Section 1.704-1(b)(2)(ii)(d)(5) of the Treasury Regulations and reasonably expected distributions described in Section 1.704-1(b)(2)(ii)(d)(6) of the Treasury Regulations) and the amount of any such loss shall be allocated to the remaining Partners to the extent of, and in proportion to, the positive balances in such Partners' Capital Accounts. For purposes of Section 4.4.B and 4.4.C, and for no other purposes of this Agreement except as otherwise expressly provided in this Agreement, the Managing General Partner's Capital Account shall include the principal amount of the MGP Note;

C. If any Partner that is not obligated to restore any deficit balance in such Partner's Capital Account unexpectedly receives any adjustment, allocation or distribution described in Treasury Regulation Section 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(f)(5 or 1.704-1(b)(2)(ii)(d)(6), or otherwise has a deficit balance in its Capital Account, items of Partnership Profits shall be specially allocated to such Partner in an amount and manner sufficient to eliminate a deficit in its Capital Account created by such adjustments, allocations or distributions as quickly as possible. This Section 4.4.C is intended to constitute a "qualified income offset" as defined in Treasury Regulation Section 1.704-1(b)(2)(ii)(d); and

D. In the event any allocations of Losses are made to the Managing General Partner pursuant to Section 4.4.A, the Managing General Partner shall be subsequently allocated Profits until the aggregate amount of such allocations of Profits is equal to the aggregate amount of any such allocations of Losses to the Managing General Partner pursuant to Section 4.4.A.

Section 4.5. *Determination of Distributions and Allocations Among Partners.*

A. All Distributable Cash from Investments, and Distributable Capital Proceeds distributable to the Limited Partners, as a class, and all Profits and Losses allocable to the Limited Partners, as a class, shall be made to each Limited Partner entitled to such distribution or allocation in the ratio which the number of Units owned by such Limited Partner bears to the total number of Units owned by all Limited Partners entitled to such distribution or allocation.

B. All Distributable Cash from Investments distributable to the Limited Partners, as a class, shall be distributed, and all Profits or Losses not arising from a Capital Transaction shall be allocated, as the case may be, to the Persons who were Limited Partners as of the last day of the fiscal quarter for which such distribution or allocation is to be made. All such Profits and Losses shall be earned or incurred ratably throughout the year and allocated on a quarterly basis to those Partners who were Partners on the last day of such month.

C. Subject to the provisions of Article Seven, all Distributable Capital Proceeds shall be distributed, and all Profits and Losses arising from a Capital Transaction shall be allocated, to the persons who were Partners as of the date of such Capital Transactions.

Section 4.6. *Withholding.* Notwithstanding the provision of Sections 4.1 through 4.5, each Partner hereby authorizes the Partnership to withhold and to pay over, or otherwise pay, any withholding or other taxes payable by the Partnership or any of its Affiliates with respect to such Partner or as a result of such Partner's participation in the Partnership; if and to the extent that the Partnership shall be required to withhold or pay any such taxes, such Partner shall be deemed for all purposes of this Agreement to have received a payment from the Partnership as of the time such withholding or tax is required to be paid, which payment shall be deemed to be a distribution with respect to such Partner's Interest to the extent that the Partner (or any successor to such Partner's Interest) is then entitled to receive a distribution. To the extent that the aggregate of such payments to a Partner for any period exceeds the distributions to which such Partner is entitled for such period, the amount of such excess shall be considered a loan from the Partnership to such Partner, with interest at the lesser of the maximum rate permitted by law or at a rate equivalent to the Prime Rate, as determined from time to time which interest shall be treated as an item of Partnership Profit, until discharged by such Partner by repayment, which may be made in the sole discretion of the Managing General Partner out of distributions to which such Partner would otherwise be subsequently entitled. Any withholdings referred to in this Section 4.6 shall be made at the maximum applicable statutory rate under the applicable tax law unless the Managing General Partner shall have received an opinion of counsel or other evidence, satisfactory to the Managing General Partner, to the effect that a lower rate is applicable, or that no withholding is applicable.

Section 4.7. *Tax Allocations.* For United States Federal, state and local income tax purposes, except as otherwise provided in Section 4A.2, the income, gains, losses and deductions of the Partnership shall be allocated among the Partners in the same manner that each such item is allocated among the Capital Accounts.

Section 4.8. *Minimum Allocation to General Partner.* Notwithstanding any other provision of this Agreement, there shall be allocated to the Managing General Partner no less than 1% of each item of income, gain, loss, deduction or credit of the Partnership.

Section 4.9. *Series of Closings.* In the event of any Closing after a first Closing at which later Closing Units are sold for a per Unit price of $1,000 (without regard to discounts), there shall be an interim Closing of the books of the Partnership and the Managing General Partner shall distribute previously accrued Net Profit in a manner consistent with Section 4A.2.A and shall allocate Profit and Loss and cause the Capital Accounts of all Limited Partners (including Limited Partners admitted at such Closing) to be equalized and adjusted by booking-up expenses in a manner consistent with Section 4A.2.D.

ARTICLE FOUR-A MULTIPLE CLOSINGS

Section 4A.1. *Subsequent Closing.* In the event of any Closing at which Units are sold for a per Unit price other than $1,000 (a "Subsequent Closing") after an initial Closing or series of Closings at which Units are sold for a per Unit price of $1,000 (the "Initial Closing"), the following provisions of this Article Four-A shall apply.

Section 4A.2. *Distributions of Cash; Allocations of Profits and Losses.*

A. There shall be an interim closing of the books of the Partnership on the day before a Subsequent Closing as provided in Section 12.2C and Profits and Losses shall be determined for the portion of the year ending prior to such Subsequent Closing ending on such day. Such Profits and Losses shall be allocated to those Persons who are Partners on such date in accordance with Section 4.3. To the extent of the aggregate of Distributable Cash from Investments and Distributable Capital Proceeds, there shall be distributed within 45 days after the end of the quarter in which such Subsequent Closing occurs to each of the Partners admitted to the Partnership in the Initial Closing or any prior Subsequent Closing an amount of cash equal to the accrued and undistributed Net Profit, determined as of the day before such Subsequent Closing, in accordance with the provisions of Article Four. Any Net Profit accrued prior to the Subsequent Closing and not previously distributed shall be distributed from Distributable Capital Proceeds and Distributable Cash from Investments to the extent necessary to first equalize the Capital Accounts of all Limited Partners on a per Unit basis.

B. On the day before any Subsequent Closing, consistent with the provisions of Treasury Regulation Section 1.704-1(b)(2)(iv)(f), the Capital Accounts of all Limited Partners and the General Partner and the Carrying Values of all Partnership properties immediately prior to any Subsequent Closing shall be adjusted (consistent with the provisions hereof) upwards or downwards to reflect any Unrealized Gain or Unrealized Loss attributable to each Partnership property (as if such Unrealized Gain or Unrealized Loss had been recognized upon an actual sale of each such property and had been allocated to the Limited Partners and the Managing General Partner, at such time, pursuant to Sections 4.3 through 4.8). Such Unrealized Gain or Unrealized Loss shall be determined by the General Partner using such methods of valuation as it in its sole discretion deems appropriate. As used herein, Carrying Value shall initially mean with respect to any property the adjusted basis of such property for federal income tax purposes, and following any Subsequent Closing shall mean the value as adjusted from time to time in accordance with the provisions of this Section 4A.2.B. Unrealized Gain shall mean as of any date of determination, the excess, if any, of the fair market value of property (as determined under this Section 4A.2.B) as of such date of determination over the Carrying Value of such property as of such date of determination (prior to any adjustment to be made pursuant to this Section 4A.2.B as of such date), and Unrealized Loss shall mean as of any date of determination, the excess, if any, of the Carrying Value of property as of such date of determination (prior to any adjustment to be made pursuant to this Section 4A.2.B as of such date) over the fair market value of such property (as determined under this Section 4A.2.B) as of such date of determination. Any Profit or Loss attributable to the subsequent taxable disposition of any property, and

any Deemed Distribution Amount with respect to any property, shall be determined by the Partnership as if the adjusted basis of such property as of such date of disposition or deemed disposition was equal in amount to the Partnership's Carrying Value with respect to such property as of such date.

C. Upon the Partnership's taxable disposition of any property with respect to which there has been an adjustment of the Carrying Value, items of taxable gain and loss attributable thereto shall first be allocated among the Partners (in accordance with Treasury Regulation Section 1.704-1(b)(2)(iv)(f)(4) and a manner consistent with the principles of Section 704(c) of the Code) to take into account the Unrealized Gain or Unrealized Loss attributable to such property in the same manner as the Capital Accounts of such Partners were previously adjusted to reflect Unrealized Gain or Unrealized Loss. A Partner's Capital Account shall not be adjusted to reflect allocations made pursuant to this Section 4A.2.C.

D. The General Partner shall use its best efforts (i) to effect the revaluations required by Paragraph B hereof so that, immediately after any Subsequent Closing, taking into account distributions required by Paragraph A of this Section 4A.2, the Capital Accounts of all Limited Partners are equal, and (ii) to reconcile the revaluation with the price paid by the most recently admitted Additional Limited Partners for Units. Upon a revaluation under Paragraph B of this Section 4A.2, (i) (x) in the case of a sale of Units registered under the Securities Act of 1933, as amended, pursuant to the Registration Statement, Organization and Offering Expenses (other than Sales Commissions) or (y) in the case of the sale of Units to a Foreign Partner, organizational expenses (as defined in Treasury Regulation Section 1.709-2(a)), (either of such expenses referred to hereinafter as "Booked-up Expenses") shall be treated as assets and revalued on the books of the Partnership to their original cost, (ii) the subscription price per Unit for the then occurring Subsequent Closing shall reflect the treatment of Booked-up Expenses as assets of the Partnership, and (iii) the Capital Accounts of the previously admitted Limited Partners shall be booked up to reflect the revaluation of Booked-up Expenses and, in the case of the sale of Units registered under the Securities Act of 1933, as amended, pursuant to the Registration Statement, the Capital Accounts of all Limited Partners (other than any Foreign Partner) shall be charged with a pro rata share of the Partnership syndication expenses (as defined in Treasury Regulation Section 1.709-2(b)) other than Sales Commissions. Thereafter, the Booked-up Expenses that are Organization and Offering Expenses other than syndication expenses shall be amortized (solely for book purposes) over the remaining amortization period of such expenses and charged against the Profits and Losses of the Partnership in accordance with Sections 4.3-4.8. The General Partner may make such further allocations of Profit and Loss as may be necessary, as determined by the General Partner in its sole discretion, to equalize as quickly as possible after a Subsequent Closing the Capital Accounts of all the Limited Partners.

Section 4A.3. *Return of Capital Contribution.* If any Capital Contributions are returned to the Partners pursuant to Section 3.4 or 3.5.C, such amounts shall be returned to the General Partner and to the Limited Partners as a class, pro rata in proportion to the respective Capital Contributions of each such class, and the amount distributed to the Limited Partners as a class shall be allocated among them pursuant to Section 4.5.A.

