

SECOND AMENDED AND RESTATED
AGREEMENT OF LIMITED PARTNERSHIP
OF
U.S. EQUITY PARTNERS, L.P.

THE PARTNERSHIP INTERESTS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY OTHER SECURITIES LAWS. NO PARTNERSHIP INTEREST MAY BE SOLD OR OFFERED FOR SALE (WITHIN THE MEANING OF ANY SECURITIES LAW) UNLESS A REGISTRATION STATEMENT UNDER ALL APPLICABLE SECURITIES LAWS WITH RESPECT TO THE PARTNERSHIP INTEREST IS THEN IN EFFECT OR AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THOSE LAWS IS THEN APPLICABLE TO THE PARTNERSHIP INTEREST. PARTNERSHIP INTERESTS CREATED HEREUNDER ARE ALSO SUBJECT TO THE LIMITATIONS ON TRANSFER SET FORTH IN ARTICLE X HEREOF.

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This SECOND AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP (this "Agreement") of U.S. EQUITY PARTNERS, L.P., a Delaware limited partnership (the "Partnership"), is made as of the 31st day of March, 1996, for the purpose of amending and restating the Agreement of Limited Partnership of the Partnership, dated as of March 29, 1996 (the "Original Agreement"), as amended by the Amended and Restated Agreement of Limited Partnership (the "First Amended Agreement"). Defined terms in this Agreement have the meanings assigned to them in Section 12.18.

I. ORGANIZATION, ETC.

1.1. Amendment and Restatement of Original Agreement. The General Partner and the Persons listed in Schedule A hereto, as it is from time to time supplemented or amended, as Limited Partners, hereby amend and restate the First Amended Agreement and enter into this Agreement. The Partnership has been formed in accordance with the Act pursuant to the Original Agreement. A Person will be admitted as a Limited Partner of the Partnership at the time that (a) this Agreement (or the First Amended Agreement) or a counterpart thereof is executed by or on behalf of such Person and (b) such Person is listed as a Limited Partner on Schedule A attached hereto.

1.2. Name. The name of the Partnership is "U.S. Equity Partners, L.P." The General Partner may change the name of the Partnership from time to time upon written notice to the Limited Partners. The General Partner also may adopt one or more fictitious names for use by the Partnership.

1.3. Places of Business and Registered Office. The Partnership will maintain a registered office in Delaware at, and the name and address of the Partnership's registered agent in Delaware is, The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801. The principal office of the Partnership is at 31 West 52nd Street, 26th Floor, New York, New York 10019. The General Partner may change the principal or registered office or registered agent of the Partnership from time to time by notice to the Limited Partners and may establish, maintain and abandon one or more additional places of business for the Partnership.

1.4. Purpose. The purposes of the Partnership are (a) to make Portfolio Investments in Portfolio Companies, (b) to own, hold, manage and dispose of such Portfolio Investments and share the profits and losses therefrom, and (c) to engage in such other activities necessary, incidental or ancillary thereto and to engage in any other lawful act or activity for which limited

partnerships may be organized under the Act in furtherance of the foregoing. Notwithstanding the foregoing, the Partnership may not commence a Tender Offer or acquisition of a target company unless, prior to the date of commencement of the tender offer (as defined in Rule 14d-2(b) under the Exchange Act), the Tender Offer or acquisition has been approved by the board of directors (or similar body) of the target company.

1.5. Term. The term of the Partnership will continue until the tenth anniversary of the date hereof, subject to earlier termination under Article XI; provided, however, that the term of the Partnership may be extended for a period of one additional year by the General Partner upon notice to the Limited Partners, and for an additional successive period of one year by the General Partner if, upon notice of such second one year period, the holders of a majority of the Partnership Interest (other than the GP Affiliated Limited Partners) do not object to such extension.

1.6. Partnership Powers. Subject to the terms and limitations set forth in this Agreement and in furtherance of the purposes specified in Section 1.4, and without limiting the generality of Section 2.1, the Partnership and the General Partner, acting on behalf of the Partnership, will have all of the powers permitted under the Act, and, without limiting the generality of the foregoing, are hereby authorized and empowered to do or cause to be done any and all acts deemed by the General Partner, in its sole judgment, to be necessary, advisable or incidental to the purposes of the Partnership, including without limitation the authority and power to:

(a) acquire, hold, sell, transfer, exchange, pledge, hypothecate and dispose of Securities, and exercise all rights, powers, privileges and other incidents of ownership or possession with respect to Securities, including without limitation the voting of Securities, the modification of Securities (including an increase or a reduction of the rights of such Securities) and the institution and settlement or compromise of suits or administrative proceedings and other such matters with respect to Securities, it being understood that, except as otherwise expressly provided herein, the General Partner will have sole discretion with respect to any decisions relating to the foregoing;

(b) enter into, perform and carry out agreements of every kind necessary or incidental to the accomplishment of the Partnership's purposes and take or omit to take such other action in connection with the business of the

Partnership as may be necessary or desirable to further the purposes of the Partnership; and

(c) carry on any other activities necessary to, in connection with or incidental to any of the foregoing or the Partnership's business.

1.7. Title to Partnership Property. Property and other Partnership assets shall be acquired in the name of the Partnership on terms and conditions the General Partner deems necessary or advisable.

II. THE GENERAL PARTNER

2.1. Management. (a) The management, control and operation of and the determination of policy with respect to the Partnership and its affairs is vested exclusively in the General Partner (acting directly or through its duly authorized agents), which is authorized and empowered on behalf and in the name of the Partnership to carry out any and all of the purposes of the Partnership and to perform all acts and enter into and perform all contracts and undertakings that it may in its discretion deem necessary or advisable or incidental thereto. Except as otherwise expressly provided herein or as provided in the Act, to the extent the General Partner deems necessary or advisable, the General Partner may, in its sole discretion, keep confidential any information known by the General Partner as to Portfolio Companies, Portfolio Investments or other aspects of the Partnership's activities to the extent that it determines that such information is subject to a confidentiality agreement or other obligation of secrecy, whether pursuant to contract, applicable law or otherwise. Except as otherwise expressly provided in this Agreement with respect to matters requiring the approval of the Advisory Committee or the Limited Partners or in Section 1.4:

(i) all determinations relating to the business and affairs of the Partnership will be made by the General Partner in its sole discretion and will not give rise to any right or claim by any Partner or the Partnership unless made in violation of an express provision of this Agreement;

(ii) the General Partner will have complete authority to take, in its own name on behalf of the Partnership or in the name of the Partnership, any action that the General Partner determines to be necessary or advisable under this Agreement or for the conduct of the business of the Partnership; and

(iii) all decisions and actions taken by the General Partner under the authority of this Section 2.1 will be binding upon the Partnership.

(b) Time Commitment of General Partner. Until the expiration of the Commitment Period, the General Partner shall devote substantially all of its business time to managing and operating the Partnership and its Investments and the WPLP. After the expiration of the Commitment Period, the General Partner shall devote such time as shall be necessary to conduct the business affairs of the Partnership in an appropriate manner.

2.2. Limitations on General Partner. Without the consent of all of the Partners, the General Partner will not have the authority to do any of the following:

(a) any act in contravention of this Agreement;

(b) any act (other than the sale or liquidation of all or substantially all of the Partnership assets as contemplated by this Agreement) which would make it impossible to carry on the ordinary business of the Partnership;

(c) possess property of the Partnership or assign the Partnership's rights in specific property for other than Partnership purposes; or

(d) admit any Person as a Partner except as permitted by this Agreement.

2.3. Reliance by Third Persons. The signed statement of the General Partner reciting that it has the authority or necessary approval of the Partners for any action, as to any third Person, will be conclusive evidence of the authority of the General Partner to take that action and of compliance with Section 2.2, if applicable. Each Partner will promptly execute instruments determined by the General Partner to be necessary or advisable to evidence the authority of the General Partner to consummate any transaction permitted by this Agreement.

2.4. Other Relationships. (a) Except as otherwise specifically provided in Sections 2.4(b) or 2.5, nothing contained in this Agreement will, or will be deemed to, prohibit, restrict or limit in any manner any business or investment activities of the General Partner or any of its Affiliates, including without limitation, rendering any business, management, financial advisory or consulting advice to any Person, whether or not such Person has any direct or indirect relationship with any Portfolio Investment.

(b) Other than in connection with any co-investment arrangements permitted hereunder, until the earlier of (i) the end of the Commitment Period and (ii) the date on which at least 80% of the Total Capital Commitments have been invested or committed for investment in Portfolio Investments, or applied to or reserved to pay Management Fees, Operational Expenses or Busted Deal Expenses, without the approval of both a majority of the Limited Partners and the Limited Partners who hold a majority of the Partnership Interests owned by all Limited Partners neither the General Partner nor any of its Affiliates will:

(A) organize any other limited partnership or pooled investment fund having investment objectives similar or substantially similar to those of the Partnership; provided, however, the General Partner or any of its Affiliates may form investment funds, partnerships and other legal entities for the purposes of co-investing with the Partnership in Portfolio Investments or investing in (x) "emerging markets" throughout the world, (y) real estate, real estate loans, securities secured by real estate or Persons engaged in real estate related businesses, or (z) venture capital investments, and the General Partner or any of its Affiliates may form a small business investment company licensed by the Small Business Administration; or

(B) independently invest in Securities having the same characteristics as Portfolio Investments unless the Partnership has determined not to invest therein and the Advisory Committee has been consulted with respect thereto and approved such investments; provided, however, (x) nothing herein will restrict any Affiliate of the General Partner from engaging in trading, underwriting, finance or similar activities in the ordinary course of its business, whether as a principal or on behalf of customers or clients, (y) the General Partner and its Affiliates may invest in Securities which do not have the same characteristics as Portfolio Investments, and may invest in Securities having the same characteristics as Portfolio Investments if the aggregate equity investment by the General Partner or its Affiliates in such Securities is less than \$7.5 million and the aggregate value of the transaction in which the General Partner or its Affiliates is making such investment is less than \$37.5 million, notice of such investments to be provided to the Advisory Committee if the aggregate equity investment by the General Partner or its Affiliates in such Securities is equal to or greater than \$5.0 million, and (z) the General Partner and its Affiliates may co-invest with the Partnership in Portfolio Investments.

(c) The General Partner may offer co-investment opportunities from time to time to any Person (including any of the Partners or their Affiliates) on such terms and conditions as the General Partner, in its sole discretion, deems to be appropriate.

(d) Notwithstanding anything in this Section 2.4 to the contrary, no co-investment made by a Person with the Partnership in connection with a Portfolio Investment in a Portfolio Company may exceed the lesser of \$7,500,000 or 25% of the required equity for such Portfolio Investment; provided, however, that the foregoing limitation on co-investments shall not apply to any investment in a Portfolio Company in which the equity necessary to make such Portfolio Investment therein, without such co-investment, would exceed 20% of the Total Capital Commitments of all Partners.

2.5. Conflicts of Interest. The General Partner only may engage, and permit any Portfolio Company to engage, in any transaction with the General Partner or any of its Affiliates on an arm's length basis and in the ordinary course of business, provided that the General Partner shall obtain Advisory Committee approval (a) prior to any Portfolio Company binding itself to effect a material financial transaction with the General Partner or any of its Affiliates (other than performing investment banking, financing, financial advisory, consulting, monitoring and similar services in the ordinary course of business and other than transactions with the Partnership or any co-investment entity permitted hereby), (b) of the amount of any Investment Banking Fees and Monitoring Fees to be received by the General Partner or its Affiliates in connection with any Portfolio Investment, (c) prior to the Partnership investing in a Portfolio Company which is, prior to such investment, an Affiliate of the General Partner, or (d) prior to the Partnership, the General Partner or any Affiliate of the General Partner making or disposing of an investment or engaging in any material transaction under circumstances where such investment, divestiture or transaction may give rise to a material conflict of interest with respect to the Partnership.

2.6. Limitation on Borrowings. The General Partner will not cause the Partnership to incur or guarantee any indebtedness for borrowed money, other than (a) indebtedness incurred or guaranteed for the purpose of paying Operational Expenses provided that such indebtedness will not exceed 5% of the Total Capital Commitments, (b) Short-Fall Borrowings provided that such Short-Fall Borrowings will not exceed 20% of the Total Capital Commitments, (c) indebtedness incurred or guaranteed for the acquisition of a Portfolio Investment prior to obtaining permanent financing relating thereto or the receipt of Capital

Contributions made in respect thereof provided that such indebtedness will not exceed 20% of the Total Capital Commitments, or (d) as the Advisory Committee may approve.

III. THE LIMITED PARTNERS

3.1. No Participation in Management, etc. (a) The Limited Partners, in their capacities as Limited Partners, may not act for or bind the Partnership and may not participate in the general management, conduct or control of the Partnership's business or affairs. Except as expressly provided herein, no Limited Partner will have the right to vote for the election, removal or replacement of the General Partner. Limited Partners will not be obligated to refer investments to the Partnership or, subject to Section 2.4 in the case of the General Partner and its Affiliates, restrict any investments they may pursue or make.

(b) Any interest in the Partnership held for its own account by a Limited Partner that is a bank holding company, as defined in Section 2(a) of the Bank Holding Company Act of 1956, as amended, or a non-bank subsidiary of such bank holding company (each, a "BHC Partner"), that is determined at the time of admission of that BHC Partner to be in excess of 4.99% of the interests of the Limited Partners, excluding for purposes of calculating this percentage portions of any other interests that are non-voting interests pursuant to this Section 3.1 (collectively the "Non-Voting Interests"), shall be a Non-Voting Interest (whether or not subsequently transferred in whole or in part to any other Person except as provided in the following sentence). Upon the admission of any additional or withdrawal of any Limited Partners to or from the Partnership, a recalculation of the interests in the Partnership held by all BHC Partners shall be made, and only that portion of the total interest in the Partnership held by each BHC Partner that is determined as of the date of such admission or withdrawal to be in excess of 4.99% of the interests of the Limited Partners, excluding Non-Voting Interests as of such date, shall be a Non-Voting Interest. NonVoting Interests shall not be counted as interests of Limited Partners for purposes of determining under this Agreement whether any vote required hereunder has been approved by the requisite percentage in Interest of the Limited Partners. Except as provided in this Section 3.1, a limited partnership interest which is held as a Non-Voting Interest shall be identical in all regards to all other interests held by Limited Partners.

