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ACCEPTED/FILED

SEP 26 2013

April 4, 2013

Federal Communications Commission
Office of the Secretary

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VIA IBFS

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Applications for Assignment of Domestic and International Section 214
Authorizations and Requests for Special Temporary Authority, File Nos.
ITC-ASG-20130130-00035, ITC-ASG-20130130-00037, ITC-STA-
20130130-00036, and ITC-STA-20130130-00038

Dear Ms. Dortch:

Next Angel LLC ("Next Angel"), by counsel for Next Communications, Inc., herein provides additional information to supplement the above-referenced pending applications for assignment of domestic and international Section 214 authority from STi Prepaid, LLC ("STi Prepaid") and STi Telecom Inc. ("STi Telecom") to Next Angel and for Special Temporary Authority ("STA") to continue providing service to the customers of STi Prepaid and STi Telecom (collectively, "STi") pending approval of the assignment application.

Next Angel herein provides supplemental information regarding Marcatel Telecommunications, LLC's ("Marcatel") minority ownership interest in Next Angel. As the Commission is aware, Marcatel is affiliated with Vivaro Corporation ("Vivaro"), the entity that currently owns and controls STi. Both Vivaro and Marcatel are ultimately owned and controlled by Gustavo M. de la Garza Ortega.

In approving the sale of assets to Next Angel, the Bankruptcy Court was aware of the common ownership of Vivaro and Marcatel. Specifically, the Bankruptcy Court stated "[t]he Purchaser is not an 'insider' of the Debtors, as that term is defined in section 101 of the Bankruptcy Code, provided however, that Marcatel Telecommunications, LLC, a non-debtor affiliate of the Debtors, is a member of the Purchaser."¹ Even with this affiliation, the Bankruptcy Court found that "[t]he

¹ See Order Pursuant to Section 105(a) and 363 of the Bankruptcy Code. The Order approves (A) Sale of Substantially All of the Assets of the Debtors Outside the Ordinary Course of Business, Free and Clear of All Liens, Claims, Interests, and Encumbrances, and (B) Form and Content of Asset Purchase Agreement, Case No. 12-13810, ¶ M (Jan. 31, 2013). A copy of this Order has been provided to the

Ms. Marlene H. Dortch, Secretary
April 4, 2013
Page 2

Purchaser is not a continuation of the Debtors or their estates. There is no continuity of enterprise between the Debtors and the Purchaser.”²

Indeed, Marcatel’s ownership interest in Next Angel is limited by the Limited Liability Company Agreement (“Agreement”) that governs the company, which is attached as Exhibit A.

- Marcatel holds a 15 percent ownership interest in Next Angel LLC. Marcatel’s limited interest contrasts with the respective 42.5 percent interests of Next Communications, Inc. (“Next Communications”) and Angel Telecom (USA) Inc. (“Angel Telecom”).
- Next Angel is governed by a Board of Managers³ composed of five members: two Next Communications-appointed managers, two Angel Telecom-appointed managers, and one Marcatel-appointed manager.⁴ The Board acts by majority vote so no board-level action can be taken without the approval of either the Next Communications or Angel Telecom managers.
- Marcatel has no independent authority over Next Angel’s “major decisions” such as a change of control or sale of the company, an IPO, affiliate transactions, bankruptcy or dissolution, the issuance of new securities, entry into a new business and the amending of the Certificate of Formation or LLC Agreement of the Company. The Agreement requires consent by 80 percent of the outstanding Class A Units for any major decision.⁵ As such, Marcatel has no veto or unilateral decision-making power over major decisions.

(Continued . . .)

Commission. See Letter from Jennifer Hindin to Marlene H. Dortch, File Nos. ITC-ASG-20130130-00035, ITC-ASG-20130130-00037, ITC-STA-20130130-00036, and ITC-STA-20130130-00038 (filed Mar. 21, 2013).

² *Id.* at ¶ O.

³ See Limited Liability Company Agreement of Next Angel LLC at § 6.01.

⁴ See *id.* at § 6.04.

⁵ See *id.* at § 6.13.



Ms. Marlene H. Dortch, Secretary
April 4, 2013
Page 3

Please do not hesitate to contact the undersigned should you have any questions.

Respectfully submitted,

By: /s/ Jennifer D. Hindin

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EXHIBIT A

**LIMITED LIABILITY COMPANY AGREEMENT
OF
NEXT ANGEL LLC**

MEMBERSHIP INTERESTS HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED OR UNDER ANY OTHER SECURITIES LAWS. SUCH INTERESTS MAY NOT BE OFFERED, SOLD, ASSIGNED, PLEDGED OR OTHERWISE DISPOSED OF AT ANY TIME WITHOUT EFFECTIVE REGISTRATION UNDER SUCH ACT AND LAWS OR EXEMPTION THEREFROM, AND COMPLIANCE WITH RESTRICTIONS ON TRANSFERABILITY HEREIN.