ARTICLE FIVE

RIGHTS, POWERS AND DUTIES OF THE GENERAL PARTNERS

Section 5.1. *Management and Control of the Partnership.*

A. Subject to the Consent of the Limited Partners where required by this Agreement, the General Partners, within the authority granted to them under and in accordance with the provisions of this Agreement, shall have the full, exclusive and complete discretion in the management and control of the business and affairs of the Partnership and shall make all decisions regarding the business of the Partnership and shall have all of the rights, powers and obligations of a general partner of a limited partnership under the laws of the State. The Independent General Partners shall provide overall guidance and supervision with respect to the operations of the Partnership, shall perform all duties imposed on the directors of business development companies by the 1940 Act or by any exemptive order of the Securities and Exchange Commission granted to the Partnership and shall monitor the activities of Persons in which

the Partnership has invested. Except as otherwise expressly provided in this Agreement, the General Partners are hereby granted the right, power and authority to do on behalf of the Partnership all things which, in their sole judgment, are necessary or appropriate to manage the Partnership's affairs and fulfill the purposes of the Partnership.

B. No Limited Partner shall participate in the management of or have any control over the Partnership's business nor shall any Limited Partner have the power to represent, act for, sign for or bind the General Partners or the Partnership. The Limited Partners hereby Consent to the exercise by the General Partners of the powers conferred on them by this Agreement.

Section 5.2. *Authority of the General Partners.*

A. In addition to any other rights and powers that the General Partners may possess under this Agreement and the Act, the General Partners shall, except to the extent otherwise provided herein, have all specific rights and powers required or appropriate to their management of the Partnership business which, by way of illustration but not by way of limitation, shall include the following rights and powers:

(1) to acquire, hold, manage, sell, dispose of and otherwise deal with and invest in any security or securities (of any class or nature) of any Person and any real or personal property of any nature; provided, however, that:

(a) each Mezzanine or Other Investment made by the Partnership shall either be approved by the Independent General Partners, or shall, in the determination of the Independent General Partners, meet the Guidelines for preapproval and each Bridge Investment shall be approved by the Independent General Partners, prior to the purchase by the Partnership of such Mezzanine, Other or Bridge Investment, as the case may be;

(b) the Independent General Partners shall not approve the Partnership's acquisition of an Enhanced Yield Investment in a Non-Managed Company or certify that such Investment meets the Guidelines and the Managing General Partner shall not invest the assets of the Partnership in Temporary Investments that are not Exempt Investments, if more than 30 percent of the value of the total assets of the Partnership, as computed pursuant to Section 55(b) of the 1940 Act, is invested in Enhanced Yield Investments in Non-Managed Companies and Temporary Investments that are not Exempt Investments;

(c) the Independent General Partners shall limit the amount of Available Capital invested in Coinvestments so that at the expiration of the Investment Period at least 15% of Net Capital Contributions represented by Enhanced Yield Investments have been invested in (i) Enhanced Yield Investments issued in a transaction in which greater than 50% of the principal amount of each class of debt security and of the number of shares of each class of equity security constituting a part of the Enhanced Yield Investment purchased by the Partnership have been purchased in such transaction by institutional investors that are not Affiliates of the Fund or of the Managing General Partner or (ii) in Enhanced Yield Investments that are not Coinvestments;

(d) the Partnership shall not invest more than 10 percent of Available Capital in any one Mezzanine Investment, except that the Partnership may, with the approval of the Independent General Partners, make two Mezzanine Investments each utilizing up to 20 percent of Available Capital (the "Diversification Requirement"); and

(e) the Partnership shall not invest more than 20 percent of Available Capital in any one Bridge Investment, except that the Partnership may make one Bridge Investment utilizing up to 25 percent of Available Capital and shall not make any Bridge Investment that would result in more than 50 percent of Available Capital being invested in Bridge Investments;

(f) the Partnership shall not invest more than 10% of Available Capital in Other Investments;

(g) the Partnership shall not invest more than 15% of the Partnership's Available Capital in securities constituting senior debt that are not purchased as a permanent component of a Mezzanine or Other Investment.

(2) to incur all expenditures permitted by this Agreement;

(3) to employ and dismiss from employment any and all employees, agents, attorneys, consultants, custodians of the assets of the Partnership, transfer agents or servicing agents, including employment of the General Partners and their Affiliates and to designate employees or agents of the Partnership, who may be employees or agents of a General Partner, as officers with titles including but not limited to "vice-president," "president," "treasurer," "secretary," "assistant secretary," "assistant treasurer," "managing director" and "chairman" and who in such capacity may act for and on behalf of the Partnership, as and to the extent authorized by the General Partners;

(4) to enter into, execute, amend, supplement, acknowledge, deliver and perform any and all agreements, contracts, documents, certifications and instruments, including, but not limited to, contracts with banks, trust companies or other investment advisers, including General Partners and any of their Affiliates for the performance of such functions, including the investment and reinvestment of all or part of the Partnership's assets, execution of portfolio transactions, and any or all administrative functions and make regulatory filings necessary or convenient in connection with the acquisition, holding, and disposition of and dealing with the investments of the Partnership;

[(5) to borrow money and issue evidences of indebtedness, including multiple classes of senior indebtedness or a single class of limited partnership interests senior to the Units to the extent permitted by the 1940 Act, in furtherance of any or all of the purposes of the Partnership, and to secure the same by mortgage, pledge or other lien on the Partnership's investments or any other assets of the Partnership, and to refinance and/or repay, in whole or in part, any such borrowings, indebtedness or security and repurchase or retire, in whole or in part, any such interests senior to the Units;]

(6) to protect and preserve the title and interest of the Partnership with respect to the assets at any time owned or acquired by the Partnership;

(7) to collect all amounts due to the Partnership, and otherwise to enforce all rights of the Partnership, and in that connection to retain counsel and institute such suits or proceedings, in the name and on behalf of the Partnership, or, if the Independent General Partners shall so determine, in the name of the Partners;

(8) to the extent permitted by the 1940 Act, to designate and appoint one or more agents for the Partnership who shall have such authority as may be conferred upon them by the Independent General Partners, and who may perform any of the duties, and exercise any of the powers and authority, conferred upon the Independent General Partners hereunder, including, but not limited to, designation of one or more agents as authorized signatories on any bank accounts maintained by the Partnership;

(9) to establish and maintain one or more bank accounts for the Partnership in such bank or banks having assets of at least $50,000,000 as the Independent General Partners may, from time to time, designate as depositaries of the funds of the Partnership;

(10) to cause securities owned by the Partnership to be registered in the Partnership's name or in the name of a nominee or to be held in street name, as they shall elect and to cause the assets of the Partnership to be held in custody in compliance with the requirements of the 1940 Act;

(11) to the extent that funds of the Partnership are available, to pay all debts and obligations of the Partnership;

(12) to the extent that funds of the Partnership are available, to make all distributions periodically to the Partners in accordance with the provisions of this Agreement;

(13) to enter into, execute, deliver and perform any sales, agency or dealer agreements and escrow agreements with respect to the sale of Units under the Registration Statement and to provide for the distribution of such Units by the Partnership through one or more underwriters (which may be Affiliates of a General Partner) or otherwise, to pay, or cause the Partnership to pay, the fees, commissions, charges and expenses related thereto, and to indemnify and hold harmless that firm (and any selected dealer participating with that firm in a distribution of Additional Limited Partners' Interests pursuant to the terms of such agreement) from any liability incurred by it in so acting for the Partnership pursuant to the terms of such agreement;

(14) to establish and maintain the books and records of the Partnership in accordance with this Agreement;

(15) to establish valuation principles and to apply periodically such principles to the Partnership's investments;

(16) to perform all normal business functions, and otherwise operate and manage the business and affairs of the Partnership, in accordance with and as limited by this Agreement;

(17) to establish and maintain a Capital Account for each Partner in accordance with this Agreement;

(18) subject to the provisions of Section 5.4, to deal with, or otherwise engage in business with, or provide services to, and receive compensation therefor from, any Person who has in the past dealt or engaged in business with the General Partners or any of their Affiliates or may in the future have such dealings or do such business with General Partners or any of their Affiliates;

(19) to make temporary investments of Partnership capital in Temporary Investments pending final investment disposition or cash distributions to the Partners;

[(20) to enter into interest rate swap agreements and interest rate cap agreements;]

(21) to engage in any kind of activity and to perform and carry out contracts of any kind necessary to, or in connection with or convenient or incidental to, the accomplishment of the purposes of the Partnership so long as said activities and contracts may be lawfully carried on or performed by a partnership under the laws of the State, in accordance with and as limited by this Agreement.

The Limited Partners hereby Consent and agree to the exercise by the General Partners of any of the foregoing rights and powers in addition to any other right or power exercised by the General Partners as required or appropriate to their management of the Partnership and to the issuance by the Partnership of any limited partner interest senior to the Units.

B. The Managing General Partner is hereby granted the exclusive power and authority from time to time to do the following:

(1) subject to the supervision of the Independent General Partners, (a) to supervise the Investment Adviser in managing and controlling the investments of the Partnership and in providing services to the Partnership as provided in the investment advisory agreement among the Investment Adviser, the Partnership and the Other Partnership to be otherwise approved by the Independent General Partners, and (b) in connection therewith to carry out those activities set forth in Section 5.2.A(4);

(2) to offer to provide and, if accepted, provide, management assistance to Managed Companies to the extent required by the 1940 Act or otherwise considered necessary or incidental by the Managing General Partner;

(3) to admit Additional Limited Partners to the Partnership in accordance with Section 3.3.A and to admit an assignee of a Limited Partner's Interest to be a Substituted Limited Partner in the Partnership, pursuant to and subject to the terms of Section 8.3, without the Consent of any Limited Partner;

(4) to perform all duties imposed on a "tax matters partner" of the Partnership by Sections 6221 through 6232 of the Code, including (but not limited to) the following: (a) the power to conduct all audits and other administrative proceedings (including windfall profit tax audits) with respect to Partnership tax items; (b) the power to extend the statute of limitations for all Partners with respect to Partnership tax items; (c) the power to file a petition with an appropriate federal court for review of a final Partnership administrative adjustment; and (d) the power to enter into a settlement with the Internal Revenue Service on behalf of, and binding upon, those Limited Partners having less than 1% interest in the Profits of the Partnership unless a Limited Partner notifies the Internal Revenue Service and the Managing General Partner that the Managing General Partner may not act on such Limited Partner's behalf; and

(5) to provide such administrative and managerial services to the Partnership as shall be necessary for the operation of the Fund or to enter into an administrative services agreement with the

Fund Administrator pursuant to which the Fund Administrator will provide some or all of such services.

The grant of exclusive power and authority to the Managing General Partner under this Section 5.2.B in no way limits the rights, powers or authority of the Independent General Partners under this Agreement, or as otherwise provided by the 1940 Act or by exemptive order issued by the Securities and Exchange Commission thereunder.

C. The General Partners, in the name and on behalf of the Partnership, subject to the approval of the Independent General Partners, are authorized to enter into an advisory agreement with the Investment Adviser pursuant to which the Investment Adviser will provide investment advisory services to the Partnership.

D. The Independent General Partners, subject to such approvals by the Limited Partners as may be required by the 1940 Act, in the name and on behalf of the Partnership, are authorized to appoint the Accountants for the Partnership.