(c) In addition to any other restrictions applicable to Limited Partners set forth in this Agreement and notwithstanding any other provisions hereof, for so long as the Partnership has an investment in a Media Company, no Limited

Partner (and no officer, director, partner or equivalent non-corporate official of a Limited Partner that is not an individual) shall, unless otherwise specifically agreed to in writing by any such Limited Partner:

(i) act as an employee of the Partnership if his or her functions, directly or indirectly, relate to the media business of the Partnership or any Media Company in which the Partnership has an investment;

(ii) serve, in any material capacity, as an independent contractor or agent with respect to the media business of the Partnership or any Media Company in which the Partnership has an investment;

(iii) communicate on matters pertaining to the day-to-day media operations of the Partnership or a Media Company with (A) an officer, director, partner, agent, representative or employee of such Media Company, or (B) the General Partner;

(iv) perform any services for the Partnership materially relating to the media activities of the Partnership or any Media Company in which the Partnership has an investment, except that any Limited Partner may make loans to, or act as a surety for, the Partnership or any such Media Company;

(v) vote on the admission of any new General Partner to the Partnership unless such admission is approved by the General Partner;

(vi) become actively involved in the management or operation of the Partnership's media businesses; or

(vii) vote for the removal of the General Partner except to the extent permitted by Section 10.5.

Prior to the Partnership investing in a Media Company the Limited Partners and the Partnership shall have received an opinion of counsel to the effect that such investment in a Media Company will not be attributed to any Limited Partner under the attribution rules of the FCC or cause any Limited Partner or the Partnership to be in violation of the FCC's "cross-ownership" or "multiple-ownership rules."

3.2. Liability of Limited Partners. The liability of a Limited Partner is limited to its Available Capital Commitment, its share of the Management Fees under Section 7.1, Tax Advances (if applicable) and its obligations under Article IX if it is a

Defaulting Limited Partner, and nothing in this Agreement will remove, diminish or affect this limitation.

3.3. No Priority, etc. In connection with any distribution, whether upon the winding up of the Partnership or otherwise, and whether or not such distribution constitutes a return of capital, no Limited Partner will have the right to demand or, unless expressly approved by the General Partner in its sole judgment, receive property other than cash. No Limited Partner will have priority over any other Limited Partner either as to the return of the amount of its Capital Contribution to the Partnership or, other than as provided in Article VI, as to any allocation of Partnership profit or loss.

3.4. Legality. Notwithstanding any provision contained in this Agreement to the contrary, in no event will any Limited Partner be required to make a Capital Contribution in respect of, or otherwise participate in, a proposed acquisition by the Partnership if such acquisition would in the opinion of counsel to such Limited Partner (a copy of which written opinion has been furnished to the General Partner), be contrary to any law to which the Limited Partner is subject. If in any circumstance the provisions of this Section 3.4 become applicable, then the General Partner and the affected Limited Partner will consult and use their respective reasonable best efforts to prevent or cure any such legal issue as promptly as practicable and to facilitate, to the extent practicable, the carrying out of this Agreement in accordance with its intent.

3.5. Admission of Additional Limited Partners.

(a) Additional Closings. In addition to the admission of Limited Partners on the date hereof, the General Partner, in its sole discretion, may schedule one or more additional closings ("Subsequent Closings") on any date not later than the second anniversary of the date of this Agreement for such additional Persons seeking admission to the Partnership as additional Limited Partners ("Additional Limited Partners," which term will include for this purpose any Person that is a Partner immediately prior to such Subsequent Closing and that wishes to increase the amount of its Capital Commitment), subject to determination by the General Partner that the following conditions have been satisfied:

(i) each such Person has executed and delivered a subscription agreement and a counterpart of this Agreement pursuant to which such Person agrees to be bound by the terms and provisions hereof or to increase the amount of such Limited Partner's Capital Commitment, as the case may be;

(ii) such admission or increase would not result in a violation of any applicable law or any term of this Agreement; and

(iii) after giving effect to such admission, the Total Capital Commitment does not exceed \$300 million.

The admission of Additional Limited Partners pursuant to this Section 3.5 will not require the consent of the Limited Partners that are Limited Partners immediately prior to such admission. All expenses incurred in connection with the admission of any Additional Limited Partners will be added to previously incurred Organizational Expenses, the General Partner will be entitled to reimbursement of 50% thereof from amounts otherwise distributable to the Limited Partners pursuant to this Agreement (including any fees credited to the Limited Partners), and appropriate adjustments will be made to the amounts so distributable to the Limited Partners such that the amount of Organizational Expenses borne by each of the Limited Partners in accordance with the foregoing is in proportion to their respective Capital Commitments.

(b) Investment by Additional Limited Partners. An Additional Limited Partner will have no rights as to allocations of Net Profit or Net Loss, as to any distributions or otherwise in respect of the Portfolio Investments held at the time of such Additional Limited Partner's admission to the Partnership and such Additional Limited Partner will have no obligation to make any payments in respect of Operational Expenses or Management Fees in respect of such existing Portfolio Investments. Except as set forth in the immediately preceding sentence, each Additional Limited Partner will have the same rights and obligations as the Limited Partners under this Agreement.

3.6. Power of Attorney. (a) General. Each Limited Partner appoints the General Partner its attorney-in-fact, with full power of substitution and resubstitution, to execute in the Limited Partner's name and deliver:

(i) A Partnership Certificate and any amendments to the Partnership Certificate that the General Partner deems necessary or advisable;

(ii) Any instrument that the General Partner deems necessary or advisable in order to qualify the Partnership to do business in any jurisdiction and any other instrument relating to the qualification or registration of the Partnership that the General Partner deems necessary or advisable;

(iii) All certificates and other instruments that may be necessary or advisable to effect the dissolution and termination of the Partnership under Article XI;

(iv) All reports, forms and schedules that the General Partner determines to be necessary or advisable to file with any governmental body in connection with any Partnership activity;

(v) Any amendment to this Agreement necessary or advisable to reflect the Transfer of an interest in the Partnership permitted by this Agreement, or the admission to, or withdrawal from, the Partnership of a Partner permitted by this Agreement, or the conversion of a General Partner interest into a Limited Partner interest as provided in this Agreement; and

(vi) Any amendment to this Agreement authorized under Section 12.8.

(b) Irrevocable Grant. The power of attorney granted under this Section 3.6 is coupled with an interest and is irrevocable and will survive the death, dissolution, legal incompetency, bankruptcy, or withdrawal from the Partnership of any Partner or the Transfer of such Partner's interest in the Partnership.

3.7. Other Relationships. Nothing contained in this Agreement will, or will be deemed to, prohibit, restrict, or limit in any manner any business or investment activities of any Limited Partner (other than a GP Affiliated Limited Partner whose rights shall be governed by Section 2.4) or any of its Affiliates, including without limitation, rendering any business, management, financial advisory or consulting advice to any Person, whether or not such Person has any direct or indirect relationship with any Portfolio Investment.

IV. INVESTMENTS

4.1. Investments in Portfolio Companies. (a) The General Partner will seek to obtain opportunities for the Partnership to make Portfolio Investments.

(b) No Portfolio Investment will be made by the Partnership, and no Capital Commitments will be called to acquire Portfolio Investments or pay Investment Expenses, following the termination of the Commitment Period, provided, that Capital Commitments may be called subsequent to the termination of the Commitment Period to acquire Portfolio Investments in respect of which the General Partner has either (i) delivered a Funding

Notice to the Limited Partners prior to the expiration of the Commitment Period or (ii) entered into a binding agreement to acquire such Portfolio Investment prior to the expiration of the Commitment Period.

(c) The Partnership shall not invest in undeveloped real estate not associated with a business operation.

(d) Without the approval of the Advisory Committee, the Partnership shall not invest in any issuer where the General Partner or an Affiliate of the General Partner has any equity or debt interest in such issuer.

(e) Except as otherwise provided for in Section 5.6, the Partnership shall not reinvest any proceeds received by the Partnership on the sale of any Securities in a Portfolio Company.

(f) The Partnership shall not make any passive investment in a limited partnership or similar investment entity in which a general partner or Person performing a similar function is entitled to receive a carried interest or management fee.

(g) The Partnership shall not make any investment in Marketable Securities of a Portfolio Company which exceeds the lesser of \$25,000,000 or 20% of the Total Capital Commitment of all Partners or subsequent investment in Marketable Securities of another Portfolio Company prior to the disposition of the Marketable Securities acquired in connection with its previous investment in Marketable Securities of a Portfolio Company.

(h) In connection with any investment in a Portfolio Company organized outside of the United States, the Partnership will make such investment in accordance with all applicable laws in the foreign jurisdiction where the Portfolio Company is located. As a condition to making any such investment, the Partnership will receive an opinion of counsel qualified to practice in such foreign jurisdiction where the Portfolio Company is organized substantially to the effect that under the laws of such jurisdiction the limited liability of the Limited Partners will be recognized to the same extent in all material respects as is provided to the Limited Partners under the Act and this Agreement.

4.2. Diversification. Without the approval of Limited Partners who hold a majority of the Partnership Interests owned by all Limited Partners (other than the GP Affiliated Limited Partners), the Partnership will not make any investment in a Portfolio Company that would cause the aggregate investment by

the Partnership in such Portfolio Company to exceed 20% of the Total Capital Commitments of all Partners.

4.3. Consummation of Purchase; Return of Capital Contributions. The General Partner will cause the Partnership to purchase or invest in, on or as soon as practicable following the related Funding Date, those Portfolio Investments which, in accordance with the provisions of this Article IV, the General Partner has allocated for purchase or investment by the Partnership; provided, however, that the Partnership may hold the Partners' Capital Contributions for up to 60 calendar days (the "Funding Period") following the related Funding Date if the General Partner deems (a) the closing of the purchase of or investment in such Portfolio Investment to be likely and (b) the holding of such Capital Contributions to be in the best interests of the Partnership. Any such funds held by the General Partner during the Funding Period shall be deposited in an interest bearing account. If the purchase of or investment in such Portfolio Investments has not occurred within the Funding Period (i) on the next succeeding Business Day the General Partner will cause the Partnership to return by wire transfer of immediately available funds, to the Limited Partners and to the General Partner, Capital Contributions not applied to the purchase of or investment in a Portfolio Investment as herein contemplated and (ii) as soon as practicable, the General Partner will cause the Partnership to return any net profit, interest or income attributable to such Capital Contributions by check, and the amounts returned to the Partners (other than all net profits, interest or income attributable to such Capital Contributions) will not be deemed to be Capital Contributions and will be available to be redrawn as part of the Partners' Available Capital Commitments.

4.4. Tender Offers. The General Partner, on behalf of the Partnership, will not commence any Tender Offer other than in conformity with Section 1.4.

4.5. Financing Opportunities. The General Partner, in its sole discretion, may (but will not be required to) offer to any Partner or Affiliate of any Partner the opportunity to provide financing required for the acquisition of any Portfolio Investment if, in the sole judgment of the General Partner, it is practicable to do so within the context of the transaction and not inconsistent with the best interests of the Partnership as a whole.

4.6. Certain ERISA Matters; UBTI; UDFI. (a) Either (i) the Partnership will have a level of participation by benefit plan investors which is not "significant," within the meaning of the regulations of the Department of Labor including within 29

CFR § 2510.3-101(d) (the "DOL Regulations"), or (ii) the General Partner will use its reasonable efforts to structure the investments of the Partnership so that at the time of the Partnership's first long-term commitment of capital and at all times thereafter during its existence the Partnership is a "venture capital operating company" within the meaning of the DOL Regulations.

(b) The Partnership will use its reasonable efforts to minimize the realization of unrelated business taxable income ("UBTI") or unrelated debt-financing income ("UDFI") under §§ 512 or 514 of the Code by any Limited Partner that is subject to tax under § 511 of the Code in respect of any capital transaction.

4.7. Reduction of Capital Commitments after Five Years. Capital Commitments will be reduced by the amount of the Available Capital Commitments not drawn or committed for a Portfolio Investment by the Partnership on the fifth anniversary hereof. For purposes of the preceding sentence, Available Capital Commitments will be deemed to be "drawn" as of the Funding Date and "committed" as of the earlier of the date of the Funding Notice for a particular acquisition or investment or the date of any binding agreement entered into by the Partnership in respect of a particular acquisition or investment.

4.8. Short-Term Investments. Capital Contributions held by the Partnership pursuant to Section 4.3 may be invested in short-term money market or other investments selected by the General Partner. Proceeds from the sale of a Portfolio Investment may be invested in such investments for a maximum of 30 calendar days following the Partnership's receipt of such proceeds, and Partnership receipts other than proceeds from the sale of a Portfolio Investment may be invested in such investments for a maximum of 60 calendar days following the Partnership's receipt thereof.

4.9. Advisory Committee. (a) The General Partner will appoint an advisory committee (the "Advisory Committee"), comprised of at least three and not more than nine individuals selected among the Limited Partners or their representatives.

(b) Any Limited Partner whose original Capital Commitment is at least \$10 million will be entitled to appoint a representative to the Advisory Committee. All other members of the Advisory Committee will be appointed annually by the General Partner for a one-year term. The General Partner may fill any vacancy created by the resignation of a member of the Advisory Committee, but, in the case of the resignation of a member appointed by a Limited Partner, the same Limited Partner will have the right to appoint the successor member. The individual

so appointed will serve the remainder of the term of the resigned member. No Affiliate of the General Partner will serve as a member of the Advisory Committee.

(c) The Advisory Committee will perform the functions contemplated by this Agreement, including those set forth in Sections 2.5, 6.7 and 6.9. The Advisory Committee will also provide such other advice and counsel as is requested by the General Partner in connection with general economic and financial trends, the Partnership's investments and other Partnership matters; provided, however, that (subject to the immediately preceding sentence) the General Partner will retain ultimate responsibility for making all decisions relating to the Partnership, including making all investment decisions.

(d) Except as otherwise set forth in this Agreement with respect to actions which require greater than a majority approval, all Advisory Committee approvals, concurrences, disapprovals, votes, determinations and other actions will be authorized by a majority of the Advisory Committee members present at a meeting at which the General Partner and a majority of the members of the Advisory Committee are present personally or participating by telephone. The members of the Advisory Committee will serve without compensation. The Partnership will reimburse each member of the Advisory Committee for his or her reasonable out-of-pocket expenses incurred in connection with the proceedings of the Advisory Committee.

