shall not be required for actions under this Agreement.

ARTICLE 14 — ADMINISTRATIVE PROVISIONS

14.1 KEEPING OF ACCOUNTS AND RECORDS; CERTIFICATE OF LIMITED PARTNERSHIP.

14.1.1 Accounts and Records.

At all times the General Partner shall cause to be kept proper and complete books of account, in which shall be entered fully and accurately the transactions of the Partnership. Such books of account, which shall be kept on the accrual method of accounting, together with (a) an executed copy of this Agreement (and any amendments hereto); (b) the Certificate of Limited Partnership of the Partnership (and any amendments thereto); (c) executed copies of any powers of attorney pursuant to which any certificate has been executed by the Partnership; (d) a current list of the full name, taxpayer identification number (if any) and last known address of each Partner; (e) copies of all tax returns filed by the Partnership for each of the prior three years; and (f) all financial statements of the Partnership for each of the prior three years, shall at all times be maintained at the principal office of the Partnership. In addition to the foregoing requirements and the rights set forth in 14.2, the General Partner hereby agrees to preserve all financial and accounting records pertaining to the Partnership Agreement during the term of the Agreement and for four years thereafter, and during such period, PSERS or any other department or

representatives of the Commonwealth of Pennsylvania shall have the right to audit such records in regard thereto to the fullest extent permitted by law. The General Partner shall have the right to preserve all records and accounts in original form or on microfilm, magnetic tape, or any similar process. In maintaining the Partnership's books of account under this Agreement, including for purposes of making all allocations and distributions hereunder, the Partnership shall use the Canadian dollar. In connection with the foregoing, the General Partner shall have the right in its sole discretion to make adjustments to such allocations and distributions including, but not limited to, adjustments to Net Gain or Loss and other items of income, gain, loss, deduction or credit to reflect the use of the Canadian dollar as the functional currency of the Partnership, and adjustments to properly reflect the allocation and distribution of foreign currency gain or loss as described in Section 988 of the Code.

14.1.2 Certificate of Limited Partnership.

The General Partner shall file for record with the appropriate public authorities and, if required, publish the Certificate of Limited Partnership of the Partnership and any amendments thereto and take all such other action as may be required to preserve the limited liability of the Limited Partners in any jurisdiction in which the Partnership shall conduct operations.

14.2 INSPECTION RIGHTS.

14.2.1 General.

(a) At any time while the Partnership continues and until its complete liquidation and subject to 14.2.2, each Limited Partner may (1) fully examine and audit the Partnership's books, records, accounts and assets, including bank balances, and (2) examine, or request that the General Partner furnish, such additional information as is reasonably necessary to enable the requesting Partner to review the state of the investment activities of the Partnership.

(b) Any such examination or audit may be undertaken either by such Limited Partner or a designee thereof. All expenses attributable to any such examination or audit shall be borne by such Limited Partner.

14.2.2 Limitations.

(a) Any examination or audit undertaken pursuant to 14.1.1 or 14.2.1 shall be made (1) only upon 2 days' prior written notice to the General Partner, (2) during normal business hours, and (3) without undue disruption.

(b) The General Partner shall have the benefit of the confidential information provisions of Section 17-305(b) of the Delaware Act.

14.3 FINANCIAL REPORTS.

14.3.1 Annual Reports.

14.3.1.1 Annual financial statements.

The General Partner shall transmit to each Partner, within 90 days after the close of each fiscal year, the financial statements of the Partnership for such fiscal year, along with summary reports on each Portfolio Company in which the Partnership holds an investment during such year. Such financial statements shall include balance sheets of the Partnership as of the end of such fiscal year and of the preceding fiscal year, statements of income and loss of the Partnership for such fiscal year and the preceding fiscal year, and statements of changes in capital for such fiscal year and for the preceding fiscal year, all prepared in accordance with Canadian generally accepted accounting principles (with footnote reconciliation to U.S. generally accepted accounting principles) consistently applied in accordance with the terms of this Agreement and audited by a nationally recognized firm of independent public accountants.

14.3.1.2 Tax information.

The General Partner shall also transmit to each Partner, to the extent practicable, within 90 days after the close of each fiscal year, such Partner's Schedule K-1 (Internal Revenue Service Form 1065) or an equivalent report indicating such Partner's share of all items of income or gain, expense, loss or other deduction and tax credit of the Partnership for such year, as well as the status of its Capital Account as of the end of such year, and such additional information in the General Partner's possession as it reasonably may request to enable it to complete its tax returns or to fulfill any other reporting requirements, *provided* that the General Partner can provide such additional information without unreasonable effort or expense.

14.3.2 Quarterly Reports.

Each Partner shall be furnished, within 45 days after the end of each of the first three fiscal quarters of each fiscal year of the Partnership, unaudited financial statements of the Partnership for the quarter then ended, which statements shall contain data sufficient to inform each Partner as to the current financial status of the Partnership and its investments.

14.4 VALUATION.

14.4.1 General.

Whenever valuation of Partnership assets or net assets is required by this Agreement, it shall be made pursuant to the terms of this 14.4. For all purposes of this Agreement, all valuation determinations which have been made in accordance with the terms of this 14.4 shall be final and conclusive on the Partnership, the Parallel Funds, all the Partners, the partners of the Parallel Funds and their successors and assigns.

14.4.2 Freely Tradable Securities.

The fair market value of securities that are Freely Tradable Securities shall equal (i) in the cases of securities which are primarily traded on a stock or securities exchange, the weighted average of their last sale prices on such stock or securities exchange on each trading day during the ten trading day period ending immediately prior to the date of the determination, or if no sales occurred on any such day, of the mean between the closing **"bid"** and **"ask"** prices on such day and (ii) if the principal market for such securities is in the over-the-counter market, the weighted average of their closing sale prices on each trading day during the ten trading day period ending immediately prior to the date of the determination, as published by the Canadian Venture Exchange, the NASDAQ Stock Market (**"Nasdaq"**) or similar organization, or if such price is not so published on any such day, of the mean between their closing **"bid"** and **"ask"** prices, if available, on any such day, which prices may be obtained from any reputable pricing service, broker or dealer.

14.4.3 Assets Other than Freely Tradable Securities.

The fair market value of assets which are not Freely Tradable Securities shall be determined by the General Partner acting reasonably and applying to the extent possible, as applicable, the guidelines set out in the Guidelines for the Valuation and Disclosure of Venture Capital Portfolios as published by the British Venture Capital Association (**"BVCA"**) and as attached as Exhibit A (the **"Guidelines"**). Notwithstanding the foregoing, the General Partner in making its determination of the fair market value of assets which are not Freely Tradable Securities, shall value no more than one-third (on a cost basis) of Portfolio Investments then held by the Partnership according to the methodology described in Section 2.6 of the Guidelines. If and when the Canadian Venture Capital Association has published its own valuation guidelines, the General Partner, subject to the approval of the Strategic Advisory Board, shall then apply those guidelines rather than those of the BVCA.

14.4.4 Procedures.

All determinations of fair market value to be made hereunder shall be made by the General Partner in consultation with the Strategic Advisory Board, provided that upon request of the Strategic Advisory Board, the fair market value may be determined by an independent third party appraiser mutually acceptable to the General Partner and the Strategic Advisory Board (subject to the next succeeding sentence) acting as an expert and not as an arbitrator. Such appraiser's determination of such fair market value shall be binding on all parties hereto and the Partnership's share (based upon the Partnership's pro rata investment in the Portfolio Investment that is being valued) of such appraiser's fees and expenses shall be treated as a Partnership Expense. In any case where fair market value is to be determined in respect of a Portfolio Investment in respect of which a Parallel Fund has no interest, the third party appraiser shall be mutually acceptable to the General Partner and the member of the Strategic Advisory Board appointed by PSERS, and such Parallel Fund shall have no obligation to pay any portion of the appraiser's expenses.

14.4.5 Factors to be Used.

Notwithstanding any other provision of this 14.4, all determinations of fair market value shall be made taking into account all factors which might reasonably affect the sales price of the asset in question, including without limitation, if and as appropriate, restrictions on transferability, trading volume, the existence of a control block, the anticipated impact on current market prices of immediate sale, the lack of a market for such asset and the impact on the present value of such asset of factors such as the length of time before any such sales may become possible and the cost and complexity of any such sales. In determining the value of assets and liabilities in accordance with the provisions of this 14.4, the General Partner or any third party valuator or appraiser appointed under 14.4 may obtain and rely on information provided by any source or sources reasonably believed to be accurate.

14.5 ANNUAL MEETINGS.

The Partnership, together with the Parallel Funds, may hold annual meetings offering Limited Partners the opportunity to review and discuss the Partnership's investment activity and portfolio. At the General Partner's discretion, individual meetings may be held in lieu of, or in addition to, the annual meeting. For so long as PSERS is a Limited Partner and is not in default under this Agreement or under its subscription agreement, PSERS shall be entitled to reimbursement by the Partnership for all reasonable out-of-pocket expenses incurred by one individual in connection with attending the annual meeting as the representative of PSERS.

14.6 NOTICES.

14.6.1 Delivery.

Except where otherwise specifically provided in this Agreement, all notices, requests, consents, approvals and statements shall be in writing and, if properly addressed to the recipient in the manner required by 14.6.2, shall be deemed for purposes of this Agreement to have been delivered: (a) on the date of actual receipt if delivered personally to the recipient; (b) three Business Days after mailing by first class mail, postage prepaid; (c) one Business Day after the date of transmission by prepaid telegram; (d) one Business Day after the date of transmission by electronic facsimile transmission or e-mail or (e) one Business Day after deposit with a reputable overnight courier service.

14.6.2 Addresses.

A written document shall be deemed to be properly addressed, if to the Partnership or to any Partner, to such Person at such Person's address as set forth in Schedule A, or to such other address or addresses as the addressee previously may have specified by written notice given to the other parties in the manner contemplated by 14.6.1.

14.7 ACCOUNTING PROVISIONS.

14.7.1 Fiscal Year.

The fiscal year of the Partnership shall be the calendar year, or such other year as may be required by the Code.

14.7.2 Accounting Method for U.S. Federal income tax purposes.

The Partnership shall use the accrual method of accounting for U.S. federal income tax purposes. For the sake of clarity, this 14.7.2 shall have no affect on 14.3.1.1.

14.7.3 Independent Accountants.

The Partnership's independent public accountants shall at all times be an internationally recognized independent public accounting firm selected by the General Partner.