E. Any Person dealing with the Partnership or the General Partners may rely upon a certificate signed by a General Partner, thereunto duly authorized, as to:

(1) the identity of the General Partners or any Limited Partner;

(2) the existence or non-existence of any fact or facts which constitute conditions precedent to acts by the General Partners or in any manner germane to the affairs of the Partnership;

(3) the Persons who are authorized to execute and deliver any instrument or document of the Partnership; or

(4) any act or failure to act by the Partnership or as to any other matter whatsoever involving the Partnership or any Partner.

F. Any document executed by any of the General Partners while acting in the name and on behalf of the Partnership shall be deemed to be the action of the Partnership vis-a-vis any third parties (including the Limited Partners as third parties for such purpose).

G. If there is a determination by the Internal Revenue Service, which in the opinion of counsel is likely to be sustained by a court of competent jurisdiction, or if at any time in the opinion of counsel **[it is likely]** [there is a substantial risk], that the Partnership will or, at some future date, would be classified as a corporation or a publicly traded partnership for federal income tax purposes, the Managing General Partner may take such steps as it deems necessary or desirable to minimize the adverse tax consequences of such classification including, without limitation, (i) suspend all transfers of Units for one quarterly transfer date, (ii) amend this Partnership Agreement to the extent necessary to ensure that the Partnership will, in the opinion of counsel, be classified as a partnership for federal income tax purposes, (iii) reorganize the Partnership so that it qualifies as a regulated investment company pursuant to section 851 of the Code or (iv) liquidate, in a prompt or in an orderly fashion as determined by the General Partners in their sole discretion, the Partnership.

Section 5.3. *Dealings of the General Partners and Their Affiliates with the Partnership.* Without limitation upon the other powers set forth herein, the Independent General Partners are expressly authorized, in the name of and on behalf of the Partnership, to:

(1) authorize and approve the purchase of Coinvestments, subject to the terms and conditions of any exemptive order issued by the Securities and Exchange Commission under the 1940 Act with regard to the purchase of Coinvestments;

(2) pay the Managing General Partner a quarterly Fund Administration Fee commencing from the date of the first Closing payable in advance (prorated for the period from the date of the first Closing to the end of the then current fiscal quarter) (it being understood that all or part of any such fee paid to the Managing General Partner may be paid by the Managing General Partner to the Fund Administrator). The Fund Administration Fee shall be equal to (a) for each of the first four years of operation of the Partnership, an annual amount equal to the greater of (i) 1% of the gross offering

proceeds of the Units of the Partnership but not greater than $500,000 (the "Minimum Fee"), and (ii) .45% of the amount of net offering proceeds, (b) for each of the next four years of operation of the Partnership, an annual amount equal to the greater of (i) the Minimum Fee and (ii) (x) an amount equal to .45% of the excess of the amount of net offering proceeds of the Partnership and the Other Partnership over 50% of the amount of capital reductions of the Partnership and the Other Partnership, but in no event exceeding in aggregate the sum of $3.2 million and all direct out-of-pocket expenses incurred on behalf of the smaller, measured in terms of gross offering proceeds, of the Partnership and the Other Partnership, (y) multiplied by a fraction the numerator of which is the number of Units issued by the Partnership and the denominator of which is the sum of such number of Units and the number of units of limited partner interest issued by the Other Partnership, and (c) thereafter for each year equal to the annual sum of [$300,000] **[$100,000]** and all actual out-of-pocket expenses incurred on behalf of the Partnership (but not for compensation of executive officers of the Managing General Partner or the Fund Administrator) but in no event exceeding in aggregate [$2.5] **[$1.0]** million with respect to any year, as compensation for managing and controlling the affairs of the Partnership; and reimburse the Managing General Partner for its or, if incurred by the Fund Administrator, the Fund Administrator's actual, out-of-pocket extraordinary fees and expenses, including but not limited to extraordinary legal fees and expenses, statutory insurance and bonding expenses, and optional insurance and bonding expenses permitted by the 1940 Act, but no other expenses, incurred on behalf of the Partnership in connection with the management of the Partnership; provided however, that the Independent General Partners may increase the amount of Fund Administration Fee at any time without the Consent of the Limited Partners in order to compensate the Managing General Partner appropriately for the market value of the costs and expenses related to its services; and

(3) pay the Investment Adviser an Investment Advisory Fee commencing from the date of the first Closing payable quarterly in advance (prorated for the period from the date of the first Closing to the end of the then current fiscal quarter), for so long as the Investment Adviser is the investment adviser to the Partnership, equal, on an annual basis, to the greater of (a) the product of $2,000,000 and a fraction, the numerator of which is the number of Units issued by the Partnership and the denominator of which is the sum of such number of Units and the number of units of limited partner interest issued by the Other Partnership, and (b) 1.0% of Available Capital (with respect to the calculation of any quarterly fee, as of the first day of the quarter to which the fee relates) as compensation for the management of the Partnership's Investments; and reimburse the Investment Adviser for those expenses as are specifically set forth in clause (1) of the definition of "Acquisition Expenses" incurred on behalf of the Partnership including, with respect to any legal fees and expenses referred to in such clause, the legal fees and expenses of the law department of Equitable Life, but no other fees or expenses; provided that, as of any time of determination of the amount due the Investment Adviser pursuant to the Investment Advisory Fee, such amount due shall be reduced by an amount equal to (x) the sum of (i) 80% of any commitment, transaction, investment banking and "break-up" or other such similar fees received by the Investment Adviser in cash or securities to the extent allocable in the good faith judgment of the Investment Adviser to Enhanced Yield Investments made, proposed or committed to be made by the Partnership and (ii) any distributions made by the Partnership to the Managing General Partner pursuant to Sections 4.1B(1) and 4.2B(1) from Temporary Investments, minus (y) the amount of such fees and distributions previously credited against the Investment Advisory Fee. If, upon the termination of the Partnership, or upon the earlier termination of the Investment Adviser, the amount equal to 80% of the fees referred to in clause (i) received by the Investment Adviser exceeds the aggregate amount of the Investment Advisory Fee paid or payable to the Investment Adviser, the Investment Adviser shall, at such time, pay such excess to the Partnership. After the initial term set forth herein, the amount and terms of Investment Advisory Fee shall thereafter be as approved by the Independent General Partners.

For the purpose of this Section 5.3, "net offering proceeds" means the sum of the amount of the gross proceeds of the sale of Additional Limited Partners' Interests net of Organization and Offering Expenses; "capital reductions" mean the amount of capital distributed to the Partners and realized losses from investment through the end of such preceding quarter.

Section 5.4. *Prohibited Transactions.* Notwithstanding anything to the contrary contained herein, the following transactions are specifically prohibited to the Partnership except to the extent permitted by this Agreement:

A. The Partnership shall not lend money or other property to a General Partner, the Investment Adviser or any of their Affiliates, except as permitted by the 1940 Act or any exemptive order issued by the Securities and Exchange Commission thereunder.

B. The Partnership shall not sell or purchase any security or other property to or from a General Partner, the Investment Adviser or any of their Affiliates, or effect any transaction in which a General Partner or the Investment Adviser or any of their Affiliates is a joint or a joint and several participant or effect any reciprocal transactions or business arrangements in which a General Partner, the Investment Adviser or any of their Affiliates is a party, except as permitted by the 1940 Act or any exemptive order issued by the Securities and Exchange Commission thereunder.

C. Expenses of the Partnership shall not be billed except directly to the Partnership (but shall be paid pursuant to the terms of this Agreement), and no reimbursements shall be made therefor to the General Partners or any of their Affiliates except as permitted by Sections 5.3 and 5.7.

Section 5.5. *Restrictions on the Authority of the General Partners.*

A. Without the Consent of all the Limited Partners, but subject to the provisions of Section 11.2, the General Partners shall not have the authority to:

(1) do any act in contravention of this Agreement;

(2) do any act that would make it impossible to carry on the ordinary business of the Partnership;

(3) admit a Person as a General Partner, except as provided in this Agreement;

(4) admit a Person as a Limited Partner, except as provided in this Agreement;

(5) continue the business with Partnership property on the retirement, removal or Incapacity of a General Partner, except as provided in the Agreement; or

(6) knowingly perform any act, unless specifically required by the terms of this Agreement, that would subject any Limited Partner to liability as a general partner in any jurisdiction.

In the event that the written Consent or ratification of all of the Limited Partners is obtained under this Section 5.5A, the General Partners agree promptly to amend this Agreement to the extent necessary to reflect such actions.

B. Except as permitted by the 1940 Act or any exemptive order issued by the Securities and Exchange Commission thereunder, the General Partners and their Affiliates shall not, acting as principal, (1) sell any security or other property to the Partnership or to any Person controlled by the Partnership; (2) purchase any security or other property from the Partnership or from any Person controlled by the Partnership; (3) borrow money or other property from the Partnership or from any Person controlled by the Partnership; and (4) effect any transaction in which the Partnership or a Person controlled by the Partnership is a joint or a joint and several participant with such General Partner or Affiliate thereof. Except as permitted by the 1940 Act or any exemptive order issued by the Securities and Exchange Commission thereunder, the Partnership shall not purchase any Enhanced Yield Investment that has been sponsored by any Affiliate of the Managing General Partner.

C. Except as permitted by the 1940 Act or any exemptive order issued by the Securities and Exchange Commission thereunder, the General Partners shall not, acting as agent or broker, accept from any source any compensation, other than pursuant to Section 5.7 for the purchase or sale of any property to or for the Partnership or any Person controlled by the Partnership, or for effecting any such transaction.

D. The Independent General Partners shall not cause the Partnership to consent to, or join in, any waiver, amendment, or modification of the terms of any partnership agreement, limited partnership agreement, management agreement or investment contract to which it or any Affiliate thereof is a party unless, in the good faith judgment of the Independent General Partners, such waiver, amendment, or modification would be in the best interest of the Partnership.

E. Except as provided in Section 5.2G, without the Consent of a majority in Interest of the Limited Partners, but subject to the provisions of Section 11.2, the Independent General Partners shall not have the authority to:

(1) sell, abandon or otherwise dispose of at any one time all or substantially all the assets of the Partnership, except for a liquidation sale of a final Enhanced Yield Investment or component thereof or security related thereto remaining as a result of the sale of Enhanced Yield Investments in the ordinary course of business; or

(2) elect to dissolve the Partnership.

Section 5.6. *Duties and Obligations of General Partners.*

A. The General Partners shall take all action that may be necessary or appropriate for the continuation of the Partnership's valid existence as a limited partnership under the laws of the State (and each other jurisdiction in which such existence is necessary to protect the limited liability of the Limited Partners or to enable the Partnership to conduct the business in which it is engaged) and for the acquisition, holding and disposition of the Partnership's investments in accordance with the provisions of the Agreement and applicable laws and regulations.

B. Subject to Section 5.8 hereof, the General Partners shall devote to the Partnership such time as the General Partners shall deem to be necessary to conduct the Partnership business and affairs in an appropriate manner.

C. The General Partners shall be under a duty and obligation to conduct the affairs of the Partnership in the best interests of the Partnership, including the safekeeping and use of all Partnership funds and assets (whether or not in the immediate possession or control of the General Partners) and the use thereof for the benefit of the Partnership. Neither the General Partners nor any of their Affiliates shall enter into any transactions with the Partnership that may significantly benefit the General Partners or such Affiliates unless the transaction is expressly permitted hereunder and under the 1940 Act or an exemptive order issued by the Securities and Exchange Commission thereunder or is entered into principally for the benefit of the Partnership in the ordinary course of Partnership business.