(e) The Advisory Committee will meet with the General Partner on an annual basis. In addition special meetings of the Advisory Committee may be called by the General Partner whenever necessary to consider matters of the nature covered by Section 4.9(c) and at such other times as the General Partner in its discretion determines. Notice of each meeting will be given by the General Partner by telephone, telefax or hand delivery to each member of the Advisory Committee at least 72 hours prior to the time at which the meeting is to be held. Such notice may be waived by any member and will be deemed waived by participation in a meeting.

(f) Notwithstanding any other provision hereof or of applicable law, no member of the Advisory Committee will have any liability to the Partnership, any Partner or any other Person based upon or relating to any act or failure to act by such member or the Advisory Committee as a whole. The Partnership will indemnify, defend and hold harmless each member of the Advisory Committee to the same extent as the General Partner is entitled to indemnity under Section 8.2.

(g) Notwithstanding the provisions of this Section 4.9, the General Partner shall not consult with or otherwise communicate with the Advisory Committee with respect to the management or operation of any Media Company in which the Partnership has invested.

V. CAPITAL CONTRIBUTIONS; CAPITAL COMMITMENTS

5.1. Capital Contributions; Generally. (a) Portfolio Investments. For purposes of making each Portfolio Investment and paying Investment Expenses incurred in connection therewith, including successive investments in a previously acquired Portfolio Investment, following the receipt of the Funding Notice delivered by the Partnership pursuant to Section 5.5 specifying a date for the payment of Capital Contributions with respect to such Portfolio Investment and Investment Expenses (the "Funding Date"), subject to Sections 5.4 and 5.8 each Limited Partner will contribute by wire transfer on the Funding Date its Capital Contribution (as specified in such notice), determined in proportion to the amount which its Available Capital Commitment bears to the Available Capital Commitments of all Limited Partners. The Funding Date will be a date as close as reasonably possible to the estimated closing date of the proposed acquisition of the Portfolio Investment.

(b) Release from Capital Commitment. A Limited Partner may, at any time following the first anniversary of its admission to the Partnership, give the Partnership notice of its election to terminate its Capital Commitment (a "Termination Notice"), which election will be effective 180 calendar days following the date of receipt by the Partnership of the Termination Notice (the "Termination Date"). On the Termination Date, such Limited Partners' Available Capital Commitment will be reduced to zero and such Limited Partner will have no further obligations to make Capital Contributions to the Partnership other than its obligations to (i) make Capital Contributions drawn or committed for Portfolio Investments and Investment Expenses related thereto by the Partnership prior to the Termination Date and (ii) make payment of Management Fees and Operational Expenses in respect of all Portfolio Investments completed or committed to (whether or not subject to the satisfaction of conditions) by the Partnership prior to the Termination Date.

(c) Limitation on Payments. Notwithstanding any other provision hereof, the obligations of each Limited Partner to make Capital Contributions in respect of Portfolio Investments and Investment Expenses related thereto, Management Fees, Operational Expenses and Busted Deal Expenses will not exceed, in the

aggregate, the amount of such Limited Partner's Capital Commitment.

5.2. Capital Contributions; Fees and Expenses. (a) Management Fee. Subject to Section 5.8, not later than 10 Business Days following receipt of notice given by the Partnership to the Limited Partners, each Limited Partner will make Capital Contributions to the Partnership, as determined in accordance with Section 7.1, so as to enable the Partnership to meet its obligation to the General Partner for the Management Fee for each Portfolio Investment of the Partnership. Each Limited Partner's Capital Contribution will be in an amount equal to such Limited Partner's Pro Rata Share of the total Capital Contributions made by the Limited Partners in respect of each such Portfolio Investment in which such Limited Partner has made Capital Contributions.

(b) Operational Expenses. Subject to Section 5.8, not later than 10 Business Days following receipt of a notice given by the Partnership to the Partners (which notice may be given from time to time), each Partner will make a Capital Contribution to the Partnership of an amount equal to its share, as determined herein, of Operational Expenses. Operational Expenses directly related to a Portfolio Investment will be allocated to such Portfolio Investment, and all other Operational Expenses will be allocated among Portfolio Investments in a fair and reasonable manner as determined by the General Partner. Each Partner's share of Operational Expenses allocated to a Portfolio Investment will be based upon the amount which such Partner's Related Capital Contributions in respect of such Portfolio Investment bears to the total Related Capital Contributions in respect of such Portfolio Investment.

(c) Busted Deal Expenses. Subject to Section 5.8, not later than 10 Business Days following receipt of a notice given by the Partnership to the Partners (which notice may be given from time to time), each Partner will make a Capital Contribution to the Partnership of an amount equal to its share of Busted Deal Expenses based upon each Partner's Available Capital Commitment.

5.3. Investment by General Partner and Affiliates. (a) On each Funding Date, the General Partner will contribute to the capital of the Partnership, in consideration of its interest as a General Partner therein, an amount in cash equal to [8%] of the aggregate Capital Contributions required for making a particular Portfolio Investment.

(b) Two Affiliates of the General Partner will be initial Limited Partners (the "GP Affiliated Limited Partners") and the aggregate Capital Commitment of the General Partner and

the GP Affiliated Limited Partners on the date hereof will be not less than \$75 million.

5.4. Excused Investments. If, in accordance with Section 3.4, a Limited Partner is excused from making its Capital Contribution otherwise required to be made to the Partnership in respect of a particular Portfolio Investment (an "Excused Investment"), then the General Partner, in its sole discretion, will decide whether or not to proceed with the proposed Portfolio Investment. If the General Partner decides to proceed with the proposed Portfolio Investment, the General Partner will notify each Limited Partner of the amount of the Capital Contribution payable by it pursuant to Section 5.1 after giving effect to the Excused Investment and, if different from that set forth in the notice of the Funding Date, the date on which such Capital Contribution is to be paid, such date to be not less than ten (10) Business Days after the date of such notification; provided, however, that no Limited Partner shall be obligated to make a Capital Contribution to any one Portfolio Investment in an amount in excess of 20% of such Limited Partner's Capital Commitment without such Limited Partner's consent. The operation of this Section 5.4 will not limit the obligation of such excused Limited Partner to contribute to the Partnership the full amount of its Available Capital Commitment in respect of all subsequent Portfolio Investments.

5.5. Notices; Timing of Investment. (a) Capital Call Notices. At the earliest practicable date prior to the Funding Date, the General Partner will, on behalf of the Partnership, advise each Limited Partner that the Limited Partner will be required to make a Capital Contribution pursuant to this Article V and will notify each Limited Partner in writing of (i) the identity of the proposed Portfolio Company, (ii) the type and amount of Securities comprising the proposed Portfolio Investment, (iii) the amount of Capital Contributions to be made by or on behalf of each Limited Partner to the Partnership, (iv) the anticipated date that the acquisition of such Portfolio Investment will be made, (v) the account or accounts to which contributions by such Limited Partners to the capital of the Partnership are to be paid, and (vi) such other information regarding the Portfolio Investment as the General Partner deems appropriate.

(b) Funding Notice. The General Partner, on behalf of the Partnership, will give notice to each Limited Partner of the Funding Date (the "Funding Notice"). The Funding Date will not be fewer than 10 Business Days after the date on which such notice has been given. The Funding Notice may be a part of the notice delivered pursuant to Section 5.5(a) or in a second notice given as soon as practicable thereafter. Such Capital

Contributions will be made by such Limited Partners no later than 1:30 P.M. Eastern time on the Funding Date, by transfer of immediately available funds as directed by the General Partner, acting on behalf of the Partnership, or by such other means of payment as the General Partner may approve in advance at the request of any Partner.

5.6. Right To Re-Draw Capital. If any distributions are made (or deemed made) in respect of any Portfolio Investment within one year following the initial Funding Date of such Portfolio Investment, the amount of the Partners' Available Capital Commitments will be increased by an amount equal to such distributions up to an amount equal to the amount of the Capital Contributions made in respect of such Portfolio Investment. If any distributions are made (or deemed made) in reduction of a Limited Partner's Related Net Management Fee Accounts or if any Transaction Fees, Monitoring Fees or Investment Banking Fees are paid directly to such Limited Partner, the amount of such Limited Partner's Available Capital Commitment will be increased by an amount equal to such distributions and payments up to an amount equal to the Capital Contributions actually made by such Limited Partner in respect of Management Fees, Operational Expenses and Busted Deal Expenses pursuant to Sections 5.2(a), (b) and (c).

5.7. Defaulting Limited Partner. (a) In the event that a Limited Partner fails to make, in a timely manner, any Capital Contribution required to be made to the Partnership under Section 5.1, and such failure continues for five Business Days after receipt of written notice from the General Partner of such default, the General Partner may, in its sole discretion, designate such Partner as a "Defaulting Limited Partner" and thereafter may take or cause the Partnership to take any action referred to in Article IX or otherwise available at law or in equity. In addition, the General Partner may, in its sole discretion, except in the case of Capital Contributions required to be made under Section 5.2(a), notify each Limited Partner (other than the Defaulting Limited Partner) of its obligation to make a Capital Contribution in an amount equal to its Pro Rata Share (based upon respective Available Capital Commitments) of such failed payment of Capital Contribution and such amount will be paid within ten Business Days following the receipt of such notice. The General Partner may, in its sole discretion, agree to waive or permit the cure of any default by a Limited Partner subject to such conditions as the General Partner and the Defaulting Limited Partner may agree upon, and determine not to exercise any right, power or remedy provided herein or otherwise available in the case of a default by any Defaulting Limited Partner.

(b) In no event will a Limited Partner be required to contribute more than its Available Capital Commitment by reason of the operation of this Section 5.7.

5.8. Initial Portfolio Investment Restriction on Capital Contributions. If the Partnership has a level of participation by benefit plan investors that is "significant" within the meaning of the DOL Regulations, notwithstanding anything herein to the contrary, no Capital Contribution will be required to be made by any Partner, including Capital Contributions in respect of Investment Expenses, Operational Expenses or Busted Deal Expenses, until the Funding Date for the Partnership's initial Portfolio Investment. All such Capital Contributions that would have otherwise been required to be made by the Partners under this Agreement prior to such Funding Date, but for the preceding sentence, will be made on such Funding Date.

VI. CAPITAL ACCOUNTS; ALLOCATIONS; DISTRIBUTIONS

6.1. Capital Accounts. (a) Establishment and Maintenance. A separate capital account ("Capital Account") will be maintained for each Partner. The Capital Account of each Partner will be determined and adjusted in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv) and consistently therewith as follows:

(i) Each Partner's Capital Account will be credited with the Partner's Capital Contributions, the Partner's distributive share of Net Profit and items of Profit that are allocated to the Partner, the amount of any Partnership liabilities that are assumed by the Partner or secured by any Partnership property distributed to the Partner (to the extent provided by such Treasury Regulations) and any other credits to Capital Accounts required by Treasury Regulations Section 1.704-1(b)(2)(iv);

(ii) Each Partner's Capital Account will be debited with the amount of cash and the fair market value of any Partnership property distributed to the Partner under any provision of this Agreement, the Partner's distributive share of Net Loss and items of Loss that are allocated to the Partner, the amount of any liabilities of the Partner assumed by the Partnership or which are secured by any property contributed by the Partner to the Partnership (to the extent provided in such Treasury Regulations) and any other debits to Capital Accounts required by Treasury Regulations Section 1.704-1(b)(2)(iv);

(iii) If any interest in the Partnership is Transferred in accordance with the terms of this Agreement,

the Transferee will succeed to the Capital Account of the Transferor to the extent it relates to the Transferred interest in the manner provided in Treasury Regulation Section 1.704-1(b); and

(iv) In determining the amount of any liability for purposes of Sections 6.1(a)(i) and 6.1(a)(ii), Code Section 752(c) and any other applicable provisions of the Code and the Treasury Regulations will be taken into account.

(b) Modifications by General Partner. The provisions of this Article VI and the other provisions of this Agreement relating to the maintenance of Capital Accounts have been included in this Agreement to comply with Section 704(b) of the Code and Treasury Regulations Section 1.704-1(b) and will be interpreted and applied in a manner consistent with those provisions. Without limiting the generality or effect of Section 6.4(c), the General Partner may modify the manner in which the Capital Accounts are maintained under this Section 6.1 in order to comply with those provisions, as well as upon the occurrence of events that might otherwise cause this Agreement not to comply with those provisions provided that such modifications do not adversely effect the economic interests of the Partners in the Partnership.

6.2. Interest on and Return of Capital. Except as expressly provided in Section 4.3, no Partner will be entitled to any interest on his Capital Account or on such Partner's Capital Contributions, and no Partner will have the right to demand or receive the return of all or any part of such Partner's Capital Contributions.

6.3. Negative Capital Accounts. (a) Limit on Obligation to Restore. Except as expressly provided in this Section 6.3, no Partner will be required to pay to the Partnership or to any other Partner any deficit or negative balance which may exist from time to time in such Partner's Capital Account.

(b) Restoration of Excess Withdrawals. If a Partner has received distributions or made withdrawals in excess of the distributions to which it is properly entitled under this Agreement, as among the Partners but not for the benefit of others, the Partner will be indebted to the Partnership in an amount equal to the excess distributions, and that indebtedness will be payable on terms reasonably prescribed by the General Partner at the time the withdrawal is made or upon demand by the General Partner during the liquidation of the Partnership.

6.4. Allocations of Profits, Losses and Tax Items.

(a) General Rule. For each taxable year, or portion thereof for which allocations are made, Net Profit and Net Loss will be allocated among the Partners (after giving effect to the allocations contained in Section 6.4(c)) so as to reduce, proportionately, the differences between their respective Partially Adjusted Capital Accounts and Target Accounts for such year.

(b) Insufficiencies. If the Partnership has insufficient Net Profit or Net Loss to make a full allocation pursuant to Section 6.4(a), the General Partner will allocate items of Profit and Loss comprising the Net Profit or Net Loss for the taxable year, or portion thereof for which allocations are made, in a manner so as to reduce, as nearly as possible, the differences between each Partner's Partially Adjusted Capital Account and Target Account. The General Partner will do so in any manner it deems reasonable.