14.7.4 Amortization of Certain Expenses.

The expenses of the Partnership that are considered organizational expenses under the Code shall be expensed when incurred for financial accounting purposes and shall be amortized over a 60-month period for federal income tax purposes.

14.8 CERTAIN TAX PROVISIONS.

14.8.1 Section 1045 rollover issues.

Each Partner agrees, with respect to its limited partnership interest, that it will not, and will not require the Partnership to, elect the application of Section 1045 of the Code — dealing with rollovers of "qualified small business stock" as defined in Section 1202 of the Code — or corresponding provisions of any state income tax law for sales of such stock. In addition, each Partner agrees that the Partnership shall not be required to comply with any tax reporting or accounting requirements (including those related to the adjustment of the tax basis of any asset of the Partnership or the interest in the Partnership of any Partner) that may be imposed under Section 1045 of the Code with respect to rollovers of qualified small business stock by the Partnership or by or on behalf of any Partner.

14.8.2 Tax Matters Partner.

(a) The tax matters partner, as defined in Section 6231 of the Code, of the Partnership (the "**Tax Matters Partner**") shall be the General Partner.

(b) The General Partner shall receive no additional compensation from the Partnership for its services in that capacity, but all expenses incurred by the Tax Matters Partner (including professional fees for such accountants, attorneys and agents as the General Partner in its discretion determines are necessary to or useful in the performance of its duties in that capacity) shall be borne by the Partnership.

(c) The General Partner shall be entitled to exculpation and indemnification with respect to any action it takes or fails to take as Tax Matters Partner to the extent provided under Article 12.

14.8.3 Classification as Partnership.

Except to the extent otherwise required by applicable law, the General Partner agrees that it (a) will not cause or permit the Partnership to elect (1) to be excluded from the provisions of Subchapter K of the Code or (2) to be treated as a corporation for federal income tax purposes; (b) will cause the Partnership to make any election reasonably determined to be necessary or appropriate in order to ensure the treatment of the Partnership as a partnership for federal income tax purposes; (c) will cause the Partnership to file any required tax returns in a manner consistent with its treatment as a partnership for federal income tax purposes; and (d) has not taken, and will not take, any action that would be inconsistent with the treatment of the Partnership as a partnership for such purposes.

14.8.4 Withholding.

The General Partner acknowledges that PSERS is an administrative agency of the Commonwealth of Pennsylvania and claims an exemption from U.S. federal, state and local taxes. In recognition of this fact, subject to (i) receiving on a timely basis the appropriate documentation from PSERS (and such documentation being accepted by the Partnership, which acceptance or rejection shall be at the reasonable discretion of the Partnership) and (ii) PSERS being included in the "List of U.S. Organizations Exempt from Canadian Non-Resident Tax Under Article XXI(2) of the Canada-U.S. Income Tax Convention," the Partnership shall not withhold or remit to the Canadian taxing authorities any amounts from interest or dividends received by the Partnership and payable to PSERS hereunder in respect of Canadian withholding taxes. Further, provided that PSERS provides to the General Partner a properly executed IRS Form W-9, the General Partner shall not withhold U.S. federal income taxes from income earned from sources within the U.S. otherwise distributable to PSERS, except as required by law. The General Partner shall notify PSERS in advance of withholding and remitting any withholding Canadian and U.S. federal income taxes on interest and dividends in respect of PSERS and shall provide PSERS with a reasonable opportunity to establish its tax exempt status.

14.9 GENERAL PROVISIONS.

14.9.1 Power of Attorney.

14.9.1.1 General.

Each of the undersigned by execution of this Agreement constitutes and appoints the General Partner as its true and lawful representative and attorney-in-fact, in its name, place and stead, to make, execute, sign, acknowledge and deliver or file (a) the Certificate of Limited Partnership and any other instruments, documents and certificates which may from time to time be required by any law to effectuate, implement and continue the valid and subsisting existence of the Partnership, (b) all instruments, documents and certificates that may be required to effectuate the dissolution and termination of the Partnership in accordance with the provisions hereof and the Delaware Act, and (c) any other instrument, certificate or document required from time to time to admit a Partner, to effect its substitution as a Partner, to effect the substitution of the Partner's assignee as a Partner.

14.9.1.2 Limitation.

No actions shall be taken by the General Partner under the power of attorney granted pursuant to this 14.9.1 that would have any adverse effect on the limited liability or economic rights of PSERS.

14.9.1.3 Survival.

The foregoing grant of authority (a) is a special power of attorney coupled with an interest in favor of the General Partner and as such shall be irrevocable and shall survive the death or disability of a Partner that is a natural person or the merger, dissolution or other termination of the existence of a Partner that is a corporation, association, partnership, limited liability company or trust, and (b) shall survive the assignment by the Partner of the whole or any portion of its interest, except that where the assignee of the whole thereof has furnished a power of attorney, this power of attorney shall survive such assignment for the sole purpose of enabling the General Partner to execute, acknowledge and file any instrument necessary to effect any permitted substitution of the assignee for the assignor as a Partner and shall thereafter terminate.

14.9.2 Execution of Additional Documents.

Each Partner hereby agrees to use its reasonable best efforts to execute all certificates, counterparts, amendments, instruments or documents that may be required by laws of the various jurisdictions in which the Partnership conducts its activities, to conform with the laws of such jurisdictions governing limited partnerships. Limited Partners agree to cooperate with the General Partner and the Partnership in

connection with any filing for Section 116 certificates under Section 116 of the Income Tax Act (Canada).

14.9.3 Binding on Successors.

This Agreement shall be binding upon and shall inure to the benefit of the respective heirs, successors, assigns and legal representatives of the parties hereto.

14.9.4 Governing Law; Venue.

This Agreement shall be governed by and construed in accordance with the internal laws of the State of Delaware without regard to its principles of conflicts of law and, notwithstanding any other provision hereof other than immediately following sentence, all of the terms of this Agreement shall be subject to the requirements of such laws. The General Partner hereby agrees and acknowledges that any legal proceeding involving any contract claim asserted against PSERS arising out of the Agreement or the subscription agreement may only be brought before and subject to the exclusive jurisdiction of the Board of Claims of the Commonwealth of Pennsylvania pursuant to §§ 4651-1 et seq. of Title 72 Pa. Statutes and that such proceeding shall be governed by the procedural rules and procedural laws of the Commonwealth of Pennsylvania, without regard to principles of conflicts of laws.

14.9.5 Waiver of Partition.

Each Partner hereby irrevocably waives any and all rights that it may have to maintain an action for partition of any of the Partnership's property.

14.9.6 Securities Act Matters.

Each Partner understands that in addition to the restrictions on transfer contained in this Agreement, it must bear the economic risks of its investment for an indefinite period because the Partnership interests have not been registered under the Securities Act and, therefore, may not be sold or otherwise transferred unless they are registered under the Securities Act or an exemption from such registration is available. Each Partner agrees with all other Partners that it will not sell or otherwise transfer its interest in the Partnership unless such interest has been so registered or in the opinion of counsel for the Partnership, or of other counsel reasonably satisfactory to the Partnership, such an exemption is available.

14.9.7 Contract Construction; Headings; Counterparts.

(a) Whenever the content of this Agreement permits, the masculine gender shall include the feminine and neuter genders, and reference to singular or plural shall be interchangeable with the other.

(b) The invalidity or unenforceability of any one or more provisions of this Agreement shall not affect the other provisions, and this Agreement shall be construed and reformed in all respects as if any such invalid or unenforceable provision(s) were omitted in order to give effect to the intent and purposes of this Agreement.

(c) References in this Agreement to particular sections of the Code or the Delaware Act or any other statute shall be deemed to refer to such sections or provisions as they may be amended after the date of this Agreement.

(d) Captions in this Agreement are for convenience only and do not define or limit any term of this Agreement.

(e) This Agreement or any amendment hereto may be signed in any number of counterparts, each of which when signed by the General Partner shall be an original, but all of which taken together shall constitute one agreement (or amendment, as the case may be).

(e) Unless indicated otherwise herein, references in this Agreement to "days" shall refer to "calendar days."

14.9.8 Confidential Information.

The General Partner acknowledges that PSERS is a public agency of the Commonwealth of Pennsylvania and as a result thereof, PSERS may be required to disclose to the public certain confidential information to satisfy its obligations as a public agency ("Disclosure Obligations"). Therefore, the General Partner hereby agrees that PSERS, without prior notice to or approval of the General Partner, may disclose to the public the following confidential information (assuming for this purpose that the following information is confidential information) regarding the Partnership to satisfy such Disclosure Obligations: (i) the identity of the Partnership and the names of the Principals, (ii) the summary description of the investment strategy and objective of the Partnership as set forth in 4.1, (iii) the names and summary descriptions of the investment strategies and objectives of any previous private equity funds formed by the General Partner and /or any of its Affiliates, (iv) the amount of PSERS' Subscription, (v) reasonable information regarding the performance of the Partnership in general terms and on an aggregate basis as set forth in the financial statements provided by the General Partner pursuant to 14.3, but not including any performance information regarding any individual Portfolio Company, and (vi) the amount of any Contribution made by PSERS and the amount of any cash distributed (but not including any distribution of securities in kind) to PSERS. The General Partner further acknowledges that the types of information identified in (i) through (vi) above are not necessarily inclusive of all the confidential information that PSERS may be required to disclose. In no event shall PSERS disclose any confidential information regarding the Partnership's pending acquisition or pending disposition of an Investment or proposed investment in a Portfolio Company, without the prior written consent of the General Partner.

ARTICLE 15 — SPECIAL PROVISIONS

15.1 ENTIRE AGREEMENT.

This document, together with the related subscription agreement and any Side Letter, contains the entire Agreement among the parties and supersedes all prior agreements, arrangements or understandings with respect thereto. This 15.1 shall not prevent the parties hereto from entering into future agreements, including any Side Letter, that, subject to the requirements of Article 13, amend this Agreement.

15.2 INVESTMENTS IN COMPANIES REGULATED BY FEDERAL COMMUNICATIONS COMMISSION.

15.2.1 Qualification of Interests as "Non-Attributable" for FCC Purposes.

This 15.2 is included in this Agreement in order to ensure, to the extent feasible, that each Limited Partner has a "non-attributable interest" in the Partnership (a "**Non-Attributable Interest**"), as that term is defined by the Federal Communications Commission. In general, Limited Partners that are not materially involved, directly or indirectly, in the management or operation of the media-related activities of the Partnership will be deemed to hold Non-Attributable Interests.