D. The General Partners shall use their best efforts, in the conduct of the Partnership's business, to put all Persons with whom the Partnership does business or in whom the Partnership invests on notice that the Limited Partners are not liable for Partnership obligations and all agreements to which the Partnership is a party shall include a statement to the effect that the Partnership is a limited partnership organized under the Act; but the General Partners shall not be liable to the Limited Partners for any failure to give such notice to such Persons or if any such agreement fails to contain such statement.

E. The General Partners shall at all times conduct their affairs and the affairs of all of their Affiliates and of the Partnership in such a manner that neither the Partnership nor any Partner nor any Affiliate of any Partner will have any personal liability with respect to any Partnership indebtedness, unless in the case of personal liability with respect to the Partnership, the General Partners or any Affiliate of the General Partners, the General Partners are of the opinion that such conduct would be in the best interests of the Limited Partners.

F. The General Partners shall prepare or cause to be prepared and shall file on or before the due date (or any extension thereof) any Federal, state or local tax returns required to be filed by the Partnership. The General Partners shall cause the Partnership to pay any taxes payable by the Partnership; provided, however, that the General Partners shall not be required to cause the Partnership to pay any tax so long as the General Partners or the Partnership are in good faith and by appropriate legal proceedings contesting the validity, applicability or amount thereof and such contest does not materially endanger any right or interest of the Partnership.

G. The General Partners shall, from time to time, submit to any appropriate state securities administrator all documents, papers, statistics and reports required to be filed with or submitted to such state securities administrator.

H. The General Partners shall use their best efforts to cause the Partnership to be formed, reformed, qualified to do business, or registered under any applicable assumed or fictitious name, statute or similar law in any state in which the Partnership then makes investments or transacts business, if such formation,

reformation, qualification or registration is necessary in order to protect the limited liability of the Limited Partners or to permit the Partnership lawfully to own, make investments or transact business.

I. The General Partners shall, from time to time, prepare and file, or cause to be prepared and filed, any amendment to the Certificate or this Agreement and other similar documents that are required by law to be filed and recorded for any reason, in such office or offices as are required under the laws of the State or any other state in which the Partnership is then formed or qualified. The General Partners shall promptly register the Partnership under any assumed or fictitious name, statute or similar law in force and effect in each state in which the Partnership is then formed or qualified. The General Partners shall do all other acts and things (including making publication or periodic filings of the Certificate or this Agreement or other similar documents, or amendments thereto) that may now or hereafter be required, or deemed by the General Partner to be necessary, (1) for the perfection and continued maintenance of the Partnership as a limited partnership under the laws of the State and each other state in which the Partnership is then formed, (2) to protect the limited liability of the Limited Partners as limited partners under the laws of the State and each other state in which the Partnership is then formed or qualified and (3) to cause the books and records of the Partnership, and if required by law, to cause the Certificate and this Agreement to reflect accurately the agreement of the Partners, the identity of the Limited Partners and the General Partners and the amounts of their respective Capital Contributions.

J. The General Partners shall use their best efforts to assure that in all correspondence, contracts, agreements and other documents relating to the Partnership (1) it shall plainly appear, or be so stated, that the Partnership is a limited partnership organized under the Act, (2) the full name of the Partnership shall at all times be used and (3) wherever appropriate, it shall be expressly stated that, for purposes of determining the liability of the Limited Partners, the Act shall be controlling; but the General Partners shall not be liable to the Limited Partners for any failure to make such statements.

K. The Managing General Partner shall use its best efforts to maintain at all times a net worth not less than $5,000,000 or at such lower level that is sufficient, in the opinion of counsel to the Partnership, to meet the net worth requirements of any statute, Federal income tax regulations or the courts applicable to a general partner of a limited partnership in order to ensure that the Partnership will not fail to be classified for Federal income tax purposes as a partnership rather than as an association taxable as a corporation. The Managing General Partner shall not declare or pay any dividend to the extent that, as a result of such declaration or payment, the Managing General Partner would fail to maintain such net worth.

Section 5.7. *Reimbursement and Compensation.*

A. The Managing General Partner shall be entitled to receive out of Partnership funds available therefor reimbursement of all Organization and Offering Expenses (excluding any selling commission or actual marketing or sales expenses) expended by it or by the Fund Administrator (in such case for reimbursement by the Fund Administrator) on behalf of the Partnership; provided that to the extent that the aggregate of such expenses, together with similar expenses paid by the Partnership, exceed the product of $6,000,000 and a fraction, the numerator of which is the number of Units issued by the Partnership and the denominator of which is the sum of such number of Units and the number of units of limited partner interest issued by the Other Partnership, the reimbursement to the Managing General Partner will be reduced pro rata.

B. As compensation for services rendered to the Partnership, each Independent General Partner initially will be paid (i) the annual sum of $30,000 for each of the first three years of the operations of the Partnership, and $15,000 for each year thereafter, payable in quarterly installments; (ii) the sum of $500 for each meeting of the Independent General Partners attended by such Independent General Partner; (iii) if a committee is appointed by the Independent General Partners, the sum of $500 for each such committee meeting attended; provided, however, that if such committee meeting is held on the same day as a meeting of Independent General Partners the sum paid for attendance at such committee meeting shall be $250; and (iv) all out-of-pocket expenses relating to attendance at the meetings, committee or otherwise, of the Independent General Partners. The amount of compensation payable to the Independent General Partners shall be reviewed annually by the Independent General Partners and may be increased or decreased by the Independent General Partners to provide for such compensation as the Independent

General Partners may deem reasonable under the circumstances. Payment of compensation to an Independent General Partner hereunder shall not be deemed a distribution for purposes of Section 4.1 nor shall such payment affect such Person's right to receive any distribution for purposes of Section 4.1 nor shall such payment affect such Person's right to receive any distribution to which he would otherwise be entitled as a Limited Partner. Compensation paid to Independent General Partners for consulting services must be approved by the Independent General Partners.

C. The General Partners shall not, either in their capacity as General Partners or in their individual capacity, receive any salary, fees, commissions, profits, distributions, or other compensation except as provided or permitted under Article Four or Article Five.

Section 5.8. *Other Businesses of Partners.* Subject to Section 5.5A any Partner and any Affiliate of any Partner may engage in or possess an interest in other business ventures of any kind, nature or description, independently or with others, whether or not such ventures are competitive with the Partnership. Neither the Partnership nor any Partner shall have any rights or obligations by virtue of this Agreement or the limited partnership relationship created hereby in or to such independent ventures or the income or profits or losses derived therefrom, and the pursuit of such ventures, even if competitive with the business of the Partnership, shall not be deemed wrongful or improper. Nothing in this Agreement shall be deemed to prohibit the General Partners or any Affiliate of the General Partners from dealing, or otherwise engaging in business, with Persons transacting business with the Partnership. The General Partners will act within the procedures and guidelines established by the Independent General Partners and as set forth in any exemptive order issued by the Securities and Exchange Commission under the 1940 Act or otherwise designed to minimize any conflict between the Partnership's business and other business interests of the General Partners and their Affiliates. The Managing General Partner hereby consents and agrees promptly to furnish the Independent General Partners, upon request, with information on a confidential basis as to any investments made by it or any of its Affiliates, for their own account or for others based upon their recommendation.

Section 5.9. *Exculpation and Indemnification of the General Partners.*

A. Neither any of the General Partners nor any of their Affiliates shall be liable, responsible or accountable in damages or otherwise to the Partnership or any Limited Partner for any loss or damage incurred by reason of any act or omission performed or omitted by such General Partner or such Affiliate in good faith and reasonably believed by it to be in or not opposed to the best interests of the Partnership and within the scope of the authority granted to it by this Agreement or by law or by the Consent of the Limited Partners in accordance with the provisions of this Agreement, provided that such General Partner or such Affiliate was not guilty of gross negligence, willful misfeasance, bad faith or reckless disregard of its duties with respect to such act or omission and, with respect to the Managing General Partner and any Affiliate of the Managing General Partner, was not guilty of any of the foregoing, negligence or misconduct with respect to such act or omission. To the fullest extent permitted by law, the Partnership, out of its assets and subject to Section 5.10, and not out of the assets of the General Partners, shall indemnify and hold harmless any General Partner and any of its Affiliates who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (including any action by or in the right of the Partnership), by reason of any act or omission or alleged act or omission arising out of such Person's activities as a General Partner or as an officer, partner, director, shareholder or Affiliate of a General Partner if such activities were performed in good faith and were reasonably believed by such Person to be in or not opposed to the best interests of the Partnership and to be within the scope of the authority conferred by this Agreement or by law or by the Consent of the Limited Partners in accordance with the provisions of this Agreement, against losses, damages, or expenses for which such Person has not otherwise been reimbursed (including attorneys' fees, judgments, fines and amounts paid in settlement) actually and reasonably incurred by such Person in connection with such action, suit or proceeding so long as such Person was not guilty of gross negligence, willful misfeasance, bad faith or reckless disregard of such Person's duties with respect to such acts or omissions and, with respect to the Managing General Partner or any Affiliate of the Managing General Partner, was not guilty of any of the foregoing, negligence or

misconduct with respect to such acts or omissions, and, with respect to any criminal action or proceeding, and had no reasonable cause to believe his conduct was unlawful and provided (1) that the satisfaction of any indemnification and any holding harmless shall be from and limited to Partnership assets and no Limited Partner shall have any personal liability on account thereof, and (2) that such an indemnification of an Affiliate shall be limited to losses, damages or expenses (a) which such Affiliate incurred solely as a result of such Affiliate's status as an Affiliate of a General Partner or (b) to which the Affiliate is subject because it has performed an obligation of a General Partner on behalf of such General Partner. Notwithstanding the foregoing, absent a judicial or administrative determination that a General Partner or any of its Affiliates seeking indemnification was not liable on the merits or guilty of disabling conduct within the meaning of Section 17(h) of the 1940 Act, the decision by the Partnership to indemnify a General Partner or any such Affiliate must be based upon the reasonable determination of independent counsel or Independent General Partners not parties to the claim for which indemnification is to be sought, after review of the facts, that such disabling conduct did not occur. The Partnership may not incur that portion of liability insurance which insures the General Partners or their Affiliates for any liability as to which the General Partners may not be indemnified pursuant to this Section 5.9.

B. Notwithstanding the provisions of Section 5.9A, neither the Managing General Partner, any controlling Person of the Managing General Partner nor any of its Affiliates acting as a broker-dealer in connection with the offering of Units shall be indemnified by the Partnership for any losses, liabilities or expenses arising from or out of an alleged violation of Federal or state securities laws unless (1) there has been a successful adjudication on the merits of each count involving alleged securities violations and a court shall have approved the proposed indemnification, (2) such claims have been dismissed with prejudice on the merits by a court of competent jurisdiction and a court shall have approved the proposed indemnification or (3) in the case of a legal proceeding which has been settled without a court ruling, a court, after having been informed in writing of the terms of the proposed indemnification and of the opinion of the Securities and Exchange Commission with respect to such indemnification, shall have approved the proposed indemnification.