(c) Special Allocations. Except as otherwise provided in this Agreement, the following special allocations will be made in the following order and priority:

(i) Minimum Gain Charge-Backs. Notwithstanding any other provision of this Section 6.4, if there is a net decrease in Partnership Minimum Gain during any taxable year or portion thereof for which allocations are made, prior to any other allocation, each Partner will be allocated items of Profit for such period (and, if necessary, for subsequent periods) to the extent required by Treasury Regulations Section 1.704-2(f). Similarly, notwithstanding any other provision hereof, in the event there is a net decrease in Partner Nonrecourse Debt Minimum Gain during any taxable year or portion thereof for which allocations are made, each Partner will be allocated items of Profit for such period (and, if necessary, for subsequent periods) to the extent required by Treasury Regulations Section 1.704-2(i). The Partnership shall adopt the ordering rules of Treasury Regulation Section 1.704-2(j). In the event that the General Partner determines, in its discretion, that the application of the provisions of this Section 6.4(c)(i) would cause a distortion in the economic arrangement among the Partners, the General Partner may, on behalf of the Partnership, request a waiver of the application of either or both of such provisions pursuant to Treasury Regulations Section 1.704-2(f)(4) or 1.704-2(i)(4), as appropriate.

(ii) Qualified Income Offset. If any Partner unexpectedly receives any adjustment, allocation or distribution described in Treasury Regulations Sections

1.704-1(b)(2)(ii)(d)(4)(5) or (6), such Partner will be specially allocated items of Profit in an amount and manner required by such Treasury Regulations. This Section 6.4(c)(ii) is intended to constitute a qualified income offset within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(3) and will be interpreted accordingly.

(iii) Gross Income Allocation. If any Partner has an Adjusted Capital Account Deficit at the end of any Partnership taxable year, such Partner will be specially allocated items of Profit in the amount of the excess as quickly as possible.

(iv) Nonrecourse Deductions. Nonrecourse Deductions for any taxable year (or portion thereof for which allocations are made) will be allocated among the Partners in accordance with their respective Capital Commitments.

(v) Partner Nonrecourse Deductions. Notwithstanding anything to the contrary in this Agreement, any Partner Nonrecourse Deductions for any taxable year (or portion thereof for which allocations are made) will be allocated to the Partners which bear the economic risk of loss with respect to the loan to which the Partner Nonrecourse Deductions are attributable in accordance with Treasury Regulations Section 1.704-2(i).

(vi) No allocations of Loss will be made to a Partner if it would cause such Partner to have an Adjusted Capital Account Deficit. The General Partner will make a reallocation of any such Loss in a manner it considers consistent with this Agreement.

(d) Tax Allocations--Code Section 704(c). In accordance with Code Section 704(c) and the Treasury Regulations thereunder, solely for tax purposes, income, gain, loss and deduction with respect to any property which has a Book Basis different than its adjusted tax basis will be allocated among the Partners so as to take account of any variation between the adjusted basis to the Partnership of the property for federal income tax purposes and the Book Basis of the property. The General Partner may select any reasonable method or methods for making such allocations that are allowable by Treasury Regulations Section 1.704-3. Allocations under this Section 6.4(d) are solely for purposes of federal, state and local taxes and will not affect, or in any way be taken into account in computing, any Partner's Capital Account or share of Profit, Loss, Net Profit and Net Loss under any provision of this Agreement.

(e) Other Allocation Rules. The following rules will apply to the calculation and allocation of other items:

(i) For purposes of determining the items of Profit, Loss, Net Profit, Net Loss and income, gain, loss, deduction or credit attributable to any period, such items may be determined on a daily, monthly or other basis, as determined by the General Partner using any permissible method under Code Section 706 and the related Treasury Regulations.

(ii) Except as otherwise provided in this Agreement, all items of Partnership income, gain, loss, deduction and any other items not otherwise provided for will be allocated among the Partners in the same manner as they share Profits, Losses, Net Profits and Net Loss allocated for purposes of maintaining Capital Accounts.

6.5 Distribution of Current Income. Subject to Section 6.10, the General Partner will distribute Current Income attributable to Portfolio Investments from time to time as determined by the General Partner. Current Income attributable to each Portfolio Investment will be allocated among the Partners in proportion to the respective amounts of their Related Capital Contributions with respect to the related Portfolio Investment.

6.6 Distribution of Disposition Proceeds. Subject to Sections 6.8, 6.9 and 6.10, each Limited Partner's Allocable Share of Disposition Proceeds with respect to each Portfolio Investment will be distributed as follows:

(a) First, 100% to such Limited Partner until such Limited Partner has received an amount equal to the balance in its Related Capital Contribution Account with respect to such Portfolio Investment;

(b) Second, 100% to such Limited Partner until it has received an amount equal to the balance in its Related Net Management Fee Account attributable to such Portfolio Investment;

(c) Third, 100% to such Limited Partner until such Limited Partner has received an amount equal to the aggregate balances in the Related Capital Contribution Accounts of such Limited Partner with respect to all Closed Portfolio Investments, such distributions to be credited to the Related Capital Contribution Accounts for Closed Portfolio Investments in proportion to the balances in such accounts;

(d) Fourth, 100% to such Limited Partner until such Limited Partner has received an amount equal to the aggregate balances in the Unrealized Loss Accounts of such Limited Partner with respect to all Portfolio Investments which are not Closed Portfolio Investments, such distributions to be credited pro rata to each Unrealized Loss Account based on its then-existing balance;

(e) Fifth, 100% to such Limited Partner until such Limited Partner has received a Cumulative Return for all Closed Portfolio Investments of 9%;

(f) Sixth, 100% to such Limited Partner until such Limited Partner has received an amount equal to the aggregate balance (if any) in the WPLP Loss Account of such Limited Partner;

(g) Seventh, 80% to such Limited Partner and 20% to the General Partner until such Limited Partner has received a Cumulative Return for all Closed Portfolio Investments of 20%;

(h) Eighth, 20% to such Limited Partner and 80% to the General Partner until the General Partner has received distributions with respect to such Limited Partner's Allocable Share in such Portfolio Investment and in all other Closed Portfolio Investments equal to 20% of the Cumulative Net Distributions to such Limited Partner and the General Partner from such Portfolio Investment and all other Closed Portfolio Investments; and

(i) Ninth, 80% to such Limited Partner and 20% to the General Partner.

The General Partner's Allocable Share of Disposition Proceeds with respect to each Portfolio Investment will be distributed to the General Partner at the same time distributions are made to the Limited Partners.

6.7. Distribution of Securities. Prior to liquidation of the Partnership, the General Partner may only distribute Marketable Securities. In addition, with the consent of the holders of a majority of the Partnership Interests (other than the GP Affiliated Limited Partners), the General Partner may distribute Securities, regardless of whether such Securities are Marketable Securities. To the extent not prohibited by applicable law, the General Partner will give each Limited Partner at least five Business Days' prior written notice of its intention to distribute Securities. Upon a distribution of Securities, such Securities will be deemed to have been sold at

their Value on the date of distribution as determined by the General Partner (which in the case of Securities which are not Marketable Securities shall be concurred with by the Advisory Committee) and the proceeds of such sale will be deemed to have been distributed to the Partners for all purposes of this Agreement. Securities distributed in kind will be distributed in proportion to the aggregate amount that would be distributed to each Partner pursuant to Section 6.6. Notwithstanding any other provision of this Agreement, the Partnership shall not make any distribution of Securities or other assets to any Limited Partner, if such distribution would cause such Limited Partner to be in violation of applicable law. If a Limited Partner would receive a distribution of an amount of any securities that will cause such Limited Partner to own or control in excess the amount of such securities that it may lawfully own or control, the General Partner shall, at the written request of such Limited Partner, dispose of all or any portion of such securities and distribute the proceeds of such disposition to such Limited Partner.

6.8. General Partner Claw-Back. Any amounts otherwise distributable to the General Partner pursuant to Section 6.6(g) hereof with respect to a Limited Partner's Allocable Share of any Portfolio Investment will be deposited by the General Partner into either escrow or segregated accounts (the "Claw Back Accounts") if immediately after the receipt of such amounts the Limited Partner's Cumulative Return for all Closed Portfolio Investments is less than 20%. Amounts on deposit in the Claw Back Accounts may be invested by the General Partner and any investment earnings shall be for the benefit of and distributed from time to time to the General Partner. Amounts held in the Claw Back Accounts will be distributed upon liquidation of the Partnership in accordance with Article XI; provided, however, that at any time, at its sole election, the General Partner may distribute all or a portion of such Claw Back Accounts or amounts required to be deposited therein pursuant to this Section to such Limited Partner, which amounts will then be taken into account as distributions received by such Limited Partner for purposes of determining the Cumulative Return of such Limited Partner. Notwithstanding anything in this Section 6.8 to the contrary, the General Partner will be entitled to receive an advance from the Partnership against future distributions of Current Income or Disposition Proceeds if and to the extent that cash distributions to the General Partner are not sufficient to enable the General Partner to pay the taxes which are due and payable in respect of its allocable share of the taxable items of the Partnership. If, upon liquidation of the Partnership in accordance with Article XI and after distributing amounts in the Clawback Accounts, the Cumulative Return of a Limited Partner is less than 9%, the General Partner will be obligated to return to the Partnership

any advances received pursuant to the preceding sentence and any amounts distributed to it pursuant to Sections 6.6(g), (h) and (i) up to an amount as will enable such Limited Partner to receive a Cumulative Return of 9%. The limited liability company agreement of the General Partner shall contain a provision which provides that the General Partner will establish sufficient reserves to enable it to satisfy its obligations under this Section 6.8, which provision shall not be amended by the members of the General Partner without the consent of all of the Partners.

6.9. Valuation Determinations and Write Downs. (a) Prior to making any distribution pursuant to Section 6.6 to any Partner, the General Partner will determine the Value of all Portfolio Investments held by the Partnership, which determination in the case of Portfolio Investments other than Marketable Securities will be subject to the concurrence of the Advisory Committee acting reasonably, timely and in good faith; provided, however that, absent manifest error on the part of the General Partner, the Advisory Committee will not have the right to disapprove a Value determination made by the General Partner of any Portfolio Investment held by the Partnership which is determined by an independent appraiser selected by the General Partner and approved by the Advisory Committee. Any Value determination made pursuant to this Section 6.9(a) will be made not earlier than 120 calendar days prior to the relevant distribution date.

(b) In the event of any Write Down of a Portfolio Investment made in connection with a Value determination made in accordance with Section 6.9(a), such Write Down will be taken into account in determining the Unrealized Loss Accounts of the Limited Partners.

6.10. Withholding. To the extent the Partnership is required to withhold or make tax payments on behalf of or with respect to any Partner pursuant to any applicable provisions of the Code, including without limitation Sections 1441 through 1446 of the Code, or pursuant to any applicable provisions of state or local law ("Tax Advances"), the General Partner may withhold such amounts or make such payments as required. All Tax Advances made on behalf of a Partner will, at the option of the General Partner, (a) be promptly paid to the Partnership by the Partner on whose behalf such Tax Advances were made or (b) be repaid by reducing the amount of the current or next succeeding distribution or distributions which would otherwise have been made to such Partner or, if such distributions are not sufficient for that purpose, by so reducing the proceeds of liquidation otherwise payable to such Partner. Whenever the General Partner selects option (b) pursuant to the preceding sentence for

repayment of a Tax Advance by a Partner, for all other purposes of this Agreement such Partner will be treated as having received all distributions (whether before or upon liquidation) unreduced by the amount of such repayments of Tax Advances. Each Partner hereby agrees to indemnify and hold harmless the Partnership and the General Partner from and against any liability with respect to Tax Advances required on behalf of or with respect to such Partner.

VII. FEEES AND EXPENSES

7.1. Management Fee. Following the Partners' initial Capital Contribution pursuant to Section 5.1 and thereafter through the termination of the Partnership, the General Partner will be paid an annual management fee (the "Management Fee") in an amount equal to 1.5% of the Capital Contributions invested in Portfolio Investments (other than Closed Portfolio Investments), which Management Fee will be payable by the Partners on a quarterly basis in arrears in accordance with Section 5.2(a).

7.2. Expenses. All Investment Expenses, Operational Expenses and Busted Deal Expenses will be borne by the Partnership. Any such expenses incurred by the General Partner will be paid or promptly reimbursed by the Partnership. The General Partner will be entitled to reimbursement of 50% of all Organizational Expenses, provided that the Partnership's reimbursement obligation for such Organizational Expenses will not exceed \$1,500,000 and will be paid only from and to the extent of amounts otherwise distributable to the Limited Partners pursuant to this Agreement, including any fees credited to the Limited Partners pursuant to this Article VII.

7.3. Certain Transaction Fees. To the extent that the Partnership, the General Partner or any of its Affiliates receives any (a) commitment fees or (b) amounts from time to time in connection with the termination of any executed agreement with respect to a proposed Portfolio Investment which is not consummated, including without limitation fees generally referred to as "breakup," "termination" or "topping" fees, net of any Busted Deal Expenses reimbursed to the General Partner or the Partnership (collectively, "Transaction Fees"), 100% of such Transaction Fees, less any amounts required to pay or reserve for payment of Operational Expenses and Busted Deal Expenses, will be credited to the Partners in proportion to their Capital Commitments with each Limited Partner's pro rata share thereof applied as follows: (a) first, as a credit against amounts to be withheld from distributions to the Limited Partner for the payment of Organizational Expenses reimbursable to the General Partner by the Partnership, (b) second, as a credit against any

outstanding and unpaid Management Fees payable by such Limited Partner, and (c) third, as a credit against a reasonable amount of future Management Fees payable by the Limited Partner. The remaining portion, if any, of the Limited Partner's pro rata share of such Transaction Fees will be paid directly to the Limited Partner.

7.4. Monitoring Fees. To the extent that the Partnership, the General Partner or any of its Affiliates receives any fees from a Portfolio Company in connection with the monitoring of such Portfolio Company's investments or operations ("Monitoring Fees"), 50% of such Monitoring Fees will be credited to the General Partner and 50% of such Monitoring Fees, less any amounts required to pay or reserve for payment of Operational Expenses and Busted Deal Expenses, will be credited to the Partners in proportion to their Capital Commitments with each Limited Partner's pro rata share thereof applied in the same manner and priority as set forth in Section 7.3. The remaining portion, if any, of the Limited Partner's pro rata share of such Monitoring Fees will be paid directly to the Limited Partner.