15.2.2 Limitations on Activities.

For so long as the Partnership has an investment in any media company, no Limited Partner (and, if such Limited Partner is not a natural person, none of such Limited Partner's directors, officers, partners (or Persons holding equivalent positions) or Persons holding 5% or more of the voting stock or voting equity of such Limited Partner) shall:

(a) Act as an employee of (a) the Partnership, if his or her functions, directly or indirectly, relate to the media enterprises of the Partnership, or (b) any Portfolio Company, if his or her functions, directly or indirectly, relate to the media enterprises of such Portfolio Company;

(b) Serve, in any material capacity, as an independent contractor or agent with respect to the media enterprises of the Partnership or of any Portfolio Company;

(c) Communicate with the General Partner or any Portfolio Company on matters pertaining to the day-to-day operation of the General Partner's or any Portfolio Company's media-related activities;

(d) Perform any services for the Partnership or any Portfolio Company materially related to the Partnership's or any Portfolio Company's media-related activities, with the exception of making loans to, or acting as surety for, their media-related activities; or

(e) Become actively involved in the management or operation of the media-related activities of the Partnership or of any Portfolio Company,

provided, however, that the foregoing shall not be deemed to preclude a Limited Partner (or any Person or entity subject to the foregoing as set forth above) from engaging in activities (by way of example only and not in limitation of the generality of this provision, activities related to underwriting, investment banking or other financial services) (i) that are not inconsistent with the FCC's attribution policies as applied to limited partnerships; or (ii) in any capacity other than as a Limited Partner, it being understood, however, that any activities conducted in a capacity other than a Limited Partner may result in such Limited Partner losing its status as an "insulated" limited partner, such that it could be deemed to have an attributable interest in an FCC regulated entity.

15.2.3 Required Notice of Proscribed Activities.

In the event that, notwithstanding the foregoing provisions of 15.2, any Limited Partner (and, if such Limited Partner is not a natural person, any of such Limited Partner's directors, officers, partners or Persons holding equivalent positions) should become actively involved in the management or operation of the media-related activities of the Partnership or of any Portfolio Company (in the manner contemplated by any clause of 15.2.2 or otherwise), such Limited Partner shall (and, if such Limited Partner is not a natural person, shall use its reasonable best efforts to cause any of its directors, officers, partners or Persons holding equivalent positions who are so involved to) promptly so notify the General Partner.

15.2.4 Effect on Activities of Strategic Advisory Board.

Notwithstanding any provision of this Agreement, the activities of the Strategic Advisory Board and each member thereof (acting in such capacity) shall be limited to those permitted under the rules and policies of the FCC without causing any Limited Partner to have an interest in the Partnership that is not a Non-Attributable Interest.

15.2.5 Additional Provisions Related to FCC and Other Regulatory Filings.

15.2.5.1 General.

Each Limited Partner agrees to deliver to the General Partner, promptly upon receipt of the General Partner 's request therefor, the following:

(a) All non-confidential information requested by the FCC or which the General Partner reasonably deems necessary to enable the Partnership to respond to any request by the FCC or to make any FCC filing that the General Partner reasonably deems necessary or advisable in order to enable the Partnership to make, manage and dispose of actual or potential Portfolio Investments; and

(b) All information requested by any other governmental agency if, in the good-faith judgment of the General Partner, there is a material likelihood that the General Partner's or the Partnership's inability or failure to provide such information (1) would result in the imposition of sanctions (including but not limited to taxes, interest or penalties) on the Partnership or any Partner (unless the General Partner determines that the imposition of any such sanction would affect only the Partner about whom such information is requested), (2) would cause the Partnership to be denied access to opportunities to acquire or dispose of

Portfolio Investments on favorable terms or (3) would otherwise result in a violation of applicable law and/or the rules and regulations of a governmental agency.

15.2.5.2 Confidentiality.

The General Partner shall, to the maximum extent practicable, request any governmental agency seeking any information from the General Partner regarding any Partner to keep confidential any such information provided by the General Partner; provided, however, that the General Partner shall have no liability to the Limited Partners as a result of any governmental agency's failure to keep any such requested information confidential.

15.3 HOT ISSUES.

Notwithstanding any provision of this Agreement to the contrary, in the event that the General Partner causes the Partnership to invest in Hot Issue Securities, such investment shall be made in accordance with all applicable NASD rules, including the Interpretation. In furtherance of (and not in limitation of) the preceding sentence, unless an exemption applies, only those Limited Partners who are not treated as "restricted persons," as defined under the Interpretation, with regard to the Partnership's purchase of any Hot Issue Securities, shall have a beneficial interest in such Hot Issue Securities. Except as otherwise disclosed to the General Partner in writing, each Limited Partner hereby represents to the General Partner and the Partnership that such Limited Partner is not a "restricted person" and further agrees to notify the General Partner immediately in the event that such Limited Partner subsequently is treated as a "restricted person." The General Partner is hereby authorized to adjust the operation of any provision of this Agreement (prospectively or retroactively and including, without limitation, Articles 7 and 8) as necessary to give effect to the foregoing provisions of this 15.3.

15.4 LEGAL COUNSEL.

The General Partner has engaged Testa, Hurwitz & Thibeault, LLP ("**TH&T**") as legal counsel to the Partnership. TH&T has not been engaged to protect or represent the interests of any Limited Partner vis-à-vis the Partnership, the General Partner or the preparation of this Agreement. The Partners understand that TH&T plays an active role as legal counsel to investment firms, investors and other Persons. In its capacity as legal counsel to the Partnership, TH&T may be subject to actual or potential conflicts arising from its representation of one or more Partners or their Affiliates and related parties in connection with matters other than the preparation of this Agreement or the operation of the Partnership. Each Partner has carefully considered the foregoing and acknowledges the possibility that, under the laws and ethical rules governing the conduct of attorneys, TH&T may be precluded from representing any one or more specific parties in connection with any dispute involving Partners or the Partnership.

15.5 SOVEREIGN IMMUNITY.

The General Partner understands that PSERS reserves all immunities, defenses, rights or actions arising out of its status as a sovereign entity, including those under the Eleventh Amendment to the United States Constitution. No provision of the Agreement or the subscription agreement shall be construed as a waiver or limitation of such immunities, defenses, rights or actions.

15.6 SIDE LETTERS.

The Partnership and General Partner represent and warrant that none of the Partnership, the General Partner or the individual general partners of the General Partner has entered or will enter into any side letter or similar agreement on or prior to the date hereof with any investor or Partner in the Partnership or with any investor in any Parallel Fund or side by side funds in connection with the admission of such investor or Partner to the Partnership, Parallel Fund or side by side funds except as disclosed to PSERS in writing on or prior to the date hereof. If the Partnership, the General Partner or the individual general

partners of the General Partner shall enter into a side letter or similar agreement with an existing or future investor, PSERS shall promptly be given a copy of such agreement and the opportunity to obtain the same rights and benefits of such side letter or similar agreement by written notice thereof to the General Partner delivered within 30 days of receipt by PSERS of copies of such side letters or similar agreements.

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IN WITNESS WHEREOF, the undersigned have executed this Amended and Restated Limited Partnership Agreement of Jefferson Partners Fund IV (PA), L.P. as of the day, month and year first above written.

GENERAL PARTNER:
JPIV GP, L.P.

By: JEFFERSON PARTNERS FUND IV G.P. INC.
Its General Partner

By: _____
Name: David Harris Kolada
Title: Vice President

WITHDRAWING LIMITED PARTNER:

_____
Daniel P. Finkelman

LIMITED PARTNER SIGNATURE PAGE

IN WITNESS WHEREOF, the undersigned has executed this Agreement for the purchase of a limited partnership interest (the "Interest") in Jefferson Partners Fund IV (PA), L.P. (the "Partnership"). This page constitutes the signature page for each of (i) the subscription agreement for the purchase of the Interest in the Partnership in the amount set forth below, and (ii) the Amended and Restated Limited Partnership Agreement of the Partnership. Upon acceptance by the General Partner, the undersigned shall be admitted as a Limited Partner of the Partnership and hereby authorizes this signature page to be attached to a counterpart of the Amended and Restated Limited Partnership Agreement executed by the General Partner.

Dollar Amount of Interest Purchased:

$_____

COMMONWEALTH OF PENNSYLVANIA
PUBLIC SCHOOL EMPLOYEES' RETIREMENT SYSTEM

By:_____
Name:_____
Title:_____

By:_____
Name:_____
Title:_____

Approved for form and legality:

_____
Chief Counsel
Public School Employees' Retirement System

_____
Chief Deputy Attorney General
Office of Attorney General

_____
Deputy General Counsel
Office of General Counsel

Typed or printed name and address of Investor:

_____
_____
_____

Preferred address for receiving communications (*Do not complete if already listed in prior column*):

_____
_____
_____

Social Security or Federal Tax Identification No.:

_____
Telephone Number

Type of Entity *(e.g. individual, corporation, estate, trust, partnership, exempt organization, nominee, custodian)*:

_____
Facsimile Number

Please describe your situation below if you constitute more than one person for purposes of Section 3(c)(1) of the Investment Company Act of 1940, as amended, or if you cannot make the representations set forth in Section 2(m) of your subscription agreement:

_____

_____

APPENDIX I

JEFFERSON PARTNERS FUND IV (PA), L.P.