Section 5.10. *Indemnification of the Independent General Partners by Certain General Partners.* To the extent that an Independent General Partner has a valid claim for indemnification from the Partnership pursuant to Section 5.9 and has pursued such claim against the Partnership, but such claim has not been satisfied, the Managing General Partner shall satisfy such claim; provided, however, that the maximum aggregate amount payable hereunder by the Managing General Partner shall be $100 million which maximum aggregate amount shall be reduced by the amount of any indemnification paid by the Managing General Partner to the general partners of the Other Partnership who are not "interested persons" (as such term is defined in the 1940 Act) of the Other Partnership.

Section 5.11. *Indemnification of the Investment Adviser.* To the extent permissible under the 1940 Act and State law, upon the approval of the Independent General Partners, the investment management agreement in effect with the Investment Adviser may provide for indemnification by the Partnership of the Investment Adviser, or any Affiliate thereof for any act or omission or alleged act or omission arising out of its activities as Investment Adviser to the Partnership.

Section 5.12. *Authorization of Registration Statement.* Each of the Partners and each other Person who may acquire an interest in the Partnership hereby approves, ratifies and confirms the execution, delivery and performance of the Agreement, the Investment Advisory Agreement, to be entered into between the Investment Adviser and the Partnership, the Agency Agreement, to be entered into among the Managing General Partner, Merrill Lynch, Pierce, Fenner & Smith Incorporated and the Partnership, the Administrative Services Agreement to be entered into among the Managing General Partner, the Fund Administrator and the Partnership, the Custodian Agreement to be entered into between The First Jersey National Bank and the Partnership and the other transactions described in or contemplated by the Registration Statement, and agrees that the General Partners are authorized to execute, deliver and perform the other agreements, acts, transactions, and matters contemplated hereby or described in or contemplated by the Registration Statement on behalf of the Partnership without any further act, approval or vote of the Partners of the Partnership, notwithstanding any other provision of this Agreement, the Act or any applicable law, rule or regulation.

ARTICLE SIX

TRANSFERABILITY OF GENERAL PARTNER'S INTEREST

Section 6.1. *Withdrawal or Retirement by an Independent General Partner.* Subject to Section 6.5, an Independent General Partner may voluntarily resign or withdraw from the Partnership, but only upon compliance with all of the following procedures:

A. The Independent General Partner shall give Notification of resignation or withdrawal to the General Partners at least 60 days prior to the date on which he proposes to withdraw.

B. Subject to Section 3.1B, the remaining Independent General Partners shall designate a successor Independent General Partner who shall hold such office as provided in Section 3.1C.

C. The withdrawing Independent General Partner shall cooperate fully with the successor Independent General Partner so that the responsibilities of the withdrawing Independent General Partner may be transferred to the successor Independent General Partner with as little disruption of the Partnership's business and affairs as practicable.

The General Partners shall make such amendments to the Certificate and to this Agreement and execute and file for recordation such amendments or other documents or instruments as are necessary to reflect the termination of the Interest of the withdrawing General Partner, the fact that such withdrawing General Partner has ceased to be a General Partner, and the admission of such successor General Partner, all without the Consent of the Limited Partners.

Section 6.2. *Withdrawal or Retirement by the Managing General Partner.* Subject to Section 6.5, the Managing General Partner may voluntarily resign or withdraw from the Partnership or assign all of its Interest as General Partner to another Person, but only upon compliance with all of the following procedures:

A. The Managing General Partner shall, at least 60 days prior to such withdrawal, give Notification to all Partners that it proposes to withdraw and that there be substituted in its place a Person designated and described in such Notification or that it proposes to assign its Interest as General Partner to such Person.

B. Enclosed with the Notification shall be a certificate, duly executed by or on behalf of such proposed successor Managing General Partner, to the effect that: (1) it is experienced in performing (or employs sufficient personnel who are experienced in performing) functions that the Managing General Partner is required to perform under this Agreement; (2) it has a net worth which, in the opinion of counsel to the Partnership, is sufficient to meet the net worth requirements of any statute, federal income tax regulations or the courts applicable to a general partner of a limited partnership in order to ensure that the Partnership will not fail to be classified for federal income tax purposes as a partnership rather than as an association taxable as a corporation; and (3) it is willing to become the Managing General Partner under this Agreement and will assume all duties and responsibilities thereunder, without receiving any compensation for services from the Partnership in excess of that payable under this Agreement to the withdrawing Managing General Partner and without receiving any participation in the withdrawing Managing General Partner's interest other than that agreed upon by the Managing General Partner and the successor Managing General Partner.

C. If a Managing General Partner resigns or withdraws or assigns all of its Interest as General Partner, there shall be on file at the principal office of the Partnership, prior to such withdrawal, audited financial statements of the proposed successor Managing General Partner, as of a date not earlier than 12 months prior to the date of the Notification required by this Section 6.2, certified by a nationally or regionally recognized firm of independent certified public accountants, together with a certificate duly executed on behalf of the proposed successor Managing General Partner, by its principal financial officer, to the effect that no material adverse change in its financial condition has occurred since the date of such audited financial statements that has caused its net worth, excluding the purchase price of its Interest in the Partnership, to be reduced to less than the amount required

under Section 6.2B. Such audited financial statements and certificate shall be available for examination by any Limited Partner during normal business hours.

D. Subject to Section 11.2 a majority in Interest of the Limited Partners has Consented to the admission of any successor Managing General Partner pursuant to this Section 6.2.

E. The withdrawing Managing General Partner shall cooperate fully with the successor Managing General Partner so that the responsibilities of the withdrawing Managing General Partner may be transferred to the successor Managing General Partner with as little disruption of the Partnership's business and affairs as practicable.

The General Partners shall make such amendments to the Certificate and to this Agreement and execute and file for recordation such amendments or other documents or instruments as are necessary to reflect the termination or assignment of the Interest of the withdrawing or assigning Managing General Partner, the fact that such withdrawing or assigning Managing General Partner has ceased to be a General Partner, and the admission of such successor Managing General Partner, all without the Consent of the Limited Partners. Upon the withdrawal of Equitable Capital Management Corporation as the Managing General Partner or the assignment of all of its Interest as General Partner and upon the contribution by a successor Managing General Partner of any combination of non-interest bearing demand notes and an amount of cash which, in the aggregate, have a principal amount equal to the then outstanding principal amount of any outstanding MGP Note or Notes and the Capital Contribution of Equitable Capital Management Corporation, the MGP Note or Notes contributed to the Partnership pursuant to Section 3.1D shall be cancelled.

Section 6.3. *Removal of a General Partner; Designation of a Successor General Partner.*

A. Any of the Independent General Partners may be removed either (1) for cause by the action of at least two-thirds of the remaining Independent General Partners, (2) subject to Section 11.2, by failure to be re-elected at any special meeting of the Limited Partners held for such purpose pursuant to Section 11.4, or (3) subject to Section 11.2, with the Consent of a majority in Interest of the Limited Partners. The Managing General Partner may be removed either (1) by a majority of the Independent General Partners, (2) subject to Section 11.2, by failure to be re-elected at any special meeting of the Limited Partners held for such purpose pursuant to Section 11.4 or (3) subject to Section 11.2, with the Consent of a majority in Interest of the Limited Partners. The removal of a General Partner shall in no way derogate from any rights or powers of such General Partner, or the exercise thereof, or the validity of any action taken pursuant thereto, prior to the date of such removal.

B. Subject to the receipt of an exemptive order issued by the Securities and Exchange Commission under the 1940 Act, in the event of the removal of the Managing General Partner and continuation of the Partnership, the investments held by the Partnership at the time of removal shall be appraised by two independent appraisers, one selected by the removed Managing General Partner and one by the Independent General Partners. In the event that such two appraisers are unable to agree on the value of the Partnership's investment portfolio, they shall jointly appoint a third independent appraiser who shall select one of the two appraisals and whose determination shall be final and binding. The cost of the appraisal conducted by the appraiser selected by the removed Managing General Partner shall be borne by the removed Managing General Partner and the cost of the appraisal conducted by the appraiser selected by the Independent General Partners shall be borne by the Partnership. The cost of the appraisal conducted by a third appraiser shall be borne equally by the Partnership and the removed Managing General Partner. All unrealized capital gains and losses of the Partnership shall be deemed realized at that time solely for purposes of making a final allocation to the removed Managing General Partner. With respect to its Interest pursuant to Section 4.3, to the extent permissible under the 1940 Act and State law, the removed Managing General Partner shall receive a final allocation of Profits and Losses equal to the Profits and Losses that it would have been allocated pursuant to Section 4.3 if all unrealized capital gains and losses of the Partnership were deemed realized, and an allocation of Profits and Losses were made at such time and such time were deemed to be the end of a Fiscal Year. If the Capital Account of the removed Managing General Partner has a positive balance after such allocation, to the extent permissible

under the 1940 Act, the Partnership shall deliver a promissory note of the Partnership to the removed Managing General Partner, the principal amount of which shall be equal to the amount, if any, by which the positive amount of the removed Managing General Partner's Capital Account exceeds the amount of its Capital Contribution and which bears interest at a rate per annum equal to 100% of the Prime Rate in effect at the time of removal, with interest payable annually and principal payable only from 20% of any available cash before any distributions thereof are made to the Partners pursuant to Article Four. The Interest of the removed Managing General Partner shall convert to that of a Limited Partner, and the removed Managing General Partner shall continue to receive, as a Limited Partner, distribution pursuant to Sections 4.1 and 4.2 and related allocations of Profits and Losses pursuant to Section 4.3. In the event that such exemptive order is not granted in the form applied for by the Partnership, the Managing General Partner shall not receive a final allocation of Profits and Losses and its Interest shall convert to that of a Limited Partner, and the removed Managing General Partner shall continue to receive, as a Limited Partner, distribution pursuant to Sections 4.1 and 4.2 related allocations of the Profits and Losses pursuant to Section 4.3.

C. Subject to Section 3.1B, the remaining Independent General Partners may designate one or more Persons for admission to any vacancy existing in the number of Independent General Partners fixed pursuant to Section 3.1B resulting from removal of an Independent General Partner by the Independent General Partners pursuant to Section 6.3A and each Limited Partner hereby Consents to the admission of such successor or successors, no further Consent being required. The Independent General Partners may designate one or more Persons to be successors to a Managing General Partner removed by the Independent General Partners pursuant to Section 6.3A, and each Limited Partner hereby Consents to the admission of such successor or successors, no further Consent being required. With the Consent of a majority in Interest of the Limited Partners, the Limited Partners may, subject to the provisions of Section 3.1B, at any time propose and approve a Person to be successor to a General Partner concurrently therewith being removed by the Limited Partners pursuant to Section 6.3A.

D. The General Partners shall make such amendments to the Certificate and to this Agreement and execute and file for recordation such amendments or other documents or instruments as are necessary to reflect the removal of a General Partner or a designation of a successor General Partner pursuant to this Section 6.3, the fact that such removed General Partner has ceased to be a General Partner, and the admission of such successor General Partner, all without the Consent of the Limited Partners.