7.5. Investment Banking Fees. To the extent that the Partnership, the General Partner or any of its Affiliates receives any fees for services provided to any Portfolio Company in connection with the acquisition of or investment in the Portfolio Company or in connection with the negotiation and arrangement of financing to a Portfolio Company (other than underwriting fees and commissions payable to Wasserstein Perella & Co.), or any fees for financial advisory or consulting services rendered to any Portfolio Company ("Investment Banking Fees"), 75% of such Investment Banking Fees will be credited to the General Partner and 25% of such Investment Banking Fees, less any amounts required to pay or reserve for payment of Operational Expenses and Busted Deal Expenses, will be credited to the Partners in proportion to their Capital Commitments with each Limited Partner's pro rata share hereof applied in the same manner and priority as set forth in Section 7.3. The remaining portion, if any, of the Limited Partner's pro rata share of such Investment Banking Fees will be paid directly to the Limited Partner. Investment Banking Fees payable in respect of providing services in connection with the acquisitions or investments in a Portfolio Company or the arrangement of customary financing for a Portfolio Company or related advisory services do not exceed 1% of the total transaction amount will be deemed appropriate. With respect to certain extraordinary financial advisory services provided to Portfolio Company and underwriting services, the percentage of Investment Banking Fees will be based on then prevailing market rates, unless otherwise consented to by the Advisory Committee.

VIII. INDEMNIFICATION

8.1. Exculpatory Provisions. Neither the General Partner nor any of its members, officers, management committee representatives or employees, or, at the sole discretion of the General Partner and as approved by the Advisory Committee, any designated agent of the General Partner (collectively, "Covered Persons") will be liable to the Partnership or any Partner for any act or omission (in relation to the Partnership or this Agreement) taken or omitted by such Covered Person in good faith, provided, that such act or omission did not constitute fraud, negligence, bad faith, willful misconduct, a willful violation of law or a willful breach of a material provision of this Agreement or, solely in the case of the General Partner, negligence in the conduct of affairs of the Partnership except in connection with the investigation, selection, negotiation, structuring, making, monitoring, disposition and valuation of Portfolio Investments (collectively, "Investment Related Activities"), or gross negligence in connection with Investment Related Activities.

8.2. Indemnity. To the full extent permitted by the Act, the Partnership, to the extent of its assets legally available for that purpose, will indemnify and hold harmless the Partners and any partner, member, shareholder, director, management committee representative, officer, agent, Affiliate and professional or other advisor of any of them, and any member of the Advisory Committee in his or her capacity as such (collectively, the "Indemnified Persons") from and against any and all loss, cost, damage, expense (including without limitation fees and expenses of attorneys and other advisors and any court costs incurred by any Indemnified Person) or liability by reason of anything any Indemnified Person does or refrains from doing for, or in connection with the business or affairs of, the Partnership, except to the extent that it is finally judicially determined by a court of competent jurisdiction that the loss, cost, damage, expense or liability resulted from the Indemnified Person's fraud, bad faith, willful misconduct, willful violation of any law, willful breach of a material provision of this Agreement, negligence in the conduct of affairs of the Partnership except in connection with Investment Related Activities, or gross negligence in connection with Investment Related Activities. The Partnership will pay in advance or reimburse reasonable expenses incurred by the Indemnified Person, including advancing reasonable costs of defense, who is or is threatened to be named or made a defendant, respondent or witness in a proceeding concerning the business and affairs of the Partnership if the Indemnified Person delivers a written undertaking to repay those amounts if it is finally determined that the Indemnified Person is not entitled to indemnification hereunder. Notwithstanding the generality of the foregoing, the

following operational procedures shall apply with respect to indemnification matters:

(a) The General Partner will notify the Advisory Committee (i) in advance of each instance in which the General Partner intends to apply Partnership funds in satisfaction of the Partnership's indemnification obligations under this Section 8.2, (ii) on a continuing basis (and in any event no less than quarterly) to the extent such indemnification obligations of the Partnership with respect thereto remain ongoing, and (iii) of the facts and circumstances regarding payment of such amounts;

(b) The General Partner will notify the Advisory Committee in advance of acquiring Securities in any Portfolio Company involved in pending litigation which could be reasonably expected to have a material adverse effect on such Portfolio Company.

(c) In the case of an Indemnified Person who serves as an officer or director of a Portfolio Company such person will have an obligation to use reasonable good faith efforts to ensure that such Portfolio Company (i) is empowered under its charter and/or by-laws (to the full extent permitted by law) to provide for indemnification of such person and (ii) obtains liability insurance for its directors and officers if available at commercially reasonable rates. Any such person will, if reasonably practicable, first seek recovery from the Portfolio Company with respect to which the Partnership or such person has a right or claim to indemnity or contribution, and also from any applicable insurance policies covering the loss which is the basis for such indemnification; provided, however, that indemnification and/or advances may nevertheless be made to such person pending the outcome of its claim against the Portfolio Company or the insurance company, subject to the further provisions and limitations contained herein.

8.3. Limitations on Indemnity. (a) Additional Indemnity. The Partnership, with the approval of the Limited Partners who hold a majority of the Partnership Interests held by all Limited Partners (other than the GP Affiliated Limited Partners), may indemnify any of the Indemnified Persons for any loss, cost, damage, expense or liability for which the Indemnified Persons would not be entitled to mandatory indemnification under Section 8.2.

(b) Waiver by Partner. An Indemnified Person may waive the benefits of indemnification under Section 8.2, but only by an instrument in writing executed by such Indemnified Person.

(c) Certain Related Rights. The rights to indemnification under Section 8.2 are not exclusive of other rights which any Indemnified Person may otherwise have at law or in equity, including without limitation common law rights to indemnification or contribution. Nothing in this Section 8.3 will affect the rights or obligations of any Person (or the limitations on those rights or obligations) under any other agreement or instrument to which that Person is a party. Any Indemnified Person shall first seek recovery under any other indemnity or any insurance policies by which such Indemnified Person is indemnified or covered or from any Portfolio Company in which the Partnership has an investment, as the case may be, prior to such Indemnified Person receiving any indemnification payment from the Partnership.

(d) Limitation on Contribution Obligations. Notwithstanding anything to the contrary in this Agreement, no Limited Partner will be obligated to make any Capital Contribution to the Partnership to fund any indemnification obligations of the Partnership under this Article VIII in an amount in excess of such Limited Partner's Available Capital Commitment.

IX. DEFAULT BY A LIMITED PARTNER

9.1. Defaulting Limited Partners. If any Limited Partner fails to make payment in full of any Capital Contribution required under Sections 5.1 or 5.2 on the date it is due and payable to the Partnership (the "Defaulted Capital Contribution") and if such failure to pay continues for five Business Days after receipt of written notice from the General Partner of such default (any such failure being referred to herein as a "Default"), the General Partner may, in its sole discretion, designate such Limited Partner as a "Defaulting Limited Partner" and thereafter may take or cause the Partnership to take the actions herein set forth. The provisions of this Article IX relating to Defaulting Limited Partners will have effect without any consent or other action on the part of the Defaulting Limited Partner, and each Limited Partner expressly consents to the provisions of this Article IX.

9.2. Consequences of Default. In the event that a Limited Partner becomes a Defaulting Limited Partner, the Defaulting Limited Partner shall not be entitled to make any further Capital Contributions and the following provisions will apply (without limiting any other right or remedy that otherwise would be available):

(a) Whenever the consent of the Limited Partners is required or permitted pursuant to this Agreement, a Defaulting Limited Partner will not be entitled to participate in such consent, and such consent will be tabulated as if such Defaulting Limited Partner were not a Limited Partner, with the Capital Commitment of the Defaulting Limited Partner deemed to be zero.

(b) The General Partner shall have full power, in its sole discretion, (i) to allow any or all of the other Partners to increase their respective Capital Commitments in the amount of the Capital Commitment of the Defaulting Limited Partner by an amount equal to their pro rata shares (based on their respective Partnership Interests not taking into account in the calculation of such Partnership Interests the Capital Commitments of Partners who do not wish their Capital Commitments to so increase), whereupon such Defaulting Limited Partner shall have no further right to make Capital Contributions to the Partnership and its sole right to receive distributions from the Partnership shall be made only at termination of the Partnership and shall be limited to distributions in respect of its Capital Contributions made prior to the date of such Default, and/or (ii) to require that the Defaulting Limited Partner receive, upon termination of the Partnership, without interest, the lesser of (A) the balance of the Capital Account of the Defaulting Limited Partner at the time of termination, or (B) the balance in the Remaining Capital Contribution Accounts of such Defaulting Limited Partner and/or (iii) to require the Defaulting Limited Partner to sell to the Partnership or to all of the other Limited Partner who wish to purchase, on a pro rata basis, the Defaulting Limited Partner's interest in the Partnership, or at any time 10 Business Days after notice has been given to the Limited Partners, to the extent that the Limited Partners do not purchase such interest, to a third party or third parties designated by the General Partner (which third party or third parties may be Affiliates of the General Partner) and who shall be admitted by the General Partner as a substitute Limited Partner, at a purchase price equal to the lower of (A) the cost, or (B) such price as the General Partner determines in its sole discretion is fair and reasonable under the circumstances, and/or (iv) to cause suit to be brought against the Defaulting Limited Partner to collect the amount due, together with interest thereon at the lesser of a floating rate equivalent to the "prime", "reference" or "base" rate of interest for commercial loans as announced from time to time by Chemical Bank plus 5% of the maximum rate permitted by law from the date of default plus all collection expenses, including attorneys' fees.

(c) During the continuation of any Default, the Defaulting Limited Partner shall not be entitled to any distributions from the Partnership and, in the event that clause

(ii) of Section 9.2(b) above is used as a remedy, any item of income or gain otherwise to be allocated to the Defaulting Limited Partner shall be reallocated to the other Partners proportionately in accordance with their respective Capital Contributions.

9.3. Right to Borrow. (a) Notwithstanding Section 2.6, the General Partner may in its sole discretion cause the Partnership to enter into such financing arrangements, including without limitation debt financing, on such terms and conditions as the General Partner in its sole discretion determines, in an amount not exceeding the Defaulted Capital Contribution if the General Partner determines it is necessary or advisable to do so to permit the closing of a proposed acquisition of a Portfolio Investment ("Short-Fall Borrowing"). The lender in respect of any Short-Fall Borrowing may be the General Partner or any of its Affiliates, or any third party selected by the General Partner provided the terms of such Short-Fall Borrowing are effected on an arm's-length basis.

(b) At any time after the arrangement of such Short-Fall Borrowing the General Partner may give a notice to each Non-Defaulting Limited Partner of its obligation to make a Capital Contribution (as specified in such notice) to the capital of the Partnership and the amount required to be contributed to the Partnership in order to repay such Short-Fall Borrowing, together with any interest, premium, fees and expenses in respect thereof. Each Non-Defaulting Limited Partner will make such Capital Contribution to the Partnership within ten Business Days after the receipt of notice referred to in the immediately preceding sentence. In no event will a Limited Partner be required to contribute more than its Available Capital Commitment by reason of this Section 9.3(b). Any such amounts contributed by a Limited Partner pursuant to this Section 9.3(b) will be treated as a Capital Contribution made by such Limited Partner in accordance with Section 5.1(a).

X. NEW PARTNERS; RESTRICTIONS ON TRANSFERS OF PARTNERSHIP INTERESTS

10.1 Transfers of Interests. (a) Transfers of General Partner's Interests. The General Partner may not voluntarily or involuntarily Transfer, or create or suffer to exist any Encumbrance against, legal title to its interest in the Partnership, without the prior consent of the holders of two-thirds (66.67%) of the Partnership Interests (other than the GP Affiliated Limited Partners). If the General Partner so determines and the consent of the Limited Partners for a Transfer so provides, the General Partner may admit any Person to whom the

General Partner proposes to make such Transfer as an additional or successor general partner of the Partnership. In the event the General Partner Transfers all of its Partnership Interest, the transferee will be deemed admitted to the Partnership as an additional or successor general partner immediately prior to such Transfer and will continue the Partnership without dissolution.

(b) Transfer of Limited Partner's Interests. Except as expressly provided in Section 3.5 and this Article X but subject to the limitations contained in Section 10.3, without the prior written consent of the General Partner, which consent may be given or withheld in the sole discretion of the General Partner, (i) no Limited Partner may voluntarily or involuntarily Transfer, or create or suffer to exist any Encumbrance against, all or any part of his record or beneficial interest in the Partnership, and (ii) no Person may be admitted to the Partnership as a Partner. Except for withdrawals in connection with a Transfer of an interest in the Partnership permitted by this Agreement, no Limited Partner may withdraw from the Partnership without the consent of all other Partners.

(c) Transfers of Interests in Partners. Nothing in this Agreement prohibits any equity owner of a Partner from Transferring any equity interests in the Partner to any other Person or any Partner from issuing additional equity interests. Nothing in this Agreement will limit the obligations under any other agreement or instrument to which any holder of an equity interest in a Partner and any other Affiliated Person are parties.

10.2. Procedure for Admission. (a) General. No Person will have title to any interest in the Partnership until the Person (i) has executed and delivered all documents deemed necessary or advisable by the General Partner to reflect the Person's admission to the Partnership and the Person's agreement to be bound by this Agreement and, to the extent applicable to the Transferred interest, any other agreement or instrument to which the Transferor and any other Affiliated Person are parties, (ii) has paid all expenses connected with the Person's admission, and (iii) the General Partner has approved such admission or Transfer in accordance with Section 10.1. Any purported Transfer or Encumbrance will be ineffective until the Transferor and its Transferee furnish to the Partnership the instruments and assurances the General Partner may request by the General Partner, including without limitation, if requested, an opinion of counsel satisfactory to the General Partner that the interest in the Partnership being Transferred or Encumbered has been registered or is exempt from registration under the Securities Act and all applicable securities laws. No Transfer or Encumbrance will be effective if it would result in the

"termination" of the Partnership under Section 708 of the Code, unless the General Partner in its sole discretion gives its prior written consent to the Transfer or Encumbrance.

(b) Effect of Transfers. Upon an effective Transfer of ownership of all or any part of a Partner's interest in the Partnership, the Partnership will continue and, upon compliance with the provisions of this Section 10.2, the Transferee of the interest, if the Transferee is not already a Partner of the same class, will be admitted to the Partnership as a Partner of that class or, if the Transferee is already a Partner of the same class, will continue as a Partner of that class with an additional Partnership Interest reflecting the Transfer.