DEFINITIONS

For purposes of this Agreement, the following terms shall have the meanings set forth below (such meanings to be equally applicable to both singular and plural forms of the terms so defined). Additional defined terms are set forth in the provisions of this Agreement to which they relate:

8% Distribution Preference	With respect to any Partner and at any time, an amount which, if distributed to such Partner at such time, would cause the aggregate amount of distributions of Distributable Proceeds made to such Partner and such Partner's predecessors in interest by the Partnership (determined, with respect to distributions in kind, pursuant to 8.1.2) to equal but not exceed an amount equal to such Partner's (and any such predecessor's) Aggregate Preferred Return Accrual as of such time to the extent attributable to such Partner's Contribution to the Partnership.
Affiliate	With respect to the Person to which it refers, a Person that directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, such subject Person. For this purpose, each Principal shall be deemed to be an Affiliate of the General Partner.
Aggregate Preferred Return Accrual	With respect to any Partner and fiscal period, the sum of such Partner's Preferred Return Accruals for each calendar month (and partial month) from the inception of the Partnership through the end of such fiscal period.
Agreement	As set forth in the preamble.
Alternative Investment Vehicle	As set forth in 3.3.3.6.
Base Amount	As set forth in 5.2.
Bridge Financing	Any financing transaction entered into between the Partnership and a Portfolio Company involving debt or equity Securities (including a loan guarantee), which is intended to be on a temporary basis to facilitate the consummation of a permanent Portfolio Investment in such Portfolio Company or otherwise in connection therewith and is designated as a Bridge Financing by the General Partner; *provided* that warrants, options or other equity equivalents issued to the Partnership in connection with a Bridge Financing shall be considered permanent Portfolio Investments for all purposes hereof.
Business Day	Each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in the City of Toronto, Ontario, Canada, are required by law to remain closed.
BVCA	As set forth in 14.4.3.
Call Notice	As set forth in 6.2.1.
Capital Account	As set forth in 8.1.1.
Cause	As set forth in 11.4.
Code	The U.S. Internal Revenue Code of 1986, as amended from time to time, or any successor statute thereto.
Commitment Period	The period commencing on the Initial Closing Date and ending on the date that

	is the earlier of (i) February 27, 2007; *provided* that the date in this subsection (i) may be changed to February 27, 2008 with the approval of a majority in interest of the Limited Partners and the limited partners of the Parallel Funds (voting together as a single class) and (ii) the date on which, pursuant to Article 9, the dissolution of the Partnership occurs.
Commitment Period Expiration Date	The last day of the Commitment Period.
Contribution	With respect to any Partner and at any time, the aggregate amount of capital contributions made to the Partnership by such Partner in cash at or before such time pursuant to this Agreement, (a) *increased*, at the time that any part of a Default Charge is added to the Contribution of such Partner pursuant to 6.3, by the amount so added; and (b) *decreased* (1) at the time any amount treated as a partial return of such Partner's Contribution pursuant to 6.6 is distributed to such Partner, by the amount so treated; and (2) at the time that all or any part of a Default Charge is subtracted from the Contribution of such Partner pursuant to 6.3, by the amount so subtracted. Except as provided in the preceding sentence, a Partner's Contribution shall not be reduced on account of any distributions of capital to such Partner or for any other reason.
Cost	With respect to Partnership assets and unless the context otherwise requires, the Partnership's adjusted tax basis in such assets for federal income tax purposes, *provided, however*, that, if the Partnership has made an election under Section 754 of the Code, such tax basis shall be determined after giving effect to adjustments made under Section 734 of the Code but (except as provided in Treasury Regulations Section 1.734-2(b)(1)) without regard to adjustments made under Section 743 of the Code.
Covered Person	As set forth in 12.1.1.
Cumulative Net Gain	As of the time of any determination, the excess (if any) of the cumulative Net Gain of the Partnership since its inception through and including such time over the cumulative Net Loss of the Partnership over that period.
Default Charge	As set forth in 6.3.2.1.
Default Rate	With respect to any fiscal period, the lesser of (a) the Reference Rate for such fiscal period plus 6%, or (b) the highest interest rate for such fiscal period permitted under applicable law.
Defaulting Partner	As set forth in 6.3.1.3.
Delaware Act	As set forth in 2.1.
Delayed Payment Interest	Partnership income attributable to (a) interest paid by any Limited Partner pursuant to 6.3.1.1 on delayed payments of its capital contributions; (b) interest paid by any Defaulting Partner pursuant to 6.3.5 on costs of collecting unpaid capital contributions; and (c) interest paid by any Limited Partner pursuant to 7.4.2 (relating to withholding taxes).
Designated	From time to time, that combination of provincial, state, county, city and other taxing jurisdictions in which the General Partner or the general partner of any

Jurisdiction Parallel Fund or any partner of the General Partner or the general partner of any Parallel Fund resides, is domiciled or is otherwise subject to tax that, at such time, collectively imposes the highest marginal rate of income tax on its residents or domiciliaries, as determined by the General Partner after consultation with the Partnership's accountants and other advisors.

Disability With respect to an individual, that such individual suffers a mental or physical disability which, as of the time of determination, renders such individual incapable of performing such individual's duties under this Agreement and is substantially certain to continue to render such individual incapable of performing such duties for a continuous period of at least 6 months following the date of determination.

Disclosure Obligations As set forth in 14.9.7.

Discretionary Distribution As set forth in 7.2.1.

Disposed Investments As of any time of determination, all Portfolio Securities that have been sold, distributed to the Partners, written off as worthless securities, or otherwise disposed of, in whole or in part, to the extent so distributed or disposed of at or prior to the date of determination; *provided, however*, that any exchange of any securities of a Portfolio Company for other securities or property (other than cash or cash equivalents) shall not constitute a disposition of the original securities. For this purpose, the following events shall be treated as partial dispositions of securities:

(a) Each principal payment (or portion thereof) on any security that constitutes a debt instrument for federal income tax purposes shall be treated as a disposition of a portion of such security that is equivalent on a percentage basis to the portion of the original principal amount of such debt instrument represented by such principal payment;

(b) In the event that the Partnership agrees to capitalize any interest that is accrued but remains unpaid on any security that constitutes a debt instrument for federal income tax purposes and to add such interest to principal, the amount so capitalized shall be treated, solely for purposes of determining whether payments subsequently made to the Partnership with respect to such security constitute Distributable Proceeds, as a follow-on investment in the debt securities of the issuer, and any determination regarding the extent to which subsequent payments made to the Partnership with respect to the original or any such follow-on investment in debt securities is properly treated as a payment of principal shall be made in accordance with federal income tax principles;

(c) Each payment (or portion thereof) made to the Partnership in redemption of any security constituting stock for federal income tax purposes that is treated for such purposes as a distribution in part or full payment in exchange for such stock (rather than, for example, a dividend paid on such security) shall be treated as a disposition of the portion of such security treated for such purposes as having been exchanged; and

(d) Any partial repurchase by the issuer and any lapse or other termination of part of any security constituting an option or warrant for federal income tax purposes shall be treated as a disposition of a portion of such security that is equivalent on a percentage basis to the portion of the Partnership's investment in such security (as reflected in the Partnership's financial records maintained in accordance with federal income tax principles) represented by the portion of such security that was repurchased, lapsed or terminated.

In the event that the General Partner determines, pursuant to 4.3, to cause a portion of the Distributable Proceeds attributable to the disposition of any Portfolio Securities to be retained by the Partnership and invested in other Portfolio Securities, then the following portion of the original Portfolio Securities shall not be treated as Disposed Investments: the entire amount of such original Portfolio Securities multiplied by a fraction, the numerator of which is the amount of such Distributable Proceeds reinvested in new Portfolio Securities and the denominator of which is the total amount of Distributable Proceeds attributable to the disposition of such original Portfolio Securities.

Distributable Proceeds — All cash received by the Partnership that is attributable to any Portfolio Investment and has not previously been distributed to the Partners (including payments in cash of interest, dividends and principal and proceeds from the sale of any Portfolio Investment, but specifically excluding (except for purposes of the definition of Holdback Distributions) any cash receipts attributable to income earned at any time on Temporary Investments) and any other cash that the General Partner determines is otherwise available for distribution to the Partners (but specifically excluding any amounts distributable pursuant to 7.3.4) after the payment or provision for payment by the Partnership of all expenses incurred by the Partnership in connection with disposing of such Portfolio Investment (including but not limited to brokers' fees and other selling expenses) and in collecting any amounts then owed to the Partnership and so attributable. For avoidance of doubt, Distributable Proceeds shall also include any Portfolio Securities or other property that the General Partner in its discretion has determined to distribute in kind.

Drawdown — As set forth in 6.1.1.1.

Drawdown Date — As set forth in 6.2.1.

Due Care — As set forth in 12.1.1.

Existing Funds — Jefferson Partners Technology Fund, L.P., an Ontario limited partnership, Jefferson Partners Parallel Technology Fund, L.P., an Ontario limited partnership, and Jefferson Partners Capital Limited, an Ontario corporation, collectively.

FCC — The U.S. Federal Communications Commission or any successor governmental agency.

Fee Period — As set forth in 5.2.

Final Closing Date — As set forth in 3.2.4.1.

Focus Sectors — Communications infrastructure technologies, internet technology and application software and services.

Folk	David Folk.
Follow-On Investment	A Portfolio Investment in an issuer that is already a Portfolio Company or an Affiliate thereof.
Freely Tradable Security	Securities that are listed on an established U.S., Canadian or foreign stock or securities exchange, or reported through the Canadian Venture Exchange, the NASDAQ Stock Market or comparable foreign established over-the-counter trading system, provided that any such securities shall be deemed Freely Tradable Securities only if (i) they are freely tradable under applicable securities laws and (ii) where the market for such securities is illiquid, in the opinion of the Strategic Advisory Board acting reasonably it is still in the best interest of the Limited Partners to distribute such securities. For the purposes of this Agreement, Freely Tradable Securities of any company shall be deemed to be illiquid if the quotient of (i) the total number of securities in such company held by the Partnership and any Parallel Funds, and (ii) the 90 day trailing average daily volume of such company's securities is greater than 30 days. Freely tradable for this purpose shall mean securities that are not subject to contractual or stock or securities exchange imposed escrow restrictions or "hold periods" under applicable securities legislation or other restrictions on the transferability of such securities.
Fund	As set forth in 12.2.3.
General Partner	JPIV GP, L.P., an Ontario limited partnership, and any successor general partner under this Agreement.
GP Expenses	As set forth in 5.3.
Guidelines	As set forth in 14.4.3.
Holdback Distributions	The sum of (i) 100% of the distributions of Distributable Proceeds pursuant to 7.2.2 of this Agreement to the General Partner and (ii) 100% of the distributions of distributable proceeds to the general partner of any Parallel Fund contained in equivalent provisions in the limited partnership agreement(s) of any Parallel Fund but solely to the extent such distributions are actually received by such general partner pursuant to such agreement(s), in the case of (i) and (ii) above solely to the extent such distributions would have been received directly by the General Partner, or would have been retained by the general partner of any Parallel Fund, but for the provisions of 7.2.4, but excluding with respect to each fiscal year of the Partnership, an amount equal to the tax distributions that the General Partner is entitled to receive pursuant to 7.3.1 of this Agreement and the general partner of any Parallel Fund is entitled to receive pursuant to equivalent provisions providing for tax distributions to such general partner in the limited partnership agreement(s) of any Parallel Fund (without reduction under any other provision of such agreements).
Hot Issue Securities	Any securities which are deemed "hot issues" within the meaning of the Interpretation.
Indemnitee	As set forth in 12.2.1.
Industry Representatives	As set forth in 3.4.1.