Section 6.4. *Incapacity of a General Partner.*

A. In the event of the Incapacity of a General Partner, the business of the Partnership shall be continued by the remaining and any successor General Partners. Subject to Section 3.1C, the remaining General Partners shall give Notification to the Limited Partners of such event and shall, within 90 days, call a meeting of General Partners for the purpose of designating and admitting a successor General Partner. Any such successor General Partner shall hold such office until the next meeting of Partners or until his successor has been elected. The General Partners shall make such amendments to the Certificate and this Agreement and execute and file for recordation such amendments or other documents or instruments as are necessary to reflect the termination of the Interest of the Incapacitated General Partner, the fact that such Incapacitated General Partner has ceased to be General Partner, and the admission of such successor General Partner, all without the Consent of the Limited Partners.

B. In the event of the Incapacity of all General Partners, the Partnership shall be dissolved. Upon the Incapacity of a General Partner, the Incapacitated General Partner shall immediately cease to be a General Partner and its General Partner's Interest, as such, shall continue only for the purpose of determining the amount, if any, that it is entitled to receive upon any dissolution pursuant to Section 9.2. Any such Incapacity of a General Partner shall not affect any rights or liabilities of the Incapacitated General Partner that matured prior to such Incapacity.

Section 6.5. *Admission of Successor General Partner.*

A. The admission of any successor General Partner pursuant to Section 6.1, 6.2 or 6.3, as the case may be, shall be effective only if and after the following conditions are satisfied:

(i) the admission of any Person as successor General Partner shall occur, and for all purposes shall be deemed to have occurred, prior to the withdrawal or removal of the withdrawing or removed General Partner, or assignment of the withdrawing or removed General Partner's Interest, pursuant to Section 6.1, 6.2 or 6.3, as the case may be;

(ii) the Interests of the Limited Partners shall not be affected by the admission of such successor General Partner or the transfer of the General Partner's Interests; and

(iii) the Certificate and this Agreement shall be amended to reflect the admission of a successor General Partner pursuant to Section 10.3.

B. Notwithstanding anything to the contrary set forth in this Agreement, upon the removal, withdrawal, Incapacity or retirement of any General Partner or the assignment of all of its Interest as General Partner, if one or more General Partners remain, the business of the Partnership shall continue and the remaining and any successor General Partners may and shall carry on the business of the Partnership. A General Partner shall not have the right to resign or withdraw or assign its General Partner's Interest, except that a General Partner may: (1) transfer its Interest to a successor General Partner pursuant to Section 6.1 or 6.2; (2) subject to Section 6.5A, substitute in its stead as General Partner any Person that has, by merger, consolidation or otherwise acquired substantially all of its assets and continued its business and designated thereby to succeed to the rights of the General Partner at the time of the dissolution of the General Partner; and (3) pledge or grant an interest in its right to receive payments and distributions under this Agreement. Notwithstanding any pledge or grant of interest pursuant to this Section 6.5B(3), the General Partner making the pledge will continue as a General Partner. Each Limited Partner hereby Consents to the admission of any additional or successor General Partner pursuant to this Section 6.5B and no further Consent or approval shall be required.

C. Notwithstanding anything to the contrary in this Article Six, a General Partner's Interest shall at all times be subject to the restrictions on transfer set forth herein.

Section 6.6. *Liabilities of a Withdrawn or Removed General Partner.* Any General Partner who shall withdraw or be removed from the Partnership, or who shall sell, transfer or assign its General Partner's Interest, shall remain liable for obligations and liabilities incurred by it as General Partner prior to the time such withdrawal, removal, sale, transfer or assignment shall have become effective, but it shall be free of any obligation or liability incurred on account of the activities of the Partnership from and after the time such withdrawal, removal, sale, transfer or assignment shall have become effective.

Section 6.7. *Consent of Limited Partners to Admission of Successor General Partners.* Each Limited Partner hereby Consents pursuant to Section 6.2 or 6.3C to the admission in accordance with the terms of Section 6.2 or Section 6.3C of any Person as a successor General Partner meeting the requirements of Section 6.2 or 6.3C, and no further express Consent or approval shall be required.

ARTICLE SEVEN

RIGHTS AND OBLIGATIONS OF LIMITED PARTNERS

Section 7.1. *No Participation in Management.* A Limited Partner shall have no right to control and shall take no part in the management or control of the Partnership's business but may exercise the rights and powers of a Limited Partner under this Agreement.

Section 7.2. *No Authority to Act.* A Limited Partner shall have no power to represent, act for, sign for or bind the General Partners or the Partnership. The Limited Partners hereby Consent to the exercise by the General Partners of the powers conferred on them by State law and this Agreement.

Section 7.3. *Approval Rights.*

A. Subject to Section 11.2, the Limited Partners shall have the following approval rights:

(1) the right to propose and approve or disapprove the removal of General Partners pursuant to Section 6.3A;

(2) the right to approve or disapprove in accordance with Section 58 of the 1940 Act, such proposed changes in the nature of the Partnership's business as would cause the Partnership to cease to be, or to withdraw its election as, a business development company under the 1940 Act;

(3) the right initially to approve or disapprove in accordance with Section 15 of the 1940 Act, any proposed investment advisory contract or investment management agreement or the termination of any such existing contracts; provided, however, that such contracts are also approved by a majority of the Independent General Partners;

(4) the right to approve or disapprove the admission of a successor Managing General Partner pursuant to Section 6.2D;

(5) the right to approve amendments to the Agreement as provided in Article 10; provided, however, that no such amendment shall conflict with the 1940 Act; and

(6) the right to approve or disapprove of any other matters that the 1940 Act or an exemptive order of the Securities and Exchange Commission issued pursuant to such Act require to be approved by the Limited Partners so long as the Partnership is a business development company subject to the provisions of the 1940 Act; provided, however, that, prior to the exercise of any such right of approval or disapproval, the General Partners amend this Agreement to reflect such additional right, which amendment may be made by the General Partners without the Consent of the Limited Partners.

B. Notwithstanding the foregoing, no Consent shall be required of the Limited Partners for the General Partners to amend this Agreement in either of the following respects: (1) to admit an Additional Limited Partner or a Substituted Limited Partner or withdraw a Limited Partner in accordance with the terms of this Agreement; or (2) to correct any false or erroneous statement, or to make a change in any statement in order that such statement shall accurately represent the agreement among the Partners in this Agreement; provided that no such correction or change shall in any manner adversely affect the Interests of any Limited Partner.

ARTICLE EIGHT

TRANSFERABILITY OF A LIMITED PARTNER'S INTEREST

Section 8.1. *Restrictions on Transfers of Interest.*

A. Notwithstanding any other provisions of this Section 8.1, no sale, assignment or transfer of a Limited Partner's Interest may be made unless in the opinion of responsible counsel (who may be counsel for the Partnership), satisfactory in form and substance to the Managing General Partner and counsel for the Partnership (which opinion may be waived, in whole or in part, at the discretion of the Managing General Partner),

(1) such sale, assignment or transfer would not cause the Partnership to lose its status as a partnership which is not a publicly-traded partnership for Federal income tax purposes or, when added to the total of all other sales, exchanges, transfers or assignments of Interests within the preceding 12 months, would not result in the Partnership being considered to have terminated within the meaning of Section 708 of the Code; and

(2) such sale, assignment or transfer would not violate any Federal securities laws or any state securities or "blue sky" laws (including any investor suitability standards) applicable to the Partnership or the Interest to be sold, exchanged, transferred or assigned;

and such opinion of counsel is delivered in writing to the Partnership prior to the date of the sale, exchange, transfer or assignment. The Managing General Partner is expressly authorized to suspend transfers if and when any such transfer would result in the transfer of [40%] [**50%**] or more of the Interests in the Partnership within a 12-month period.

B. In no event shall all or any part of an Interest be sold, assigned or transferred to a minor or an incompetent Person except in trust, pursuant to the Uniform Gifts to Minors Act or by will or intestate succession.

C. Except for transfers incident to divorce, and gratuitous transfers or assignments (in trust or otherwise), whether on death or *inter vivos,* to or for the benefit of (1) the transferor's spouse, parents, children, other descendants, spouses of children, heirs or legatees or (2) a charitable, religious, scientific, literary or educational organization, [(a)] no sale, transfer or assignment by a Limited Partner of all or

any part of his Interest may be made to any Person unless such Person (i) meets the suitability requirements to become an Additional Limited Partner in accordance with the terms of the offering of the Units contained in the Prospectus or (ii) is a Partner [, and (b) no Limited Partner may sell, assign or transfer any Interest or any fraction thereof without the consent of the Managing General Partner, which consent shall not be unreasonably withheld].

D. No purported sale, assignment or transfer by a transferor of, or after which the transferor and each transferee would hold, an Interest representing a Capital Contribution of less than $1,000 will be permitted or recognized for any purpose without the consent of the Managing General Partner, which consent shall be granted only for good cause shown, except for any sale, assignment or transfer (i) that consists of the entire Interest of the transferor or (ii) that occurs by operation of law.

E. Each Limited Partner agrees that he will, upon request of the General Partners, execute such certificates or other documents and perform such acts as the General Partners deem appropriate after an assignment of Interest by the Limited Partner to preserve the limited liability of the Limited Partners under the laws of the State or the laws of any jurisdiction in which the Partnership is doing business. For purposes of this Section 8.1E, any transfer of an Interest, whether voluntary or by operation of law, shall be considered an assignment.

F. Any sale, assignment or transfer of an Interest to a person who makes a market in securities shall be void *ab initio* unless such person shall certify to the Managing General Partner that it has acquired such Interest solely for investment purposes and not for the purpose of resale.

G. No purported sale, assignment or transfer by a transferor of an Interest will be recognized unless (1) the transferor shall have represented that such transfer (a) was effected through a broker-dealer or matching agent whose procedures with respect to the transfer of Units have been approved by the Managing General Partner as not being incident to a public trading market and not through any other broker-dealer or matching agent or (b) otherwise was not effected through a broker-dealer or matching agent which makes a market in Units or which provides a readily available, regular and ongoing opportunity to Unit holders to sell or exchange their Units through a public means of obtaining or providing information of offers to buy, sell or exchange Units and (2) the Managing General Partner determines that such sale, assignment or transfer [**would**] [will] not, by itself or together with any other sales, transfers or assignments, [**likely result in**] [substantially increase the risk], as determined by the Managing General Partner in its sole discretion, [of] the Partnership's being classified as a publicly-traded partnership.