10.3. Transfers by GP Affiliated Limited Partners. Notwithstanding any provision to the contrary in this Agreement, a GP Affiliated Limited Partner and any Additional Limited Partner may enter into an agreement pursuant to which such GP Affiliated Limited Partner assigns to, and such Additional Limited Partner agrees to assume, a portion of such GP Affiliated Limited Partner's Capital Commitment. In lieu of entering into such agreement, (i) in connection with the admission of an Additional Limited Partner on or prior to December 31, 1996, a GP Affiliated Limited Partner may elect to reduce the amount of its Capital Commitment to the Partnership by an amount equal to the Capital Commitment of the Additional Limited Partner and (ii) in connection with the admission of an Additional Limited Partner on or after January 1, 1997, the GP Affiliated Limited Partners may reduce their respective Capital Commitment by \$1 for each \$2 of Capital Commitment made by such Additional Limited Partner. Notwithstanding anything in this Agreement to the contrary, the GP Affiliated Limited Partners' Capital Commitment (together with the General Partner's Capital Commitment) will not be less than \$75 million. In addition, the Partnership Interest of the GP Affiliated Limited Partners shall not be transferred without the consent of all of the Partners.

10.4. Limitation on General Partner Withdrawal. A General Partner will not cease to be a general partner of the Partnership or be deemed to have withdrawn from the Partnership as a result of the occurrence of an event described in Paragraphs (4), (5), (8) or (9) of Section 17-402(a) of the Act, except as otherwise expressly provided in this Agreement. Any event that causes a General Partner to cease to be a General Partner under Sections 17-402 and 17-602 of the Act under circumstances not otherwise expressly allowed in this Agreement will constitute a material breach of this Agreement.

10.5. Removal of General Partner. Upon the vote of the holders of two-thirds (66.67%) of the Partnership Interests

(other than the GP Affiliated Limited Partners), the General Partner may be removed for cause. For purposes of this Agreement, "cause" means (i) the conviction of the General Partner in a criminal proceeding of a felony, including fraud, or (ii) the issuance of an order or entry into a consent decree which bars the General Partner from engaging in the securities industries.

XI. LIQUIDATION AND DISSOLUTION OF THE PARTNERSHIP

11.1. Dissolution Events. The Partnership will be dissolved upon the happening of any of the following events:

(a) all or substantially all of the assets of the Partnership, including Securities, are sold or distributed to the Partners (unless the Commitment Period has not expired and the General Partner notifies the Partners that it has elected to continue the business of the Partnership, in which event the Partnership will continue until the General Partner gives notice that it elects to dissolve the Partnership or it otherwise dissolves under this Article XI);

(b) a document is signed by all Partners which states their election to dissolve the Partnership;

(c) the entry of a final judgment, order or decree of a court of competent jurisdiction adjudicating the Partnership to be bankrupt and the expiration without appeal of the period, if any, allowed by applicable law in which to appeal;

(d) any Withdrawal or retirement from the Partnership by the General Partner; or

(e) the expiration of the term of the Partnership (as set forth in Section 1.5).

11.2. Continuation. Upon the Withdrawal or retirement from the Partnership of the General Partner, the business of the Partnership will be continued if within 90 calendar days the Limited Partners elect by unanimous written action to continue the business of the Partnership and designate one or more Persons (including without limitation any Limited Partner who consents) to be a General Partner of the Partnership upon terms consented to by all Limited Partners. If the business of the Partnership is continued, the interest of the General Partner will be converted to that of a Limited Partner. If the Limited Partners fail to continue the Partnership's business as provided in this

Section 11.2, the Partnership will be liquidated under Section 11.3.

11.3. Method of Liquidation. (a) Generally. Upon the happening of any of the events specified in Section 11.1 and, if applicable, the failure to continue the business of the Partnership under Section 11.2, the General Partner, or in the event dissolution results from the Withdrawal or retirement from the Partnership of the General Partner, or, if there is none, any liquidating trustee elected by Limited Partners holding at least a majority of the Partnership Interests owned by Limited Partners, will commence as promptly as practicable to wind up the Partnership's affairs as promptly as practicable, unless the General Partner or, if there is none, the liquidating trustee (either, the "Liquidator") determines that an immediate liquidation of Partnership assets would cause undue loss to the Partnership, in which event the Liquidator may, subject to the approval of the Advisory Committee, defer such liquidation for a time determined by the Liquidator and the Advisory Committee to be appropriate. Subject to Section 6.7, assets of the Partnership may be liquidated or distributed in kind, as the Liquidator determines to be appropriate. The Partners will continue to share Net Profits and Net Losses, Profits and Losses during the period of liquidation in the manner set forth in Article VI. The proceeds from liquidation of the Partnership, including without limitation repayment of any debts of Partners to the Partnership, and any Partnership assets that are not sold in connection with the liquidation will be applied in the following order of priority:

(i) to the payment of the debts and satisfaction of the other obligations of the Partnership, including without limitation debts and obligations to Partners;

(ii) to the establishment of any reserves deemed appropriate by the Liquidator for any liabilities or obligations of the Partnership, which reserves will be held for the purpose of paying liabilities or obligations and, at the expiration of a period the Liquidator deems appropriate, will be distributed in the manner provided in Sections 11.3(a)(iii) and 11.3(a)(iv);

(iii) to the distribution to the Partners of any Current Income for the period ending with the liquidation in accordance with Section 6.5;

(iv) to the distribution to the Partners of any Disposition Proceeds for the period ending with liquidation in accordance with the provisions of Section 6.6, determined without regard to any limitations on distributions of Non-

Marketable Securities and treating all Portfolio Investments as Closed Portfolio Investments; provided, however, that (A) to the extent any Limited Partner's Cumulative Return following such distributions is less than 9%, amounts from Claw Back Accounts related to such Limited Partner's Allocable Shares of Portfolio Investments and (if necessary) amounts otherwise distributable to the General Partner under this Section 11.3 with respect to such Allocable Shares will be distributed to such Limited Partner rather than to the General Partner, and (B) any amounts remaining in Claw Back Accounts after application of the foregoing will be distributed to the General Partner; and

(iv) to the Partners in proportion to their respective Partnership Interests.

(b) Compliance With Timing Requirements of Treasury Regulations. In order to comply with the timing requirements for liquidating distributions under Treasury Regulations Section 1.704-1(b)(2)(ii)(b), in the discretion of the General Partner, a pro rata portion of the distributions that would otherwise be made to the Partners under this Article XI may be distributed to a trust established for the benefit of the Partners for the purposes of liquidating Partnership assets, collecting amounts owed to the Partnership, and paying any contingent or unforeseen liabilities or obligations of the Partnership arising out of or in connection with the Partnership. The assets of any trust established under this Section 11.3(b) will be distributed to the Partners from time to time, in the reasonable discretion of the General Partner, in the same proportions as the amount distributed to the trust by the Partnership would otherwise have been distributed to the Partners under this Agreement.

11.4. Date of Termination. The Partnership will terminate when all of the cash and property available for application under Section 11.3 have been applied in accordance with Section 11.3. The establishment of any reserves in accordance with the provisions of Section 11.3(a)(ii) will not extend the term of the Partnership, but any reserve will be distributed in the manner provided in Section 11.3 upon expiration of the period established for the reserve or if the Liquidator determines the reserve is no longer needed.

11.5. Death, Dissolution, Legal Incompetency or Bankruptcy of a Limited Partner. The death, dissolution, declaration of legal incompetence or bankruptcy of a Limited Partner will not dissolve the Partnership. The deceased, dissolved, incompetent or bankrupt Limited Partner's interest in the Partnership will pass to a successor in interest of the Limited Partner, who will succeed to the deceased, dissolved, incompetent or bankrupt

Limited Partner's entire interest in the Partnership and, subject to the applicable provisions of Article IX, will become a Limited Partner of the Partnership with the same Partnership Interest, the same rights to distributions made by the Partnership, the same obligations and the same share of the Partnership's Profits, Losses, Net Profits and Net Losses as the deceased, dissolved, incompetent or bankrupt Limited Partner.

XII. MISCELLANEOUS

12.1. Fiscal Year. The fiscal year and tax year of the Partnership will end on December 31, unless another fiscal or tax year end is selected by the General Partner.

12.2. Records. The records of the Partnership will be maintained at the principal place of business of the Partnership or at any other location the General Partner selects. Appropriate records in reasonable detail will be maintained to reflect income tax information for the Partners. The Partnership will pay the expense of maintaining its records, including the share of the expenses of any Affiliated Person allocated to it in accordance with allocation policies applicable to the General Partner as in effect from time to time for maintenance of partnership records. The General Partner will preserve all financial and accounting records pertaining to the Partnership during the term of the Partnership and for a period of four years thereafter. Each Partner may inspect and make copies of the records maintained by the Partnership during reasonable business hours and upon reasonable notice. In addition, each Partner, at its expense and upon reasonable notice, may audit such financial and accounting records, provided that a Partner may not conduct more than one audit per year.

12.3. Reports. The General Partner, at the expense of the Partnership, will cause to be prepared and distributed to each Partner (a) within 45 calendar days after the end of each fiscal quarter unaudited financial statements (including an unaudited balance sheet for such quarter, an unaudited income statement for such quarter, an unaudited statement of cash flows for such quarter, and an unaudited statement of the Partner's Capital Account for such quarter) and (b) within 120 calendar days after the end of each fiscal year, (i) audited financial statements (including an audited balance sheet as of the close of the fiscal year, an audited income statement for such fiscal year, an audited statement of cash flows for such fiscal year, and an audited statement of the Partners' Capital Accounts for such fiscal year) conducted by a nationally recognized accounting firm, (ii) Schedule K-1 of IRS Form 1065 for the fiscal year, and (iii) a report for such fiscal year setting forth the estimated

Value of the Partnership's Portfolio Investments and any adjustments to those Values from the prior fiscal year.

12.4. Method of Accounting. The Partnership records will be maintained, and its profits and losses will be accounted for, in accordance with generally accepted accounting principles consistently applied. For federal income tax purposes, the method of accounting chosen by the General Partner will be consistent with the requirements of the Code.

12.5. Banking. The funds of the Partnership will be deposited in a Partnership account or accounts in the bank or banks or other financial institution or institutions as selected by the General Partner in its sole discretion. Withdrawals from any account will be made on the manual or facsimile signature of one or more individuals designated by the General Partner. There will be no commingling of the assets of the Partnership with the assets of any other Person.

12.6. Tax Matters Partner. The General Partner is designated as the "tax matters partner" under Section 6231 of the Code and will have the rights and duties of a tax matters partner thereunder. If an audit of the Partnership's federal income tax return is commenced, the General Partner will promptly advise all Partners of the audit and provide each Partner with a copy of any final partnership administrative adjustment (as defined in Section 6223(a) of the Code).

12.7. Notices. The General Partner will notify the Partners of any change in the name, principal or registered office or registered agent of the Partnership. Any notice or other communication required or permitted by this Agreement must be in writing. Notices and other communications will be deemed to have been given when received by means of electronic facsimile transmission or by the United States mail, postage prepaid, addressed to the Partner to whom the notice is intended to be given at his address set forth on the signature pages of this Agreement or, in the case of the Partnership, to its principal place of business provided for in Section 1.3. A Person may change his notice address by notice in writing to the General Partner and to each other Partner given under this Section 12.7.

12.8. Amendments; Waivers. Except as otherwise expressly provided in this Agreement, no amendment of this Agreement will be valid or binding upon the Partners, nor will any waiver of any term of this Agreement be effective, unless in writing and signed by (a) the General Partner and (b) Limited Partners holding at least a majority of the Partnership Interests owned by Limited Partners; provided, however, that the General Partner may, upon 10 Business Days prior written notice to the Limited Partners,

but without the approval of any Limited Partner, in connection with the admission of new Persons as Limited Partners of the Partnership, amend any provision of this Agreement, provided, further, that (i) no amendment which would increase the Capital Commitment of any Limited Partner, reduce its share of the Partnership's distributions, income and gains, increase its share of the Partnership's losses, increase its share of the Management Fee payable by such Limited Partner or materially and adversely affect the rights granted to or liabilities of such Limited Partner may be effected without the consent of each such Limited Partner so affected or (ii) this Section 12.8 shall not be amended without the consent of each Limited Partner. Sections 10.1(a) and the last two sentences of Section 10.3 shall not be amended without the consent of all of the Partners.

12.9. Binding Effect. This Agreement will inure to the benefit of and will be binding upon the Partners, their legal representatives, permitted Transferees, heirs, administrators, successors and permitted assigns. Each Person to whom an interest in the Partnership is Transferred or Encumbered will be bound by any agreement relating to the business of the Partnership by which the Transferor is bound to the extent provided in such agreement.

12.10. Duplicate Originals. Any number of counterparts of this Agreement may be executed. Each counterpart will be deemed to be an original instrument and all counterparts taken together will constitute one agreement.

12.11. Construction. The titles of the Articles and Sections in this Agreement have been inserted as a matter of convenience of reference only and do not affect the meaning or construction of any of the provisions in this Agreement. The general rule of construction for interpreting a contract, which provides that the provisions of a contract should be construed against the party preparing the contract, is waived by the parties. Each Partner acknowledges that such Partner was represented by legal counsel in this matter who participated in the preparation of this Agreement or such Partner had the opportunity to retain counsel to participate in the preparation of this Agreement but chose not to do so.

12.12. Governing Law. The rights and obligations of the Partners hereunder will be interpreted, construed and enforced in accordance with the laws of the State of Delaware, without giving effect to the principles of conflict of laws of that State.

12.13. Other Instruments. The Partners will execute other instruments and agreements that the General Partner determines to

be necessary or desirable to carry out this Agreement or any provision of this Agreement.

12.14. General Partner with Interest as Limited Partner. If the General Partner has or acquires an interest as a Limited Partner, the General Partner, with respect to that Limited Partner's interest, will enjoy all of the rights and be subject to all of the duties of a Limited Partner. Except as otherwise provided in this Agreement, the General Partner's interest as a Limited Partner, if any, will not be included in determining whether any required approval of Limited Partners has been duly given.

12.15. Legal Construction. In case any one or more of the provisions contained in this Agreement for any reason is held to be invalid or unenforceable, the invalidity or unenforceability will not affect any other provision of this Agreement, which will be construed as if the invalid or unenforceable provision had not been contained in this Agreement and, in lieu of each invalid or unenforceable provision, there will be added automatically as a part of this Agreement a provision as similar in terms to the invalid or unenforceable provision as may be possible and be valid and enforceable.

12.16. Gender, Etc. Words used in this Agreement in any gender will be deemed to include the masculine, feminine or neuter gender; singular words will include the plural and plural words will include the singular; and the word "or" will be disjunctive but not exclusive.