Initial Closing Date	The date on which investors (other than Daniel P. Finkelman and one or more of the Principals) are first admitted to the Partnership as Limited Partners.
Initial Drawdown Date	The due date of the Partnership's first Drawdown.
Interpretation	The Free Riding and Withholding Interpretation of the Board of Governors of the National Association of Securities Dealers, Inc. under NASD Rule IM-2110-1, as amended, modified or superceded from time to time.
Investment Management Agreement	Jefferson Partners Fund IV (PA), L.P. Investment Management Agreement, dated the date hereof, between the Partnership and the Management Company.
Late Admission Charge	As set forth in 6.7.2.
Limited Partners	Those Persons listed in Schedule A as limited partners, together with any additional or substituted limited partners admitted to the Partnership after the date hereof, and for purposes of 13.2 only, those persons admitted to the Parallel Funds as limited partners (or the equivalent thereof under local law).
Loss	As set forth in 12.2.1.
Main Fund	As set forth in 3.3.3.4.
Management Company	The Person that from time to time fills the role of the Management Company pursuant to the Investment Management Agreement, which Management Company shall initially be Jefferson Partners Fund IV Management Corp.
Management Fee	As set forth in 5.2.
Mr. Finkelman	As set forth in the preamble.
NASD	The National Association of Securities Dealers, Inc.
Nasdaq	As set forth in 14.4.2.
Net Gain or Loss	With respect to any fiscal year, the sum of the Partnership's: (a) Net gain or loss attributable to the sale or exchange of Portfolio Securities during such fiscal year; (b) Net gain or loss deemed to have been realized by the Partnership, pursuant to 8.1.2, on a distribution in kind during such fiscal year of Portfolio Securities; (c) Dividend and interest income for such fiscal year (if any) that is attributable to investments in Portfolio Securities; (d) Other items of income and gain for such fiscal year that are attributable to its Portfolio Securities and are not included in (a), (b) or (c), including any income exempt from federal income tax; and (e) A negative number equal to all Partnership losses for such fiscal year not taken into account under clauses (a) or (b) above, and all expenses properly chargeable to the Partnership for such fiscal year (whether deductible or non-deductible and whether described in Section 705(a)(2)(B) of the Code, treated as so described pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(*i*), or otherwise) other than expenses taken into account in determining Non-Portfolio Income or

Loss.

For this purpose, Net Gain or Loss shall be determined in accordance with tax accounting principles rather than generally accepted accounting principles, and the following items shall be disregarded:

(1) All items specially allocated pursuant to 8.3, 8.4 or 8.5 or Appendix II;

(2) Expenses required to be capitalized and included in the Partnership's adjusted tax basis in any asset or which reduce the amount realized by the Partnership on the disposition of any asset; and

(3) All items taken into determining Non-Portfolio Income or Loss.

Non-Attributable Interest

As set forth in 15.2.1.

Non-Portfolio Income or Loss

With respect to any fiscal year, the sum of the Partnership's:

(a) Gross gains (if any) attributable to the sale or exchange of Partnership assets *other than* Portfolio Securities during such fiscal year;

(b) Gross gains deemed to have been realized by the Partnership, pursuant to 8.1.2, on a distribution in kind (if any) during such fiscal year of Partnership assets *other than* Portfolio Securities;

(c) Dividend and interest income for such fiscal year (if any) that is attributable to Partnership assets *other than* Portfolio Securities;

(d) Other items of income and gain for such fiscal year that are attributable to Partnership assets *other than* Portfolio Securities and are not included in (a), (b) or (c), including any income exempt from federal income tax;

reduced by:

(e) All losses attributable to sales or exchanges and dispositions in kind (if any) of Partnership assets *other than* Portfolio Securities and expenses properly chargeable to the Partnership for such fiscal year (whether deductible or non-deductible and whether described in Section 705(a)(2)(B) of the Code, treated as so described pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(*i*), or otherwise) in each case, to the extent attributable to the Partnership's investments in assets other than Portfolio Securities.

For this purpose, Non-Portfolio Income shall be determined in accordance with tax accounting principles rather than generally accepted accounting principles, and the following items shall be disregarded:

(1) All items specially allocated pursuant to 8.3 (*other than* 8.3.1), 8.4, 8.5 or Appendix II; and

(2) Expenses required to be capitalized and included in the Partnership's adjusted tax basis in any asset or which reduce the amount realized by the Partnership on the disposition of any asset.

Non-Voting Interest

A limited partnership interest in the Partnership that does not entitle the holder to vote, consent or withhold consent with respect to any Partnership matter. Contributions attributable to Non-Voting Interests shall be disregarded, for purposes of Article 13, in determining both the aggregate Contributions of all

	Limited Partners and the aggregate Contributions of those Limited Partners voting in favor of or against a particular proposal. Except as otherwise explicitly provided in this Agreement, any interest held by any Person as a Non-Voting Interest shall be identical to all other limited partnership interests in all respects *other than* with regard to votes and consents.
Organizational Expenses	The Partnership's *pro rata* share (based upon the aggregate capital commitments of investors in the Partnership and the Parallel Funds) of all out-of-pocket costs and expenses incurred in connection with the organization of the Partnership, the Parallel Funds, the General Partner and the Management Company and any related entities and the offering of interests in the Partnership and the Parallel Funds, including without limitation any related legal fees, accounting fees and out-of-pocket expenses.
Parallel Funds	As set forth in 3.3.3.4.
Partner Interest	As set forth in 6.6.3.1.
Partners	The General Partner and the Limited Partners.
Partnership	Jefferson Partners Fund IV (PA), L.P., a Delaware limited partnership.
Partnership Expenses	All expenses properly borne by the Partnership hereunder.
Person	Any individual, general partnership, limited partnership, limited liability partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative, association, or government or any agency or political subdivision thereof, and the heirs, executors, administrators, legal representative, successors and assigns of such Person where the context so admits.
Portfolio Company	Any entity in which the Partnership holds an investment other than a Temporary Investment.
Portfolio Investment	As set forth in 4.1.
Portfolio Security	Any security issued by a Portfolio Company.
Preferential Return Allocation	With respect to any Partner and as of the end of any fiscal period: (a) such Partner's Aggregate Preferred Return Accrual determined as of the end of such fiscal period; reduced, but not below zero, by (b) the excess (if any) of (1) the aggregate amount of Net Gain previously allocated to such Partner and such Partner's predecessors in interest (if any) over (2) the aggregate amount of Net Loss previously allocated to such Partner and such predecessors, in each case since the inception of the Partnership.
Preferred Return Accrual	With respect to any Partner and any calendar month, an amount (not less than zero) equal to such Partner's Return Base as of the last day of the preceding calendar month multiplied by 0.64340% (the equivalent, with monthly compounding, of 8% compounded annually). A Partner's Preferred Return Accrual for any fiscal period consisting of less than a full calendar month shall be determined by proration on a daily basis.
Principal	Any one of David Folk, Jack Kiervin, Ian Locke and David Harris Kolada for so long as such person is a partner of the General Partner or employee of the Management Company (and "Principals" shall mean all of them).
Priority Return	With respect to any Partner and at any time, an amount which, if distributed to such Partner at such time, would cause the aggregate amount of distributions

Amount made pursuant to 7.2.2(a) by the Partnership to such Partner and such Partner's predecessors in interest from the inception of the Partnership through such time to equal but not exceed that portion of such Partner's Contribution that, at or prior to the time of determination, is reflected in the Partnership's books as having been used by the Partnership:

(a) To acquire any Portfolio Investments that, as of such time, are Disposed Investments, or

(b) To pay any expenses properly borne by the Partnership under this Agreement (including but not limited to the Management Fee, Organizational Expenses not in excess of $1,000,000 and indemnification expenses, if any), but only:

(1) To the extent of such Partner's proportionate share (based on its relative Contribution) of the amount of such expenses attributable to investments that, at such time, are Disposed Investments; and

(2) To the extent that the Partnership has not, subsequent to the payment of such expenses but prior to the time of determination, used Distributable Proceeds to acquire additional Portfolio Securities, as permitted under 4.3, at least equal in cost to the expenses so paid (in which event the Partners' Contributions that were actually used to pay such expenses shall be deemed, for purposes of determining their Priority Return Amounts, to have been used to acquire such additional Portfolio Securities).

For purposes of this definition, (A) any expenses borne by the Partnership shall be deemed to have been paid with Partnership funds *other than* the Partners' Contributions to the extent that the Partnership has such other funds available to pay such expenses; (B) the aggregate amount of the Partnership's expenses from inception through any date of determination that have been paid with the Partners' Contributions shall be apportioned among all Portfolio Investments (and the amounts so apportioned shall be deemed to be attributable to such Portfolio Investment) that were acquired by the Partnership since inception with the Partners' Contributions in proportion to the relative Cost of such investments except that, to the extent that a particular Portfolio Investment has become a Disposed Investment, no further Partnership expenses shall be deemed to be attributable to that investment; (C) for purposes of the preceding clause (B), the General Partner may use any reasonable method (including but not limited to a quarterly or monthly convention) to determine the amount of expenses incurred from the Partnership's inception through such date of determination; and (D) in no event shall the Limited Partners' aggregate Priority Return Amounts exceed, at any time, their aggregate Contributions at such time reduced (but not below zero) by the aggregate amount of Distributable Proceeds previously distributed to them.

PSERS As set forth in 3.4.1.

Realized Capital As set forth in 5.2.

Reference Rate At any time, the per annum rate of interest quoted, published and commonly

known as the "**prime rate**" of the Bank of Nova Scotia which it establishes at its main office in Toronto, Ontario as the reference rate of interest in order to determine interest rates for loans in Canadian dollars to Canadian borrowers, adjusted automatically with each quoted or published change in such rate, all without the necessity of any notice to the Partnership, the Limited Partners or any other Person or, if no such rate is available, the prime rate quoted from time to time by a Canadian bank selected by the General Partner.

Regulatory Allocations

As set forth in Part 1.4 of Appendix II.