H. No purported sale, assignment or transfer of a Unit will be recognized if, after giving effect to such sale, assignment or transfer, the Partnership would not satisfy at least one of the safe harbors contained in Internal Revenue Service Advance Notice 88-75 (the "Notice"). Without limiting the foregoing, no purported sale, assignment or transfer of a Unit will be recognized if such sale, assignment or transfer, together with all other such transfers during the same taxable year of the Partnership would result in both (i) the transfer of more than [4.5%] [**5%**] of the Units (excluding transfers described in clauses (i) through (vi) of the next succeeding sentence); and (ii)(x) the transfer of more than [1.5%] [**2%**] of the Units (excluding transfers described in clauses (i) through (vi) of the next succeeding sentence and sales through a matching service which meets the requirements of the Notice, part II, section D) or (y) the transfer of more than [9.5%] [**10%**] of the Units (excluding transfers described in clauses (i) through (vi) of the next succeeding sentence). For purposes of the [4.5%] [**5%**] and the [1.5%] [**2%**] limitations described in the preceding sentence, the following transfers will be disregarded: (i) transfers in which the basis of the Unit in the hands of the transferee is determined, in whole or in part, by reference to its basis in the hands of the transferor or is determined under section 732 of the Code; (ii) transfers at death; (iii) transfers between members of a family (as defined in section 267(c)(4) of the Code); (iv) the issuance of Units by or on behalf of the Partnership in exchange for cash, property or services; (v) distributions from a retirement plan qualified under section 401(a) of the Code; and (vi) block transfers; and for purposes of the [1.5%] [**2%**] limitation, there shall be disregarded transfers through a matching service subject to the [9.5%] [**10%**] limitation limitation described in the previous sentence. For purposes of the above limitations, the percentage of Units transferred during a taxable year shall equal the sum of the monthly percentage of Units transferred. The monthly percentage of Units transferred in any month shall be the

percentage equal to a fraction the numerator of which in the number of Units transferred during such month and the denominator of which in the number of Units outstanding on the last day of such month *provided* that the denominator shall not include Units owned by the Managing General Partner or any person related to the Managing General Partner (within the meaning of section 267(b) or 707(b)(1) of the Code). The term "block transfer" means the transfer by a Partner in one or more transactions during any thirty calendar day period of Units representing in the aggregate more than 5% of the total Interests in Partnership capital or profits.

[I. No purported sale, assignment or transfer of an Interest to or for the benefit of any Tax-Exempt Investor may be made. Any such purported sale, assignment or transfer shall be null and void and of no force whatsoever. Each proposed partner, transferee or assignee shall certify that he is not, and is not purchasing on behalf of, a Tax-Exempt Investor.]

J. Any purported sale, assignment or transfer of an Interest which is not made in compliance with this Agreement is hereby declared to be null and void and of no force or effect whatsoever.

K. Each Limited Partner agrees that he will, prior to the time the Managing General Partner consents to any assignment of an Interest by that Limited Partner, pay all reasonable expenses, including attorneys' fees, incurred by the Partnership in connection with such assignment.

L. The Managing General Partner may reasonably interpret, and is hereby authorized to take such action as it deems necessary or desirable to effect, the foregoing provisions of this Section 8.1. The Managing General Partner may, in its reasonable discretion, amend the provisions of this Section 8.1 in such manner as may be necessary [or desirable] (or eliminate or amend such provisions to the extent they are no longer necessary [or desirable]) to preserve [(1)] the tax status of the Partnership [**, or(2), to the the extent not inconsistent with the classification of the Partnership as a partnership for federal income tax purposes, the free transferability of Units for purposes of the Employee Retirement Income Security Act of 1974, as amended from time to time ("ERISA")**]. [**In the event there shall be any conflict between provisions necessary to maintain the status of the Partnership as a partnership which is not a publicly-traded partnership and those necessary to maintain free transferability of Units for purposes of ERISA, the Managing General Partner shall use its greater efforts to maintain free transferability of Units for purposes of ERISA if the failure to do so would result in a violation of ERISA**].

Section 8.2. *Assignees.*

A. The Partnership shall not recognize for any purpose any purported sale, assignment or transfer of all or any fraction of the Interest of a Limited Partner unless the provisions of Section 8.1 shall have been complied with and there shall have been filed with the Partnership a dated Notification of such sale, assignment or transfer, in form satisfactory to the Managing General Partner, executed and acknowledged by both the seller, assignor or transferor and the purchaser, assignee or transferee, and such Notification (i) contains the acceptance by the purchaser, assignee or transferee of all of the terms and provisions of this Agreement and a power of attorney consistent with Article Thirteen of this Agreement, (ii) represents that such sale, assignment or transfer was made in accordance with all applicable laws and regulations, (iii) [represents that the purchaser, assignee or transferee is not a Tax-Exempt Investor, and (iv)] is otherwise in form and substance acceptable to the Managing General Partner. Any sale, assignment or transfer shall be recognized by the Partnership as effective on the first day of the fiscal quarter following the fiscal quarter in which such Notification is filed with the Partnership. If an Interest is sold, assigned or transferred more than once during a fiscal quarter, the last purchaser, assignee or transferee with respect to whom Notification is received shall be recognized by the Partnership.

B. Unless and until an assignee of an Interest becomes a Substituted Limited Partner, such assignee shall not be entitled to vote or give Consents with respect to such Interest.

C. Any Limited Partner who shall assign all of his Interest shall cease to be a Limited Partner and shall not retain any statutory rights as a Limited Partner.

D. Anything herein to the contrary notwithstanding, both the Partnership and the General Partners shall be entitled to treat the assignor of an Interest as the absolute owner thereof in all respects, and shall incur no liability for distributions made in good faith to him, until such time as a written assignment by such assignor that conforms to the requirements of this Article Eight has been received by the Partnership and accepted by the Managing General Partner.

E. A Person who is the assignee of all or any fraction of the Interest of a Limited Partner, but does not become a Substituted Limited Partner and desires to make a further assignment of such Interest, shall be subject to all the provisions of this Article Eight to the same extent and in the same manner as any Limited Partner desiring to make an assignment of his Interest.

Section 8.3. *Substituted Limited Partners.* No Limited Partner shall have the right to substitute a purchaser, assignee, transferee, donee, heir, legatee, distributee or other recipient of all or any fraction of such Limited Partner's Interest as a Limited Partner in his place. Any such purchaser, assignee, transferee, donee, heir, legatee, distributee or other recipient of an Interest (whether pursuant to a voluntary or involuntary transfer) shall be admitted to the Partnership as a Substituted Limited Partner only (1) with the consent of the Managing General Partner, which consent shall be granted or withheld in the absolute discretion of the Managing General Partner and may be arbitrarily withheld, (2) by satisfying the requirements of Section 8.1 and 8.2 and (3) if necessary, upon an amendment to this Agreement or such other instrument, executed by all necessary parties and filed or recorded in the proper records of each jurisdiction in which such recordation is necessary to qualify the Partnership to conduct business or to preserve the limited liability of the Limited Partners. Any such consent by the Managing General Partner may be evidenced, if necessary, by the making of an entry in the books and records of the Partnership by the General Partners evidencing the admission of such Person as a Limited Partner. The admission of a Substituted Limited Partner shall be shown in the books and records of the Partnership. The Limited Partners hereby Consent and agree to such admission of a Substituted Limited Partner by the Managing General Partner. The Managing General Partner agrees to process such amendments not less frequently than quarterly.

ARTICLE NINE
DISSOLUTION, LIQUIDATION AND TERMINATION OF THE PARTNERSHIP

Section 9.1. *Events Causing Dissolution.* The Partnership shall dissolve and its affairs shall be wound up upon the happening of any of the following events:

(A) the expiration of its term;

(B) the Incapacity, removal or resignation of all General Partners;

(C) the sale or other disposition at one time of all or substantially all of the assets of the Partnership;

(D) the election by a majority in Interest of the Limited Partners to dissolve the Partnership; or

(E) the withdrawal, retirement, removal or Incapacity of the Managing General Partner or assignment of all of its General Partner's Interest, without the designation of a successor Managing General Partner under Sections 6.2, 6.3 or 6.4.

Dissolution of the Partnership shall be effective on the day on which the event occurs giving rise to the dissolution, but the Partnership shall not terminate until this Agreement has been cancelled and the assets of the Partnership have been distributed as provided in Section 9.2. Upon the dissolution of the Partnership, the General Partners shall proceed with the liquidation and distribution of the assets of the Partnership, and upon the completion of the winding up of the Partnership shall have the authority to, and shall, execute and file a certificate of cancellation and such other documents required or desirable to effectuate and evidence the dissolution and termination of the Partnership. Upon dissolution of the Partnership but prior to the distribution of all of the assets of the Partnership, the business of the Partnership and the affairs of the Partners, as such, shall be governed by Section 9.2 of this Agreement.

Section 9.2. *Liquidation.*

A. Upon dissolution of the Partnership, the Managing General Partner or, if the Independent General Partners appoint a liquidating trustee for the Partnership, such authorized liquidating trustee, shall commence to wind up the affairs of the Partnership and to liquidate its assets. The Managing General Partner or such liquidating trustee, as the case may be, shall have full right and unlimited

discretion to determine the time required and used for liquidation, which in no event shall be greater than five years from the date of dissolution, and the manner and terms of any sale or sales of Partnership assets pursuant to such liquidation, for the purpose of obtaining, in its opinion, fair value for such assets, having due regard to the activity and condition of the relevant markets and general financial and economic conditions. On or before the last day for liquidating Partnership assets, the Partnership shall demand payment on any outstanding MGP Notes. The proceeds of such liquidation shall be applied as provided in Section 9.2C. To the extent that such assets cannot be liquidated and the Managing General Partner, or the liquidating trustee, determines, subject to the 1940 Act, that a distribution in kind would be in the best interests of the Partners, the Partnership will first receive the opinion of counsel that such distribution would not adversely affect the limited liability of the Limited Partners prior to making any such distribution. To the extent permitted by the Advisers Act, for all purposes of this Agreement, assets distributed in kind shall be deemed to have been sold for their fair market value, as determined pursuant to Section 13.3, and the proceeds of such sale shall be deemed to have been distributed.

B. Liquidation Profits and Losses shall be allocated among the Partners as follows:

Liquidation Profits shall be allocated among the Partners:

first, to each Partner having an excess of its Deemed Distribution Amount over the Capital Account of such Partner (in the case of the Managing General Partner, such Capital Account including an amount equal to the outstanding principal amount of any MGP Notes), to the extent of such excess and in accordance with the ratio that such excess bears to the aggregate excess of all such Partners; and

second, the balance, if any, to the Partners in proportion to the balances in their Capital Accounts (determined after giving effect to any allocation of Profit under clause *first* above and, in the case of the Managing General Partner, including an amount equal to the outstanding principal amount of any MGP Notes).

Liquidation Losses of the Partnership shall be allocated among the Partners:

first, to each Partner having an excess in its Capital Account (in the case of the Managing General Partner, such Capital Account including an amount equal to the outstanding principal amount of any MGP Notes) over the Deemed Distribution Amount of such Partner, to the extent of such excess and in accordance with the ratio that such excess bears to the aggregate excess of all such Partners;

second, to the Partners to the extent of and in proportion to the positive balance in the Capital Accounts of all such Partners (determined after giving effect to any allocation of Loss under clause *first* above and, in the case of the Managing General Partner, including an amount equal to the outstanding principal amount of any MGP Notes); and

third, the balance, if any, to the Managing General Partner.