12.17. Confidentiality. (a) Generally. The terms of this Agreement, its subject matter, the identity of any Person with whom the Partnership may be holding discussions with respect to any investment, acquisition or other transaction or in whom the Partnership may invest directly or indirectly, information relating to Portfolio Investments provided to the Limited Partners in written reports, Partnership meetings, Advisory Committee meetings or otherwise, and all other business, financial or other information relating directly to the conduct of the business and affairs of the Partnership or the relative or absolute rights or interests of any of the Partners (collectively, the "Information") that has not been publicly disclosed by the General Partner or any Portfolio Company is confidential and proprietary information of the Partnership the disclosure of which would cause irreparable harm to the Partnership and the Partners. Accordingly, except as required by law, each Partner represents that it has not and agrees that it will not and will direct its shareholders, partners, members, directors, officers, agents, advisors and Affiliates not to, disclose to any Person any Information or confirm any statement

made by third Persons regarding Information or trade in the Securities of Portfolio Companies with respect to which it has received confidential Information until the General Partner has publicly disclosed the confidential Information and has notified each Partner that it has so done.

(b) Legal Proceedings. Each Partner agrees not to disclose any Information to any Person (other than a Person agreeing to maintain all Information in strict confidence, a judge, magistrate or referee) in any action, suit or proceeding relating to or arising out of this Agreement or otherwise, and to keep confidential all documents (including without limitation responses to discovery requests) containing any Information; provided, however, that such confidentiality obligation will not apply to such Information (i) which is or becomes generally available to the public other than as a result of a breach of this Agreement by such Partner, (ii) was available to such Partner on a non-confidential basis prior to its disclosure to such Partner, (iii) became available to such Partner from a source other than the Partnership or other Partner, which such Partner believes, after reasonable inquiry, is not prohibited from disclosing such Information to it by a contractual, legal or fiduciary obligation. Each Partner hereby consents in advance to any motion for any protective order brought by any other Partner represented as being intended by the movant to implement the purposes of this Section 12.17, provided that if a Partner receives a request to disclose any Information under the terms of a valid and effective order issued by a court or government agency and the order was not sought by or on behalf of or consented to by the Partner, the Partner may disclose the Information to the extent required if the Partner as promptly as practicable (i) notifies the General Partner of the existence, terms and circumstances of the order, (ii) consults in good faith with the General Partner on the advisability of taking legally available steps to resist or to narrow the order, and (iii) if disclosure of the Information is required, exercises its reasonable best efforts to obtain a protective order or other reliable assurance that confidential treatment will be accorded to the portion of the disclosed Information that the General Partner designates. The cost (including without limitation attorneys' fees and expenses) of obtaining a protective order covering Information designated by the General Partner will be a Partnership cost.

(c) Exceptions. Notwithstanding any other provision of this Section 12.17, a Partner and each shareholder, partner, member, director, officer, agent, advisor and Affiliate of a Partner may disclose Information to (i) Persons with whom such Partner deal and who have a legitimate business or financial interest in the matter and (ii) to any governmental agency having

authority over such Partner and to whom such Information is required to be disclosed by such Partner. In addition, any Partner may disclose Information to any potential assignee of such Partner's Partnership Interest, provided that such potential assignee agrees in writing to be bound by the provisions of this Section 12.17.

(d) Miscellaneous. Without limiting the General Partner's other rights, power or authority under this Agreement, the General Partner may waive, on behalf of the Partnership and any or all of the Partners, any of the covenants contained in this Section 12.17. The covenants contained in this Section 12.17 will survive the Transfer of the interest in the Partnership of any Partner and the termination of the Partnership.

12.18. Defined Terms. As used in this Agreement, in addition to the terms defined elsewhere herein, the following terms will have the following meanings when used herein with initial capital letters:

"Act" means the Delaware Revised Uniform Limited Partnership Act, as amended from time to time.

"Additional Limited Partner" has the meaning assigned to it in Section 3.5(a).

"Adjusted Capital Account Deficit" means, with respect to a Partner, the deficit balance, if any, in that Partner's Capital Account as of the end of the relevant taxable year, after giving effect to the following adjustments:

(a) The Capital Account will be increased by any amount that the Partner is actually obligated to restore under this Agreement and any amount he is deemed to be obligated to restore under the penultimate sentences of Treasury Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5); and

(b) The Capital Account will be decreased by the items described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6).

This definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and will be interpreted consistently with those provisions.

"Advisory Committee" has the meaning assigned to it in Section 4.9(a).

"Affiliate" means, with respect to any Person, any other Person controlling, controlled by or under common control with the first Person. For purposes of the foregoing definition, the term "control" (and correlative terms) means the power, whether by contract, equity ownership or otherwise, to direct the policies or management of a Person.

"Affiliated Person" means an Affiliate of any Partner.

"Allocable Share" means, for any Partner and any Portfolio Investment, (a) the portion of the Partner's Capital Contributions allocable to such Portfolio Investment, divided by (b) the total Capital Contributions of all Partners allocable to such Portfolio Investment.

"Available Capital Commitment" means, with respect to any Partner on any date, the amount of such Partner's Capital Commitment less the aggregate amount of such Partner's Capital Contributions (determined as of such date) to the Partnership (including Capital Contributions made with respect to Investment Expenses, Management Fees, Operational Expenses and Busted Deal Expenses) plus (x) the amount of any Capital Contribution returned from a Portfolio Investment within 12 months following the making of such Capital Contribution that increased Available Capital Commitment under Section 5.6, and (y) the amount of any Net Management Fees, Transaction Fees, Monitoring Fees or Investment Banking Fees distributed or paid to such Partner that increased such Partner's Available Capital Commitment under Section 5.6.

"Book Basis" means, with respect to any asset, the asset's adjusted basis for federal income tax purposes; provided, however, (a) if property is contributed to the Partnership, the initial Book Basis of such property shall equal its gross fair market value on the date of contribution, and (b) if the Capital Accounts of the Partners are adjusted pursuant to Treasury Regulation Section 1.704-1(b) to reflect the gross fair market value of any Partnership asset, the Book Basis of such asset will be adjusted to equal its respective fair market value as of the time of such adjustment in accordance with such Treasury Regulation. The Book Basis of Partnership assets will, at the discretion of the General Partner, be adjusted upon the occurrence of the events described in Treasury Regulation Section 1.704-1(b)(2)(iv)(f)(5), and as a result of any such adjustment the Book Basis of any such assets shall, at such time, equal its gross fair market value at such time. Notwithstanding the foregoing, (a) the Book Basis of Partnership assets will be adjusted to equal their respective fair market values upon the happening of an event described in Treasury Regulation Section 1.704-1(b)(2)(iv)(f)(5)(ii), and (b) the Book Basis of

Partnership assets will, at the discretion of the General Partner, be adjusted to properly reflect any Write Down and Write Up, and the Capital Accounts will be adjusted accordingly. The Book Basis of all assets will be adjusted thereafter by depreciation and amortization as provided in Treasury Regulation Section 1.704-1(b)(2)(iv)(g) and any other adjustment to the basis of assets other than depreciation or amortization.

"Business Day" means any day, excluding Saturday, Sunday and any day which is a legal holiday or a day on which banking institutions in New York City are authorized or required by law or other governmental actions to close.

"Busted Deal Expenses" means Investment Expenses incurred by the General Partner or the Partnership in connection with the identification or evaluation of, negotiation with or attempted Portfolio Investment in any Portfolio Company that is not ultimately consummated.

"Capital Account" has the meaning assigned to it in Section 6.1(a).

"Capital Commitment" means, with respect to each Partner, the amount set forth opposite such Partner's name on Schedule A, or on a Schedule of Additional Limited Partners, each as amended from time to time. The Capital Commitment of the General Partner will always equal [8%] of Total Capital Commitments.

"Capital Contribution" means, with respect to any Partner and a particular Portfolio Investment or Management Fees, Investment Expenses, Operational Expenses or Busted Deal Expenses, the amount of capital contributed by such Partner to the Partnership pursuant to Sections 5.1, 5.2 or Section 5.3(a). Any reference in this Agreement to the Capital Contribution of a Partner will include a Capital Contribution made by any prior Partner with respect to the Partnership Interest of the Partner.

"Claw Back Accounts" has the meaning assigned to it in Section 6.8.

"Closed Portfolio Investment" means any Portfolio Investment with respect to which the Partnership has sold or otherwise transferred to a third party (other than to a nominee) or to the Partners as a distribution in kind all of its interest, or, if the Partnership has sold, transferred or distributed only a portion of its interest, such portion.

"Code" means the Internal Revenue Code of 1986, as amended from time to time. References to Sections of the Code include successor provisions to those Sections.

"Commitment Period" means that period commencing on the date hereof and continuing thereafter until the earlier of (a) the fifth anniversary of the date hereof and (b) the first date on which all Available Capital Commitments are zero.

"Covered Person" has the meaning assigned to it in Section 8.1.

"Cumulative Net Distributions" means, with respect to any Partner and any Portfolio Investment, the cumulative amount properly allocable to such Portfolio Investment distributed or paid to such Partner under any provision of this Agreement, including without limitation Sections 6.5, 6.6 and 6.8, and Articles VII and XI, reduced by the sum of (a) the amount of such Partner's Related Capital Contributions allocable to such Portfolio Investment and (b) Net Management Fees allocable to such Portfolio Investment.

"Cumulative Return" means, at any time, with respect to any Limited Partner, and all Closed Portfolio Investments, the annual discount rate which establishes the present value (as of the date of the first Related Capital Contribution with respect to the first Closed Portfolio Investment) of all distributions pursuant to Section 6.5 with respect to Closed Portfolio Investments and Sections 6.6(a), 6.6(b), 6.6(c), 6.6(e), 6.6(g), 6.8, and Articles VII and XI to such Limited Partner, as equal to the present value (as of the date of the first Related Capital Contribution with respect to the first Closed Portfolio Investment) of the Related Capital Contributions and contributions actually made pursuant to Section 5.2(a) and (b) of such Limited Partner with respect to such Closed Portfolio Investment.

"Current Income" means all amounts (other than Transaction Fees, Monitoring Fees, Investment Banking Fees and Disposition Proceeds) received by the Partnership from Portfolio Investments, reduced by amounts required for payment of Operational Expenses and appropriate reserves for Operational Expenses relating to such Portfolio Investment.

"Default" has the meaning assigned to it in Section 9.1.

"Defaulted Capital Contribution" has the meaning assigned to it in Section 9.1.

"Defaulting Limited Partner" has the meaning assigned to it in Section 5.7.

"Disposition Proceeds" means any cash or Marketable Securities received by the Partnership from the sale or exchange

of a Portfolio Investment or a portion thereof, reduced by any such cash or Marketable Securities required for the payment of expenses from such sale or exchange or for Operational Expenses or reserves against such expenses.

"DOL Regulations" has the meaning assigned to it in Section 4.6(a).

"Encumbrance" means any lien, pledge, encumbrance, collateral assignment or hypothecation.

"Excused Investment" has the meaning assigned to it in Section 5.4.

"First Amended Agreement" has the meaning assigned to it in the introductory paragraph.

"First GP Affiliated Limited Partner" means Cypress Ventures, Inc., a Delaware corporation, and its successors and assigns.

"Funding Date" has the meaning assigned to it in Section 5.1.

"Funding Notice" has the meaning assigned to it in Section 5.5(b).

"Funding Period" has the meaning assigned to it in Section 4.3.

"General Partner" means the Person identified as a General Partner on the signature pages to this Agreement or its successors and assigns.

"GP Affiliated Limited Partners" mean the First GP Affiliated Limited Partner and the Second GP Limited Affiliated Partner.

"Indemnified Persons" has the meaning assigned to it in Section 8.2.

"Information" has the meaning assigned to it in Section 12.17.

"Interest Rate" means the reference rate of interest for commercial loans as announced from time to time by Bank of America National Trust and Savings Association or, if less, the maximum rate of interest permitted by applicable law.

"Investment Banking Fees" has the meaning assigned to it in Section 7.5.

"Investment Expenses" means all brokerage commissions, finder's fees, investment costs and out-of-pocket fees and expenses incurred by the General Partner or the Partnership in connection with the identification, evaluation of, negotiation and acquisition of Portfolio Investments including reasonable fees and expenses of lawyers, accountants, advisers, financing services and reasonable out-of-pocket travel expenses, but excluding any allocation of salaries of employees of the General Partner and normal overhead expenses of the General Partner.

"Limited Partners" means the Persons identified as Limited Partners on the signature pages to this Agreement, their successors and assigns.

"Liquidator" has the meaning assigned to it in Section 11.3(a).

"Loss" means, for each taxable year or other period, an amount equal to the Partnership's items of taxable deduction and loss for such year or other period, determined in accordance with Section 703(a) of the Code (including all items of loss or deduction required to be stated separately under Section 703(a)(1) of the Code), with the following adjustments:

(a) Any expenditures of the Partnership described in Section 705(a)(2)(B) of the Code or treated as Section 705(a)(2)(B) expenditures under Treasury Regulation Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Loss, will be considered an item of Loss;

(b) Loss resulting from any disposition of a Partnership asset with respect to which gain or loss is recognized for federal income tax purposes will be computed by reference to the Book Basis of such property, notwithstanding that the adjusted tax basis of such property may differ from its Book Basis;

(c) In lieu of depreciation, amortization and other cost recovery deductions taken into account in computing taxable income or loss, there will be taken into account depreciation for the taxable year or other period as determined in accordance with Treasury Regulation Section 1.704-1(b)(2)(iv)(g);

(d) Any items of deduction and loss specially allocated pursuant to Section 6.4(d) shall not be considered in determining Loss; and

(e) Any decrease to the Book Basis of Partnership assets resulting from adjustments described in the definition of Book Basis (other than pursuant to the last sentence thereof) will constitute an item of Loss.

"Management Fee" has the meaning assigned to it in Section 7.1.

"Marketable Securities" means securities that are traded on a national securities exchange, reported through the National Association of Securities Dealers, Inc. Automated Quotation System or otherwise trade over-the-counter, and are not subject to restrictions on transfer as a result of applicable contract provisions or the provisions of the Securities Act or regulations thereunder, provided that a security that may be sold under Rule 144(k) under the Securities Act will be deemed not to be subject to restrictions on transfer.