Related Entities

As set forth in 3.3.3.2.

Remaining Commitment

With respect to any Partner, its Subscription;

(a) *Reduced* by the amount of all capital contributions made by such Partner (or its predecessors in interest) pursuant to this Agreement; and

(b) *Increased* by any capital contributions returned to such Partner by the Partnership that, under 6.6.3, result in a corresponding increase in such Partner's Remaining Commitment.

For the sake of clarity, Contributions (whether for portfolio investments, management fee or fees and expenses, including indemnification obligations) made by a Partner shall reduce the dollar amount of the Partner's total Subscription that may be called as capital pursuant to this Agreement, subject to the provisions of 6.6.

Restoration Amount

With respect to any Partner and at any time, such Partner's Remaining Commitment at such time, and solely with respect to the General Partner, any amount that the General Partner would be required to contribute to the Partnership at that time pursuant to 7.6.1, if each asset of the Partnership were sold at such time for an amount equal to its Cost, all of the Partnership's liabilities to Persons other than Partners were satisfied (to the extent possible) with Partnership funds, all items of Partnership income, gain, loss or expense were allocated to the Partners in accordance with Article 8, and any remaining cash was distributed to the Partners pursuant to Article 7.

Return Base

With respect to any Partner and as of any determination date, an amount, not less than zero, equal to:

(a) such Partner's Return Base as of the end of the calendar month preceding such determination date;

(b) *increased by* --

(1) all capital contributions made by such Partner that increase such Partner's Contribution; and

(2) such Partner's Preferred Return Accrual for the fiscal period commencing at the end of the prior month and ending at such determination date; and

(c) *reduced by* an amount equal to the sum of all distributions made to such Partner by the Partnership during the fiscal period commencing at the end of the prior month and ending at such determination date *other than* distributions of income specially allocated to such Partner pursuant to 8.3.

For purposes of the foregoing: (A) in determining such Partner's Return Base as of the Partnership's first determination date, the day on which such Partner's initial capital contribution was due shall be deemed to constitute the end of the prior month; (B) any distribution actually made to such Partner by the Partnership during any calendar month or within five Business Days thereafter shall be deemed to have been made on the last day of such month; (C) all contributions made to the Partnership pursuant to this Agreement by such Partner's predecessors in interest (if any), all distributions made by the Partnership to any such predecessors, and all Preferred Return Accruals of any such predecessors shall be taken into account as if such contributions had been made by, such distributions had been made to, and such Preferred Return Accruals had been for the benefit of, such Partner; and (D) distributions received by the General Partner shall be taken into account to reduce the General Partner's Return Base pursuant to clause (c) of this definition only to the extent of that portion of those distributions that the General Partner would have received if it had made its capital contributions to the Partnership in exchange for an interest as a Limited Partner and held no interest as a general partner of the Partnership (and another Person had served as the General Partner hereunder and had made no capital contribution). Any distributions that otherwise would have reduced such Partner's Return Base with respect to any fiscal period below zero shall be carried forward to reduce such Partner's Return Base at the earliest time or times that such reduction would not cause such Partner's Return Base to be reduced below zero.

Securities Act — The U.S. Securities Act of 1933, as amended from time to time, or any successor statute thereto.

Side Letter — Any Letter Agreement between the General Partner and PSERS entered into in writing on or after November 26, 2002 and signed by both parties.

Strategic Advisory Board — As set forth in 3.4.

Subscription — With respect to any Partner, the total amount that such Partner has agreed to contribute to the Partnership as reflected, with respect to each Partner, in Schedule A opposite such Partner's name under the column headed "Total Subscription."

Successor Fund — As set forth in 3.3.3.3.

Suspension Event — As set forth in 6.8.

Target Amount — As set forth in 7.6.2.

Tax Distribution — As set forth in 7.3.1.

Tax Matters Partner — As set forth in 14.8.2.

Tax-Exempt Partner — Any Partner generally exempt from federal income taxation under Section 501 of the Code, including any Partner that is a partnership if any partner of such partnership is so exempt; *provided, however*, that no Partner shall be treated as a Tax-Exempt Partner prior to the date on which it has notified the General Partner in writing of its status as such.

Temporary Investments — Short-term investments consisting of any of the following:

(a) United States or Canadian federal, provincial or state government and

	government-guaranteed agency obligations rated not lower than A-1 by Standard & Poor's Corporation or P-1 by Moody's Investors Service, Inc. or equivalent ratings of Canadian Bond Rating Service Inc. or Dominion Bond Rating Service Limited maturing within 180 days; or (b) commercial paper rated not lower than A-1 by Standard & Poor's Corporation or P-1 by Moody's Investors Service, Inc. or equivalent ratings of Canadian Bond Rating Service, Inc. or Dominion Bond Rating Service Limited with maturities of not more than six (6) months and one (1) day; or (c) interest-bearing deposits in Canadian Schedule I banks, or in United States banks or U.S. or Canadian branches of foreign banks with an unrestricted capital surplus of at least $250,000,000 and having one of the ratings referred to above, in all cases maturing within 180 days; or (d) securities of money market mutual funds with assets of not less than $250,000,000; or (e) bonds of any issue rated at least "investment grade"; or (f) as to not more than 1/3 of the amounts of cash and liquid investments at any time, securities of any portfolio money managers' North American or International equity pools in top quartile over the last five years.
TH&T	As set forth in 15.4.
Time and Attention Period	As set forth in 3.3.3.1.
Total Investment	With respect to any Portfolio Company and at any time, the sum of (a) the Partnership's adjusted tax basis in any securities of such Portfolio Company held by the Partnership at such time, as determined for federal income tax purposes but without regard to (i) any increases in such adjusted tax basis attributable to accrued but unpaid interest, or (ii) whether the Partnership has made an election under Section 754 of the Code, and (b) the aggregate outstanding amount of the obligations of such Portfolio Company for which the Partnership would be liable at such time under any guarantee of such obligations issued by the Partnership if that Portfolio Company defaulted in its performance of such obligations and the obligee called upon the Partnership to perform under that guarantee.
Transfer	As set forth in 11.1.
Transfer Expenses	As set forth in 11.2.6.1.
Treasury Regulations	The regulations promulgated by the U.S. Department of the Treasury under the Code, as amended.
United States Person	The meaning given to that term in Section 7701(a)(30) of the Code.
Unrealized Capital	As set forth in 5.2.
U.S. or United States	The United States of America.

REGULATORY AND TAX ALLOCATIONS

1. Regulatory Allocations.

The following provisions are included in order to comply with tax rules set forth in the Code and to permit the Partnership to obtain the benefits of a "safe harbor" provided by Treasury Regulations Section 1.704-1(b)(2)(ii)(*d*).

1.1 Qualified Income Offset.

If any Partner unexpectedly receives an adjustment, allocation or distribution described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(*4*), (*5*) or (*6*), and such adjustment, allocation or distribution causes such Partner to have a deficit balance in such Partner's Capital Account which exceeds such Partner's Restoration Amount or further reduces a balance in such Partner's Capital Account that already has a deficit balance exceeding such Partner's Restoration Amount, there shall be allocated to such Partner items of income and gain (consisting of a *pro rata* portion of each item of Partnership income, including gross income, and gain for such fiscal period) in an amount and manner sufficient to eliminate such Partner's deficit Capital Account balance, to the extent required by Treasury Regulations Section 1.704-1(b)(2)(ii)(*d*), as quickly as possible, provided that an allocation pursuant to this 1.1 shall be made only if and to the extent that the deficit in such Partner's Capital Account would exceed such Partner's Restoration Amount after all allocations provided for in Article 8 of the Agreement and in this Appendix II have been made tentatively as if this 1.1 were not included in this Agreement. The foregoing sentence is intended to constitute a "qualified income offset" provision as described in Treasury Regulations Section 1.704-1(b)(2)(ii)(*d*), and shall be interpreted and applied in all respects in accordance with that Section.

1.2 Gross Income Allocation.

In the event that any Partner has a negative Capital Account at the end of any Partnership fiscal year which is in excess of such Partner's Restoration Amount, there shall be allocated to such Partner items of Partnership income (including gross income) and gain in the amount of such excess as quickly as possible, provided that an allocation pursuant to this 1.2 shall be made only if and to the extent that the deficit in such Partner's Capital Account would exceed such Partner's Restoration Amount after all allocations provided for in Article 8 of the Agreement and in this Appendix II have been made tentatively as if 1.1 and this 1.2 were not included in this Appendix II.

1.3 Adjustments to Reflect Section 754 Election.

To the extent that an adjustment to the adjusted tax basis of any Partnership asset pursuant to Section 734(b) or 743(b) of the Code is required, pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(*m*), to be taken into account in determining Capital Accounts, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the Partners in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to such Section of the Treasury Regulations.

1.4 Offsetting Allocations.

The allocations set forth in 1.1, 1.2 and 1.3 of this Appendix II (the "**Regulatory Allocations**") are intended to comply with certain requirements of Treasury Regulations Section 1.704-1(b). Notwithstanding any other provisions of Article 8 of the Agreement and of this Appendix II (other than the Regulatory Allocations), the Regulatory Allocations shall be taken into account in allocating subsequent items of income, gain, loss and expense among the Partners so that, to the extent possible, the net amount of such allocations of subsequent items of income, gain, loss and expense and the Regulatory Allocations to each Partner shall be equal to the net amount that would have been allocated to each such Partner pursuant to the provisions of Article 8 of the Agreement and this Appendix II if the Regulatory Allocations had not occurred.

For purposes of applying the foregoing sentence, allocations pursuant to this 1.4 shall be made with respect to allocations pursuant to 1.3 of this Appendix II only to the extent the General Partner reasonably determines that such allocations will otherwise be inconsistent with the economic agreement among the Partners. Further, if allocations to the General Partner include or are affected by Regulatory Allocations or allocations pursuant to this 1.4 that are intended to offset such Regulatory Allocations, the General Partner, after consulting with the Partnership's accountants and other advisors, shall have discretion to make such adjustments to subsequent allocations that the General Partner deems reasonably necessary or appropriate to effectuate the economic arrangements of the Partners.