C. In settling accounts after dissolution, the assets of the Partnership shall be paid out in the following order: (1) to third party creditors (whether by payment or establishment of reserves), in the order of priority as provided by law; (2) to each General Partner for liabilities other than with respect to Profits or Capital Contribution; and (3) the balance to each Partner in an amount equivalent to the positive amount of his Capital Account on the date of distribution (determined after giving effect to all allocations of Profit and Loss pursuant to Section 9.2B) or, if the remaining assets in the Partnership are insufficient to return the entire Capital Accounts, to the Partners in proportion to the positive balances in their Capital Accounts. Notwithstanding the foregoing no distribution upon dissolution shall be made to the Managing General Partner which would result in the receipt by the Managing General Partner of cumulative distributions from Sales in excess of 20% of the cumulative capital gains based on actual costs of investments realized prior to or upon dissolution by the Partnership (net of realized capital losses and unrealized net capital depreciation). Any amount which would be distributed to the General Partner but for the previous sentence of this Section 9.2.C shall be distributed to the Limited Partners.

D. When the Managing General Partner or liquidating trustee has complied with the foregoing liquidation plan, there shall be executed and filed an instrument evidencing the cancellation of the certificate of limited partnership of the Partnership.

ARTICLE TEN
AMENDMENTS

Section 10.1. *Proposal of Amendments Generally.*

A. Amendments to this Agreement to reflect the addition or substitution of a Limited Partner, the admission of an additional or successor General Partner or the withdrawal or substitution of a General Partner shall be made at the time and in the manner referred to in Section 6.5A or 8.3A, as the case may be. Any other amendment to this Agreement may be proposed by the General Partners or by 10% in Interest of the Limited Partners. The Partners proposing such amendment shall submit (1) the text of such amendment, and (2) a statement of the purpose of such amendment. The Independent General Partners shall, within 20 days after receipt of any proposal under this Section 10.1, give Notification to all Partners of such proposed amendment, together, in the case of an amendment proposed by Limited Partners, with the views, if any, of the Independent General Partners with respect to such proposed amendment. However, the Independent General Partners shall not be required to give Notification to all Partners as provided in this Section 10.1 of any such proposed amendment and no such proposed amendment shall be voted on by Partners, if, within 20 days after receipt by the Independent General Partners of any proposed amendment under this Section 10.1, counsel for the Partnership has submitted to the Partners proposing such amendment an opinion to the effect that there is a substantial likelihood that such amendment, or any vote thereon or vote provided for therein, would not be permitted by the Act, would impair the limited liability of the Limited Partners or would adversely affect the classification of the Partnership as a partnership for Federal income tax purposes.

B. The Independent General Partners shall, within a reasonable time after the adoption of any amendment to this Agreement (but not longer than the period required by the Act), make any filings or publications if required by the Act or desirable to reflect such amendment.

Section 10.2. *Adoption of Amendments; Limitations Thereon.*

A. Subject to Section 11.2, a majority in Interest of the Limited Partners may, without the concurrence of any General Partner, amend this Agreement; provided, however, that no amendment to this Agreement may:

(1) add to, detract from or otherwise modify the purposes of the Partnership without the Consent of all the Limited Partners;

(2) convert a Limited Partner's Interest into a General Partner's Interest; modify the limited liability of a Limited Partner; alter the Interest of any Partner in Profits or Losses, Distributable Cash from Investments or Distributable Capital Proceeds; or increase the liabilities or responsibilities of, or diminish the rights or protections of, the General Partner under this Agreement; in each case, without the Consent of each affected Partner;

(3) modify the method provided in Article Four of determining Profits and Losses and the order of allocations thereof and of determining distributions of Distributable Cash from Investments or Distributable Capital Proceeds and the order thereof without the Consent of each Partner adversely affected by such modification;

(4) amend Section 6.5B without the Consent of the General Partners;

(5) amend any provision hereof which requires the consent, action or approval of a specified percentage in interest of the Limited Partners without the Consent of such specified percentage in interest of the Limited Partners; or

(6) amend this Section 10.2A or Section 11.2 without the Consent of all the Limited Partners and the Consent of all the General Partners.

B. In addition to any amendments otherwise authorized hereby, this Agreement may be amended from time to time by the General Partners without the Consent of any Limited Partners (1) to add to the representations, duties or obligations of the General Partners or surrender any right or power granted to

the General Partners herein; (2) to cure any ambiguity or correct or supplement any provisions hereof which may be inconsistent with any other provision hereof, or correct any printing, stenographic or clerical errors or omissions; (3) to conform to any safe harbor provisions which would preserve the substantial economic effect or alternative economic effect characterization of the allocations of Profits and Losses set forth in Article Four; (4) to provide any necessary information regarding the Limited Partners, or any additional or successor General Partner; (5) to reflect the issuance of limited partner interests senior to the Units; and (6) to amend any provision of this Agreement if not adverse to the interest of the Limited Partners; provided, however, that no amendment shall be adopted pursuant to this Section 10.2B unless (a) in the case of any amendment referred to in clause (1), (2), (4), (5) or (6) of this Section, such amendment would not alter the Interest of a Partner in Profits, Losses, Distributable Cash from Operations or Distributable Refinancing Proceeds or Distributable Sale Proceeds and such amendment is not adverse to the interests of the Limited Partners; and (b) such amendment would not, in the opinion of counsel for the Partnership, adversely affect the limited liability of the Limited Partners or the status of the Partnership as a partnership for Federal income tax purposes.

C. Upon the adoption of any amendment to this Agreement, the amendment shall be executed by the General Partners on behalf of themselves and all Limited Partners and, if required by the Act, an amendment to the Certificate shall be filed in the proper records of the State and of each jurisdiction in which recordation is necessary for the Partnership to conduct business or to preserve the limited liability of the Limited Partners. Each Limited Partner hereby irrevocably appoints and constitutes the General Partners, and each of them, as his agent and attorney-in-fact to execute, deliver, swear to, file and record any and all such amendments. The power of attorney given herewith is irrevocable, is coupled with an interest and shall survive and not be affected by the subsequent Incapacity of a Limited Partner granting it.

Section 10.3. *Amendments on Admission or Withdrawal of Partners.* If this Agreement shall be amended to reflect the admission of an additional or successor General Partner, such amendment shall be signed by all remaining General Partners and such additional or successor General Partner. If this Agreement shall be amended to reflect the withdrawal or removal of a General Partner and the continuation of the business of the Partnership, such amendment shall be signed by the remaining and successor General Partners.

Section 10.4. *Copies of Amendments.* The Certificate and this Agreement and each amendment thereto shall be kept in the files of the Managing General Partner and copies thereof shall be made available to each Limited Partner upon written request only for any purpose reasonably related to the Limited Partner's interest as a limited partner in the Partnership, the General Partner not being otherwise obligated to deliver or mail a copy of the Certificate or this Agreement or any amendment thereto to the Limited Partners, either before or after its filing, if any, in the State.

ARTICLE ELEVEN
CONSENTS, VOTING AND MEETINGS

Section 11.1. *Method of Giving Consent.* Any Consent required by this Agreement may be given by:

(A) a written approval given by a Partner and received by the General Partners at or prior to the doing of the act or thing for which the approval is solicited, provided that such approval shall not have been nullified by (1) Notification to the General Partners of such nullification by such Partner at or prior to the time of, or the negative vote by such Partner at, any meeting called and held to consider the doing of such act or thing, or (2) Notification to the General Partners of such nullification by such Partner prior to the doing of any act or thing the doing of which is not subject to approval at a meeting called; or

(B) the affirmative vote by a Partner to the doing of the act or thing for which the approval is solicited at any meeting called and held pursuant to Sections 11.3 or 11.4 to consider the doing of such act or thing.

Section 11.2. *Limitations on Requirements for Consents.* Notwithstanding any other provisions of this Agreement, unless, prior to the exercise by the Limited Partners of the rights of the Limited Partners (A) to approve actions of the General Partners pursuant to Section 5.5A or the actions of the Independent

General Partners pursuant to Section 5.5E, (B) to remove a General Partner pursuant to Section 6.3, or to approve the appointment of a successor General Partner pursuant to Section 6.2 or 6.3, (C) to elect to remove General Partners and to approve Partnership matters pursuant to Section 7.3A, (D) to elect to dissolve the Partnership pursuant to Section 9.1, or (E) to amend this Agreement pursuant to Section 10.2A, as the case may be, Independent counsel for the Partnership shall have delivered to the Partnership an opinion to the effect that neither the possession of such right or rights nor the exercise thereof (*i*) will violate the provisions of the Act or the laws of the other jurisdictions in which the Partnership is then formed or qualified, (*ii*) will adversely affect the limited liability of the Limited Partners or (*iii*) will adversely affect the classification of the Partnership as a partnership for Federal income tax purposes, then, if such opinion has not been obtained,

(1) notwithstanding the provisions of Section 5.5A, the General Partners shall be prohibited from taking an action, performing an act or entering into a transaction, as the case may be, subject to the provisions of Section 5.5A;

(2) notwithstanding the provisions of Section 5.5E, the Independent General Partners shall be prohibited from taking an action, performing an act or entering into a transaction, as the case may be, subject to the provisions of Section 5.5E;

(3) notwithstanding the provisions of Section 6.2 or 6.3, the Limited Partners may remove a General Partner or approve the appointment of a successor General Partner, only with the Consent of 100% in interest of the Limited Partners;

(4) notwithstanding the provisions of Section 7.3A, the Limited Partners may elect or remove a General Partner or approve certain Partnership matters only with the Consent of 100% in interest of the Limited Partners;

(5) notwithstanding the provisions of Section 9.1, the Limited Partners may elect to dissolve the Partnership only with the Consent of 100% in interest of the Limited Partners; and

(6) notwithstanding the provisions of Section 10.2A, this Agreement may be amended only with the Consent of the General Partners and of a majority in interest of the Limited Partners (and the Consent of any Partner, or any specified percentage in interest of Limited Partners, whose Consent is required pursuant to the proviso to Section 10.2A) or, to the extent required by such opinion in any particular case only with the Consent of the General Partner and of 100% in interest of the Limited Partners.

The Managing General Partner shall retain Independent counsel for the Partnership to render the opinion required pursuant to this Section 11.2 within 30 days after written notification that any of the actions specified above have been proposed by such percentage of Partners which would be required to call a meeting for the approval thereof. If, within 45 days after such notification, such counsel either gives the opinion required above or does not give an opinion that there is a substantial likelihood that the possession or exercise of the rights set forth in clauses (A), (B), (C), (D) or (E) of this Section 11.2, as appropriate, would have the results set forth in (*i*), (*ii*) or (*iii*) above, then the restrictions in this Section 11.2 shall not apply. Such counsel may rely as to the law of any jurisdiction, other than a jurisdiction in which such counsel's principal office is located, on an opinion of counsel in such other jurisdiction in form and substance satisfactory to them.

Section 11.3. *Action by the Independent General Partners.* The Independent General Partners shall act by majority vote at a meeting duly called or by unanimous written consent without a meeting, unless the 1940 Act requires that a particular action be taken only at a meeting of the Independent General Partners. Meetings of the Independent General Partners may be called by any two Independent General Partners. Subject to the requirements of the 1940 Act, the Independent General Partners by majority vote may delegate to any one of their number, or a committee thereof, their authority to approve particular matters or take particular actions on behalf of the Partnership. A quorum for all meetings of Independent General Partners shall be a majority of the Independent General Partners.

Section 11.4. *Meetings of Limited Partners.* The termination of the Partnership, the removal of the General Partners and the election of successors and any other matter requiring the Consent of all or any of the Limited Partners pursuant to this Agreement may be considered at a meeting of the Partners held not