"Media Company" shall mean an entity that, directly or indirectly, owns, controls or operates or has an attributable interest in (a) a U.S. broadcast radio or television station or a U.S. cable television system, (b) a "daily newspaper," (as such term is defined in Section 73.3555 of the Federal Communication Commission's ("FCC") rules and regulations), (c) any U.S. communications facility operated pursuant to a license granted by the FCC and subject to the provisions of Section 310(b) of the Communications Act of 1934, as amended, or (d) any other business that is subject to FCC regulations under which the ownership of the Partnership in such entity may be attributed to a Limited Partner or under which the ownership of a Limited Partner in another business may be subject to limitation or restriction as a result of the ownership of the Partnership in such entity.

"Monitoring Fees" has the meaning assigned to it in Section 7.4.

"Net Loss" means, for any taxable year or other period, the excess of Losses over Profits for such period determined without regard to any Profits or Losses allocated pursuant to Section 6.4(c).

"Net Management Fees" means, with respect to any Limited Partner's Allocable Share of any Portfolio Investment, the aggregate amounts contributed by such Limited Partner pursuant to Section 5.2(a) for the payment of Management Fees (after application of all credits against such amounts, but without regard to payments to such Limited Partner in excess of such credits pursuant to Article VII) properly attributable to such Portfolio Investment.

"Net Profit" means, for any taxable year or other period, the excess of Profits over Losses for such period determined without regard to any Profits or Losses allocated pursuant to Section 6.4(c).

"Nonrecourse Deductions" has the meaning assigned to it in Treasury Regulations Section 1.704-2(c).

"Operational Expenses" means all expenses incurred in operating the Partnership, including expenses incurred for the maintenance of books and records, the preparation and distribution of checks, financial statements and reports and notices, and the holding of Partnership and Advisory Committee meetings, fees and expenses for attorneys, accountants and other advisers, reasonable out-of-pocket business travel expenses related to the operation of the Partnership, and, subject to the limitations set forth in Sections 8.2 and 8.3, the costs and expenses of any litigation involving the Partnership or its investments and the amount of any judgments or settlements paid in connection therewith.

"Organizational Expenses" means all organizational costs of the Partnership, including fees and expenses in connection with the planning, negotiation, execution and delivery of this Agreement and any subscription agreements (including initial legal, research and structuring and incidental expenses and including expenses in connection with the admission of Additional Limited Partners), including without limitation all out-of-pocket expenses (including reasonable out-of-pocket business travel expenses) of the General Partner related to the organization and offering of interests in the Partnership, but excluding any allocations of the salaries of employees of the General Partner and normal overhead expenses of the General Partner.

"Original Agreement" has the meaning assigned to it in the introductory paragraph.

"Partially Adjusted Capital Account" means, with respect to any Partner for any taxable year of the Partnership, the Capital Account of such Partner at the beginning of such year, adjusted for all contributions and distributions during such year and all special allocations pursuant to Section 6.4(c) hereof with respect to such year but before giving effect to any allocations pursuant to Section 6.4(a) and 6.4(b) for such taxable year.

"Partner Nonrecourse Debt Minimum Gain" has the meaning assigned to it in Treasury Regulations Section 1.704-2(i)(2).

"Partner Nonrecourse Deduction" has the meaning assigned to it in Treasury Regulations Section 1.704-2(i).

"Partners" means the General Partner and the Limited Partners.

"Partnership" means the Partnership continued under this Agreement, as amended from time to time.

"Partnership Certificate" means the certificate of limited partnership of the Partnership as from time to time amended.

"Partnership Interest" means the interest of a Partner in the Partnership, expressed as a percentage of the whole, which interest will be determined as follows: each Partner's Partnership Interest will be the fraction, expressed as a percentage, the numerator of which is the Capital Commitment of such Partner and the denominator of which is the Total Capital Commitments.

"Partnership Minimum Gain" has the meaning assigned to it in Treasury Regulations Section 1.704-2(d).

"Person" means an individual or an entity.

"Portfolio Company" means an entity having its headquarters located in North America and which has substantial operations in North America (as determined by the General Partner in its sole but reasonable discretion) in which a Portfolio Investment is made by the Partnership directly or through one or more intermediate entities of the Partnership.

"Portfolio Investment" means any investment by the Partnership in Securities of a Portfolio Company which results in the Partnership acquiring control of, or significant management rights or other positions of significant influence in, such Portfolio Company.

"Profit" means, for each taxable year or other period, an amount equal to the Partnership's items of taxable income and gain for such year or other period, determined in accordance with Section 703(a) of the Code (including all items of income and gain required to be stated separately under Section 703(a)(1) of the Code), with the following adjustments:

(a) Any income of the Partnership that is exempt from federal income tax and not otherwise taken into account in computing Profit will be added to taxable income or gain;

(b) Gain resulting from any disposition of a Partnership asset with respect to which gain or loss is recognized for federal income tax purposes will be computed by reference to the Book Basis of such property,

notwithstanding that the adjusted tax basis of such property may differ from its Book Basis;

(c) Any items specially allocated pursuant to Section 6.4(d) will not be considered in determining Profit; and

(d) Any increase to the Book Basis of Partnership assets resulting from adjustments described in the definition of Book Basis (other than pursuant to the last sentence thereof) will constitute an item of Profit.

"Pro Rata Share" means a Partner's share of an item, based upon the respective Partnership Interest of that Partner as compared to the Partnership Interests of all Partners entitled to share in the item.

"Related Capital Contribution" means, with respect to each Partner and each Portfolio Investment, the Capital Contribution made by such Partner pursuant to Sections 5.1(a) and 5.3(a) and allocable to such Portfolio Investment. Any reference in this Agreement to the Related Capital Contribution of a Partner will include the Related Capital Contribution by any prior Partner with respect to the Partnership Interest of the Partner and appropriate adjustments will be made as a result of transfers pursuant to Section 3.5.

"Related Capital Contribution Account" means, with respect to each Limited Partner and each Portfolio Investment, an account which is (a) increased by the Related Capital Contribution of such Limited Partner with respect to such Portfolio Investment and (b) decreased by the sum of (i) distributions to such Limited Partner pursuant to Section 6.5 on account of such Portfolio Investment, (ii) distributions to such Limited Partner pursuant to Section 6.6(a) on account of such Portfolio Investment, (iii) distributions to such Limited Partner pursuant to Section 6.6(c) on account of such Portfolio Investment, and (iv) distributions to such Limited Partner pursuant to Section 6.6(d) on account of such Portfolio Investment.

"Related Net Management Fee Account" means, with respect to each Limited Partner and each Portfolio Investment, the excess, if any, of the contributions actually made by such Limited Partner pursuant to Section 5.2(a) allocable to such Portfolio Investment, over the sum of (a) distributions pursuant to Section 6.6(b) on account of such Portfolio Investment, and (b) distributions pursuant to Section 6.5 on account of such Portfolio Investment that are made after the Related Capital Contribution Account of such Limited Partner with respect to such Portfolio Investment is equal to zero.

"Second GP Affiliated Limited Partner" means WPPN, Inc., a Delaware corporation, and its successors and assigns.

"Section 751 Property" means unrealized receivables and substantially appreciated inventory items within the meaning of Treasury Regulations Section 1.751-1(a)(1).

"Securities" means capital stock of any kind including without limitation common stock, preferred stock, convertible preferred stock and common stock purchase warrants, limited partnership interests, limited liability company interests, bonds, notes, debentures, convertible debt instruments and other obligations, investment contracts and other instruments or evidences of indebtedness commonly referred to as securities, and any rights and options relating thereto.

"Securities Act" means the Securities Act of 1933, as amended.

"Short-Fall Borrowing" has the meaning assigned to it in Section 9.3(a).

"Subsequent Closing" has the meaning assigned to it in Section 3.5(a).

"Successor Partnership" has the meaning assigned to it in Section 12.20.

"Target Account" means, with respect to each Partner for any taxable year of the Partnership, an amount (which may be either a positive or negative balance) equal to the hypothetical distribution such Partner would receive if all Partnership assets, including cash, were sold for cash equal to their Book Basis (taking into account any adjustments to Book Basis for such taxable year), all liabilities allocable to such assets were then satisfied according to their terms (limited, with respect to each nonrecourse liability, to the Book Basis of the assets securing such liability) and all such proceeds from the disposition were distributed pursuant to Section 11.3(a), reduced by such Partner's share of Partnership Minimum Gain and Partner Nonrecourse Debt Minimum Gain immediately prior to such sale.

"Tax Advances" has the meaning assigned to it by Section 6.10.

"Tender Offer" means an offer by the Partnership or any Person controlled by the Partnership to acquire a controlling interest in a Portfolio Company whose Securities are traded on any national securities exchange, reported through the National

Association of Securities Dealers, Inc. Automated Quotation System or otherwise trade over-the-counter.

"Termination Date" has the meaning assigned to it in Section 5.1(b).

"Termination Notice" has the meaning assigned to it in Section 5.1(b).

"Total Capital Commitment" means the aggregate of all Capital Commitments.

"Transaction Fees" has the meaning assigned to it in Section 7.3.

"Transfer" means sell, distribute, assign, transfer, lease, or otherwise dispose of property, including without limitation an interest in the Partnership.

"UBTI" has the meaning assigned to it in Section 4.6(b).

"UDFI" has the meaning assigned to it in Section 4.6(b).

"Unrealized Loss Account" means, for each Limited Partner with respect to each Portfolio Investment on any date, an account which is increased by the Limited Partner's Allocable Share of the excess of any Write Downs over Write Ups with respect to such Portfolio Investment and decreased by any distributions to such Limited Partner pursuant to Section 6.6(d); provided, however, that at any time of determination, the Unrealized Loss Account for any Portfolio Investment shall never have a balance in excess of the Related Capital Contribution Account with respect to such Portfolio Investment.

"Value" means, with respect to any Securities owned (directly or indirectly) by the Partnership at any time, the value of such Securities determined as follows: In determining the Value on a given date of Marketable Securities,
(a) Securities traded on a national securities exchange will be valued at the average (weighed by trading volume) of the last trade price on the last ten trading days immediately preceding such date on such exchange where they are primarily traded and
(b) over-the-counter Securities will be valued at the average closing bid price on the last ten trading days immediately preceding such date as quoted by the National Association of Securities Dealers Automated Quotation System ("NASDAQ") or, if not quoted by NASDAQ, as last quoted in a recognized list for over-the-counter securities. The Value of all other Securities or other assets or interests in the Partnership will be the acquisition cost of such Securities or assets or interest,

provided, that the Person making such determination acting in good faith may determine the Value of such Securities or assets or interests to be their fair market value after considering all factors, information, and data deemed by it to be pertinent, which factors, information, and data may, but need not, include any of the following: purchase cost, estimates of liquidation value, prices received in recent private placements of securities of the same type and issuer, and changes in the financial condition and prospects of the issuer.

"Withdrawal" means, except as otherwise specifically provided for in Section 10.4, the occurrence of any of those events specified in Section 17-402 of the Act.

"WPLP Loss Account" means for any Limited Partner who was a limited partner in Wasserstein Perella Partners, L.P. ("WPLP") or any co-investment partnership organized to invest with WPLP (the "Prior WPLP Funds"), an account which is established at the time of dissolution and termination of the prior WPLP Funds and (a) is increased by the excess of all amounts contributed by such Limited Partner to the Prior WPLP Funds (including any net management fees paid by such Limited Partner) over all amounts distributed to such Limited Partner by the Prior WPLP Funds, and (b) decreased by all distributions to such Limited Partner pursuant to Section 6.6(f).

"Write Down" means the net amount by which the Value of any Portfolio Investment has been reduced pursuant to Section 6.9 after giving effect to any Write Ups.

"Write Up" means the amount by which the Value of any Portfolio Investment has been increased pursuant to Section 6.9, provided, that in no event will an upward adjustment cause the Value of a Portfolio Investment to exceed the Capital Contributions made in respect of such Portfolio Investment.

12.19. Waiver of Partition and Certain Other Rights; Nature of Interests in the Partnership. Each of the Partners irrevocably waives any right or power that such Partner might have:

(a) To cause the Partnership or any of its assets to be partitioned;

(b) To cause the appointment of a receiver for all or any portion of the assets of the Partnership;

(c) To compel any sale of all or any portion of the assets of the Partnership; and

(d) To file a complaint, or to institute proceeding at law or in equity, to cause the dissolution or liquidation of the Partnership.

Each of the Partners has been induced to enter into this Agreement in reliance upon the waivers set forth in this Section 12.19, and without those waivers no Partner would have entered into this Agreement. No Partner has any interest in specific Partnership property. The interests of all Partners in the Partnership are personal property.

12.20. Merger or Consolidation. The Partnership may merge or consolidate with one or more domestic or foreign limited partnership (the surviving or resulting partnership being referred to herein as the "Successor Partnership") in the manner and with the effect provided in the Act if (a) the General Partner determines that the merger or consolidation is in the best interest of the Partnership, (b) the agreement of merger or consolidation is approved by the holders of two-thirds (66.67%) of the Partnership Interests (other than the GP Affiliated Limited Partners) and (c) such merger does not change the economic terms or conditions of this Agreement.

12.21. Partner Approvals. Written approvals by Partners may be given in lieu of a meeting of Partners. A written approval may be in one or more instruments each of which may be signed by one or more Partners. A written approval need not be signed by all Partners or by all Partners of the class of Partners whose approval is required unless the approval of all Partners or all Partners of the class in question is required. No notice need be given of action proposed to be taken by written action, or an approval given by written action, unless specifically required by the Act.

12.22. Partner Meetings. Meetings of Partners or a class of Partners may be held on such terms, and after such notice, as the General Partner may establish. A meeting of all Partners will be held at least annually, within six months after the end of the Partnership's fiscal year. Special meetings of Partners may be called by the General Partner or Limited Partners who own 25% or more of the Partnership Interests owned by all Limited Partners. Notice of a meeting of Partners must be given to all Partners at least 15 calendar days before the date of the meeting.

12.23. Creditors Not Benefitted. Nothing in this Agreement is intended to benefit any creditor of the Partnership or a Partner. No creditor of the Partnership or a Partner will be entitled to require the General Partner to solicit or accept any loan or additional capital contribution for the Partnership or to

enforce any right which the Partnership or any Partner may have against a Partner, whether arising under this Agreement or otherwise.

12.24. Side Letters. Neither the Partnership nor the General Partner shall enter into any side letter or similar agreement with any existing or future investor (who is or becomes a Limited Partner) in the Partnership that has the effect of establishing rights or otherwise benefitting such investor in a manner more favorable in any material respect to such investor than the rights and benefits established in favor of any Limited Partner by this Agreement unless, in any such case, each Limited Partner has been offered the opportunity to receive such rights and benefits of such side letter.