2. Adjustments to Reflect Changes in Interests.

With respect to any fiscal period during which any Partner's interest in the Partnership changes, whether by reason of the admission of a Partner, the withdrawal of a Partner, a non-*pro rata* contribution of capital to the Partnership or any other event described in Section 706(d)(1) of the Code and regulations issued thereunder, allocations of Net Gain, Net Loss and other items of Partnership income, gain, loss and expense shall be adjusted appropriately to take into account the varying interests of the Partners during such period; *provided, however*, that allocations on subsequent closings shall be made in the manner required by 8.4 of the Agreement. The General Partner shall consult with the Partnership's accountants and other advisors and shall select the method of making such adjustments, which method shall be used consistently thereafter.

3. Special Allocations of Gross Gains and Losses; Other Adjustments.

In making allocations of Net Gain or Net Loss pursuant to Article 8 of the Agreement, the General Partner, after consulting with the Partnership's tax advisors, is authorized to separate these aggregate amounts into their components and allocate the components separately in order to further the intent of such provisions of the Agreement. For example, if with respect to a particular fiscal period the Partnership realizes a gross loss of $100 on a sale of Portfolio Securities and a gross gain of $200 on a sale of other securities resulting in a Net Gain of $100 ($200 gross gain minus $100 gross loss = $100 Net Gain), the General Partner may allocate the $100 gross loss as a $100 Net Loss in the manner required by 8.2.2, and then allocate the $200 gross gain as a $200 Net Gain in the manner required by 8.2.1, if advised by the Partnership's tax advisors that such special allocations will cause the Capital Accounts of the Partners to reflect more closely the Partners' relative economic interests in the Partnership. In addition, in making allocations of Net Gain or Loss pursuant to Article 8 of this Agreement, the General Partner is authorized to make such adjustments as it may determine to be necessary or appropriate so as to ensure (subject to the provisions of this Appendix II) that, as of the end of each taxable year of the Partnership, the economic agreement of the Partners set forth in Article 7 shall have been satisfied.

4. Tax Allocations.

For federal, state and local income tax purposes, Partnership income, gain, loss, deduction or credit (or any item thereof) for each fiscal year shall be allocated to and among the Partners in order to reflect the allocations made pursuant to the provisions of Article 8 of the Agreement and the provisions of this Appendix II for such fiscal year (other than allocations of items which are not deductible or are excluded from taxable income), taking into account any variation between the adjusted tax basis and book value of Partnership property in accordance with the principles of Section 704(c) of the Code. However, in the event that the Partnership is required to recognize income or gain for income tax purposes under Section 684 of the Code (or a similar provision of state or local law) in respect of an in-kind distribution to a Limited Partner, then, solely for such income tax purposes, to the maximum extent permitted by applicable law (as determined by the General Partner in its reasonable discretion), the income or gain shall be allocated entirely to such Limited Partner.

SCHEDULE A

JEFFERSON PARTNERS FUND IV (PA), L.P.
Soho Centre, 4th Floor
260 Queen Street West
Toronto, Ontario M5V 1Z8
Canada

Names, Addresses, Facsimile Numbers, E-Mail Addresses and Subscriptions of Partners

	Total Subscription
GENERAL PARTNER JPIV GP, L.P. Soho Centre, 4th Floor 260 Queen Street West Toronto, Ontario M5V 1Z8 Canada Facsimile: (416) 367-5827 E-mail Address: dhk@jefferson.com	at all times, $[5.0% of the sum of (i) Subscriptions of the Partners of the Partnership and (ii) subscriptions of the partners of the Parallel Funds] minus [subscriptions of the general partner(s) in the Parallel Funds]
LIMITED PARTNERS Pennsylvania Public School Employees' Retirement System Five North Fifth Street Harrisburg, PA 17101 Facsimile: ( ) - E-mail Address:	at all times, $[as of each closing, an amount equal to 25% of the sum of (i) Subscriptions of the Partners of the Partnership and (ii) subscriptions of the partners of the Parallel Funds, up to a maximum of $50,000,000]
Total	$_____

EXHIBIT A

The Guidelines

Guidelines for the Valuation and Disclosure of Venture Capital Portfolios

BVCA

Representing British Venture Capital and Private Equity

Contents

Preface

The Guidelines for the Valuation and Disclosure of Venture Capital Portfolios (Guidelines) were established by the British Venture Capital Association (BVCA), principally for venture capital fund managers to provide an industry standard for valuing unquoted investments. They were first produced in March 1991 and updated in November 1993. This edition of the Guidelines was reviewed and published in December 1997. No material changes have been made since the last edition was printed.

The BVCA represents virtually every major source of venture capital in the UK and its full members - venture capital firms - account for over 95% of annual venture capital investment in the UK. Over the last two years, the BVCA consulted its members, advisers and institutional investors and the feedback showed that the Guidelines were widely used and accepted as the industry standard and that updating was not required.

In the consultation process, the BVCA surveyed all full members' on their use and views of the Guidelines. With a 96% response rate; 85% of them said they used the Guidelines in reporting to their investors in the managers' or other reports, if not in their audited accounts; and 72% said they followed the Guidelines in their audited accounts either for all or some of their funds. Regarding interim valuations, 86% agreed that subsequent realisations proved that the Guidelines were conservative.

The BVCA is continuing to seek wider recognition of the Guidelines. Already they are increasingly used by investors in venture capital funds and other organisations. For example, insurance companies no longer have to value venture capital fund investments at zero as the BVCA obtained recognition of the Guidelines in the Guidance Notes to the 1995 Regulations of insurance companies. They are used in the BVCA's annual Performance Measurement Survey of independent venture capital funds, undertaken by a leading pension fund performance measurer The WM Company. The BVCA also requests members to acknowledge the use of these Guidelines in their audited accounts.

For further information on the BVCA, its publications and research, please contact the BVCA Secretariat.

January 1998

"The BVCA represents virtually every major source of venture capital in the UK and is dedicated to promoting the venture capital industry for the benefit of entrepreneurs, investors, venture capital practitioners and the economy as a whole."

1 Background

1.1 Reasons for valuation

Venture capital investments are valued for a variety of reasons, including business appraisal as part of investment decisions. In particular, venture capital managers need to carry out periodic valuations during the life of an investment as part of the reporting process to their investors. Those investors need such valuations in order that they can assess the value of their investment in the venture capital fund and the performance of the venture capital manager they have backed.

1.2 Purpose of guidelines

These guidelines are intended to provide a framework for BVCA members carrying out such valuations for their investors. As such they should help give those investors confidence in, or raise queries about, the underlying value of venture capital portfolios. The guidelines are not intended to provide guidance on the performance measurement or appraisal of venture capital managers. However, it is recognised that these subjects are connected and this has been taken into account in formulating the disclosure guidelines in particular.

1.3 Problems with valuation guidelines

The valuation of individual unquoted investments is a highly judgmental process, which cannot be subjected to a simple mechanistic formula. The most critical factors are that valuations must be prepared with integrity and based on a common sense approach. This should be logically cohesive and subject to a rigorous review procedure under the direction of senior management and, where applicable, non-executive directors. Valuers should have an appropriate level of experience and ability.

1.4 Disclosure of investment valuations

The portfolio valuations of venture capital investments may be either publicly available, for instance the accounts of quoted investment trusts, or subject to limited and confidential distribution to investors only, for instance limited partnerships. Full disclosure of valuations, and the reasons therefor, could be potentially damaging to investments if made publicly available, thus these disclosure guidelines make a distinction between the possible levels of disclosure based on the intended distribution of the valuations. It should be emphasised that although a level of disclosure is recommended in these guidelines, where there is a close relationship between the investor and the venture capital manager such as in a limited partnership or a captive fund, it is recognised that a significantly greater level of disclosure may be required by the particular providers of finance.

1.5 Application of guidelines

The BVCA recommends that all members comply with these guidelines when reporting to their sources of finance, and state that compliance. Any areas where members depart from these guidelines should be highlighted.

2 Valuation guidelines

2.1 Overriding principle

The fundamental principle, which should underlie all valuations of venture capital investments, is to show a fair valuation of the investment to the investor. Prudence is a central concept in valuation; however, the valuer should beware not only of unwarranted optimism in valuations, but also of excessive caution.

2.2 Early stage investments

2.2.1 All early stage investments should be valued at cost, less any provision considered necessary, until they cease to be viewed as early stage. The only exception to this principle is where a significant transaction involving an independent third party at arms-length values the investment at a materially different value. In these circumstances the guidelines set out in 2.5 should be followed.

2.2.2 A provision should be considered if the performance of the investment is significantly below the expectations on which the investment was based, leading to a diminution in value. Prima facie indicators of under-performance include the failure to meet significant milestones, to service equity or debt instruments, and breaches of covenants.

2.2.3 Provisions should be made as a percentage of cost in bands of 25% as the valuer thinks fit. The same level of provision need not be made against each of the instruments in any one investment. For example it might be considered appropriate to provide a greater percentage against the equity element than against a secured loan.

2.3 Development stage investments

2.3.1 All development stage investments should be valued according to one of the bases set out below:

- Cost (less any provision required)
- Third party valuation
- Earnings multiple
- Net assets

2.3.2 It is a matter of judgment and circumstances as to which of the above bases is the most appropriate for any investment. As a general rule, material arms-length third party valuations (other than by corporate investors) are prima facie evidence of fair valuation and should take precedence over other methods until the circumstances change (e.g. an increase/decrease in the level of profitability). Furthermore, once it has been concluded that the cost basis no longer provides reliable evidence of value, it should rarely be used again.

2.4 Development stage investments - cost basis

2.4.1 Development stage investments should generally be valued at cost for at least one year unless this basis of valuation is unsustainable.

2.4.2 A provision should be considered if the performance of the investment is significantly below the expectations on which the investment was based, leading to a diminution in value. Prima facie indicators of

under-performance include material divergence from those expectations, the failure to service equity or debt instruments, and breaches of covenants.

2.4.3 Provisions should be made on the same basis as is detailed in 2.2.3 above.

2.5 Development stage investments - third party basis

2.5.1 A change of valuation may be justified by reference to the price at which a subsequent issue of capital is made, or at which a transaction for cash in the relevant security takes place. This basis of valuation should only be used when the transaction involves a significant investment by a new investor.

2.5.2 Some investors may have strategic reasons for investing which might lead to a valuation which would be inappropriate for the venture capital investor. Therefore, particular care should be taken to consider the motives of the third party and whether this method should be used.

2.6 Development stage investments - earnings basis

2.6.1 An earnings basis is likely to be the most common basis for valuing investments above cost (or supporting their valuation at cost). It is not recommended that this basis be used until at least a year has elapsed since the investment was made. There are a number of different methods of applying this concept which can lead to significantly different results for a given investment. Therefore when using this basis the valuer should have particular regard to the overriding principle set out in paragraph 2.1 above.

2.6.2 The suggested method for this basis of valuation is to apply a discounted Price/Earnings multiple ("P/E") to the investment's earnings from which corporation tax has been deducted, normally at the full rate. It is a matter for the valuer's judgment, based on the circumstances of the individual investment, whether the earnings used should be taken before or after interest. Particular care should be taken in making this assessment where there is a high level of gearing which makes the valuation sensitive to changes in interest rates.

2.6.3 The earnings used to arrive at the valuation will normally be taken from the audited accounts most recently completed. If, however, earnings in the current period are likely to be lower than in the previous period, these earnings should be used as the basis for valuation. Equally, if the current period can be predicted with reasonable certainty to produce significantly higher earnings and these are maintainable, these may also be used as the basis for valuation, bearing in mind the requirement in paragraph 2.1 to avoid excessive caution. Having determined the appropriate earnings to be used as the basis of valuation, in those circumstances where a company's trading results have been affected by acquisitions and exceptional items, appropriate adjustments may need to be made.

2.6.4 The most suitable starting point for an appropriate P/E is that of a quoted company or companies, comparable both in business activities and where possible in magnitude of sales and profits. If such companies are not available, the specific sub-sector of the FT-SE Actuaries Share Indices may be used; however, whichever multiple is used it should be applied with considerable care as there are occasions when the holding being valued might command a lower rating than the comparable quoted company or companies.

2.6.5 The reason for discounting quoted company P/Es is, inter alia, to recognise the illiquidity and risk of unquoted investments and the approximate nature of a valuation based on earnings. The discount may be applied either to the P/E or to the value of the equity holding. Clearly, the level of discount is highly judgmental and will depend on the particular circumstances of each investment. However, the minimum discount should be 25% unless there is a strong possibility of an early realisation, in which case it might be appropriate to apply a smaller discount. Furthermore, the valuer should recognise, when selecting the appropriate level of discount, that the application of the discount to the value of the equity holding (as opposed to the P/E) will normally result in a higher valuation.

2.7 Development stage investments - net asset basis

2.7.1 It is envisaged that this basis will rarely apply to venture capital portfolios. However, some investments are more appropriately valued on this basis, for instance when there is a significant property element to the business.

2.7.2 When using this basis particular care must be taken to consider when and how each of the assets has been valued, the independence of the valuer and his/her qualifications, and whether the valuations are suitable in the current circumstances. A level of discounting will normally be appropriate to take into account the illiquidity of the investment.

2.8 Quoted investments

2.8.1 In many cases the valuer may assume that the quoted mid-market price provides a reasonable indication of fair value. If, however, the shares are subject to any particular restrictions, or the holding is significant in relation to the issued share capital of, in particular, a small quoted company, then a discount will almost certainly be appropriate.

2.8.2 The level of discount, which should be dependent on the particular circumstances of each case, will normally be in the range of 5% to 25%. When calculating the discount, the valuer should have particular regard to the overriding principle set out in paragraph 2.1 above

3 Disclosure guidelines

3.1 Overriding principle

The fundamental principle which should underlie the disclosure of the valuation of venture capital investments is to show as much detail to investors as possible without risking damage to those investments, and within the practical limitations of preparing accounts. These disclosure guidelines are supplementary to any legal and regulatory requirements to which venture capital managers may be subject.

3.2 Valuation principles and procedures

All venture capital managers preparing valuations of investments, in whatever form, should set out the valuation principles adopted. They should also state the valuation review procedures, which might include review by a valuation committee and/or non-executive directors. The valuations should also include a positive statement of compliance with these guidelines. Any areas of non-compliance should be clearly disclosed.

3.3 Portfolio valuation movement summary

3.3.1 Venture capital managers should include in the accounts of the funds they manage an analysis of the change in the aggregate valuation of the portfolio. In particular this should show the contribution to the movement from the previous valuation caused by:

- Investments
- Realisations
- Increases in value
- Decreases in value

3.3.2 Because of the wide diversity of venture capital investment vehicles, it is not possible to give general guidance on how the venture capital manager's interest (management fees, carried interest, etc) will interact with this portfolio valuation summary. Indeed disclosure of this interest is outside the scope of these guidelines.

3.4 Realisation details

Venture capital managers should disclose in the accounts of funds they manage, the aggregate realisations in the period covered by the accounts. These should be compared with original cost and the valuation at the end of the financial period immediately preceding realisation. Comparative aggregate realisation figures should be shown for the four previous periods. Reference should be made to 4.1.3 in these guidelines for the definition of a realisation.

3.5 Specific investments

3.5.1 Where the accounts of funds managed by venture capital firms are widely distributed, or a matter of public record, the details set out in paragraph 3.5.2 below should be disclosed for any investment amounting to 5% by value of the portfolio. In any event the ten largest investments measured by value should be included.

3 Disclosure guidelines continued

3.5.2 For those investments satisfying the criteria in paragraph 3.5.1, the details set out below should be disclosed. The latest publicly available audited accounts of the investment should be the source of the relevant information.

- Name and country of incorporation
- Business description
- Investment Information:
  - Turnover
  - Earnings before interest and tax
  - Profit before tax
  - Profit after tax
  - Extraordinary items
  - Dividends paid/declared
  - Net assets
  - Accounts date
- Proportion of share capital owned
- Cost of investment
- Date of investment
- Valuation and basis thereof
- Income received in period
- Realisation proceeds (if applicable)

Prior year comparatives should be shown.

3.5.3 Where the distribution of the venture capital firm's accounts is limited and confidential the details in paragraph 3.5.2 should be disclosed for all investments.

4 Definitions and explanatory notes

4.1 Definitions

4.1.1 Early stage investments - immature companies, including seed, start-up and other early stage investments. These are typically not earning significant maintainable profits.

4.1.2 Development stage investments - unquoted investments, including management buy-outs and buy-ins, which are not early stage investments.

4.1.3 Realisation - the sale, redemption or repayment of an investment, in whole or in part; or the receivership/liquidation of an investment where no significant return to the investor is envisaged.

4.2 Larger portfolios

It is recognized that for larger portfolios a rather more mechanistic approach may be appropriate for valuations. However, this should always be subjected to a judgmental review, with a specific review of all significant investments which fall within the criteria of 3.5.1.

4.3 Non-UK investments

When valuing an investment in a non-UK company, particular care needs to be taken. Specific areas of focus should be local valuation practice, exchange rates, tax rates and the most appropriate source of P/Es.

4.4 Loan stock and preference shares

When a venture capital manager has invested in loan stock and preference shares as part of a package, these instruments should not be valued on the basis of their yield. They should be valued at cost, plus any premium or rolled up interest only to the extent it has fully accrued, less any provision/discount where appropriate.

4.5 Ratchets and warrants or options

Valuations should be computed in accordance with the practice of quoted company investment analysts when calculating the fully diluted earnings of a quoted company. Hence any warrants or options that are exercisable at a price below the valuation price and any ratchets that will be triggered, or are likely to be triggered, because performance targets have been met, should be taken into account. Warrants or options should be valued at the excess of the value of the underlying security over the exercise price. In practice, conservative valuations may tend to lead to zero valuations of warrants or options.

4.6 Guarantees and commitments

When a venture capital manager has entered into a guarantee or similar commitment on behalf of an investee company and it is probable that this liability will crystallise, the liability should be recognised in full. To the extent that fulfillment of this commitment gives rise to an additional investment or amount due, this should be valued in accordance with these guidelines.

Appendix 1: Examples of earnings basis valuations

1. Earnings before interest and tax example		(£m)
Earnings before interest and tax	1.00	
Less: Corporation tax at full rate	(0.33)	
Earnings after tax		**0.67**
Appropriate discounted P/E (post tax)		**10.00**
Total capitalisation	6.70	
Less: Debt	(2.00)	
Preference shares	(1.70)	
Ordinary share capitalisation		**3.00**
Valuation of venture capital holding:		
Ordinary shares (30%)	0.90	
Preference shares (100%)	1.70	
Total		**2.60**

2. Profit before tax example		(£m)
Profit before tax	0.80	
Less: Corporation tax at full rate	(0.26)	
Earnings after tax		**0.54**
Appropriate discounted P/E (post tax)		**10.00**
Total capitalisation:	5.40	
Less: Preference shares	(1.70)	
Ordinary share capitalisation		**3.70**
Valuation of venture capital holding:		
Ordinary shares (30%)	1.11	
Preference shares (100%)	1.70	
Total		**2.81**

Appendix 2: Example disclosure of specific investment

Clarke Limited

Business description: Blender and distributer of Scotch Whiskey

Incorporated in Scotland

Investment information	(£000s)	(£000s)
Accounts for year ended 30 June	1997	1996
Turnover	10,000	8,500
Earnings before interest	1,000	850
Profit before tax	800	600
Profit after tax	540	400
Extraordinary items	nil	nil
Dividends of preference shares	100	100
Net assets attributable to ordinary and preference shareholders	1,300	860

Other information as at 31 December 1997	(£000s)	(£000s)
	1997	1996
Proportion of share capital owned	30%*	30%*
Cost of investment	1,800	1,800
Dates of investment	July 1995	
Valuation	2,600	1,800
Basis of valuation	Earnings - P/E 10	Cost
Gross income received during year	133	133
Realisation proceeds	Not applicable	

* NB: the ultimate proportion of equity owned will vary between 20% and 40% depending on performance

Appendix 3: Example disclosure of portfolio valuation movement summary

		Valuation
		(£m)
Opening valuation 1 January 1997		**10.0**
Investments made (at cost)		5.0
Realisations:		
Proceeds	(10.0)	
Increase/decrease over previous valuation	4.5	
		(5.5)
Unrealised investments:		
Gross increases in value	2.0	
Gross decreases in value	(1.0)	
		1.0
Closing valuation 31 December 1997		**10.5**

Appendix 4: Example disclosure of realisation details

Years ended 31 December	Realisation proceeds	Prior year valuation	Original cost
	(£m)	(£m)	(£m)
1997	5.0	4.0	2.5
1996	3.0	2.5	2.0
1995	-	0.5	1.0
1994	4.0	4.0	2.0
1993	5.0	4.0	1.0