THIS LIMITED LIABILITY COMPANY AGREEMENT (this "Agreement") of Next Angel LLC, a Delaware limited liability company (the "Company"), is dated and effective as of January 14, 2013 (the "Effective Date") and is adopted, executed and agreed to by and among (i) the Company, (ii) Next Communications, Inc. (together with its successors and permitted assigns, "Next"), (iii) Angel Telecom (USA) Inc. (together with its successors and permitted assigns, "Angel"), (iv) Marcatel Telecommunications, LLC (together with its successors and permitted assigns, "Marcatel"), and (v) each other Person who at any time after the Effective Date becomes a Member in accordance with the terms of this Agreement and the Act. Capitalized terms used herein shall have the meanings ascribed to them in Section 1.04 hereof.

WHEREAS, the parties hereto desire to enter into this Agreement to set forth their relative rights and obligations with respect to their ownership interest in the Company, including restrictions on transfer of Units,

NOW, THEREFORE, in consideration of the mutual covenants herein expressed, the parties hereto hereby agree as follows:

**ARTICLE I
ORGANIZATION AND DEFINITIONS**

1.01 **Organization.** The Company was formed through the filing of the Charter in the Charter State pursuant to Applicable Law. The Company shall be governed by the laws of the Charter State in accordance with this Agreement. All actions taken by Jed Freeland as the authorized person who signed and filed the Certificate of Formation of the Company on its behalf are hereby ratified, and all powers of such authorized person hereby cease.

1.02 **Principal Office; Registered Office; Registered Agent.** The principal and registered office of the Company shall be at such location as may be determined by the Board. The registered agent of the Company will also be determined by the Board. The principal office and registered office and registered agent as of the date hereof shall be as set forth in the Charter, and shall remain unchanged until changed by the Board.

1.03 **Term.** The Company will continue perpetually, unless it is terminated under this Agreement.

1.04 Certain Definitions and Agreements.

(a) As used in this Agreement, the following terms have the meanings ascribed to them in this Section 1.04(a) and include the plural as well as the singular number:

"Act" means the Delaware Limited Liability Company Act.

"Additional Members" means those Persons who become Members after the effective date of this Agreement pursuant to the terms hereof.

"Affiliate" means, with respect to any Person, (i) any Person directly or indirectly controlling, controlled by, or under common control with such Person; (ii) any officer, director or manager; or (iii) a member of the Family Group of such Person. For this purpose "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise, and the terms "controls," "controlled by" and "under common control with" have correlative meanings.

"Assumed Tax Rates" means, with respect to a particular item of income, gain, loss, deduction or expense, the sum of the highest federal and state tax rates generally applicable to any Member with respect to such item for the period in which it is allocated without giving effect to deductions for state taxes at the federal level. Assumed Tax Rates applicable to items of loss, deduction and expense shall be those applicable to corresponding items of income or gain. The Assumed Tax Rate with respect to a class of item is the same for all Members, and is determined without regard to the actual tax liability of any Member.

"Board" means the Board of Managers of the Company. The Board is comprised of all of the Managers of the Company as determined pursuant to ARTICLE VI hereof.

"Book Value" of an asset means its adjusted basis for federal income tax purposes, subject to the following provisions. The initial Book Value of an asset contributed by a Member is its gross Fair Market Value as initially recorded on the Company's books. Company assets shall be revalued (i) when and as contemplated by Regs. §1.704-1(b)(2)(iv)(e), and, (ii) if the Board determines in its discretion that a revaluation is necessary to reflect economic arrangements among Members, when and as contemplated by Regs. §1.704-1(b)(2)(iv)(f). Upon any such revaluation, Book Values shall be adjusted to equal the revalued amounts. Book Values shall be reduced for cost recovery deductions, determined pursuant to Regs. §1.704-1(b)(2)(iv)(g)(3).

"Business" means the business of the Company as conducted or proposed to be conducted as of the date hereof.

"Capital Account" means the Capital Account established for each Member and maintained in accordance with the provisions of this Agreement and the Regulations.

"Capital Contribution" means the total cash and Fair Market Value of other property contributed to the equity of the Company by a Member, which shall be equal to the amount stipulated in writing by such Member and the Company, as determined by the Board in good

faith. The transfer of liabilities to the Company in connection with a transfer of money or property to the Company shall reduce the net amount of the Capital Contribution by the amount of such liabilities. The amounts of the Capital Contributions of the Class A Members as of the date hereof are set forth in Exhibit A hereto.

“Cause” means that a Manager (i) is convicted of, or pleads guilty or nolo contendere to, a felony, (ii) engages in any illegal activity or behavior that causes significant and material harm to the Company’s business, property or goodwill; or (iii) is convicted of, or pleads guilty or nolo contendere to theft, larceny, embezzlement or fraud or any other crime of dishonesty or moral turpitude.

“Change of Control” means (A) the closing of the sale, transfer or other disposition of all or substantially all (as determined by the Board) of the Company’s or its Subsidiaries’ assets on a consolidated basis based on value, (B) the consummation of the merger or consolidation of the Company with or into another entity (except a merger or consolidation in which the holders of equity of the Company immediately prior to such merger or consolidation continue to hold at least 50% of the voting power of the equity of the Company or the surviving or acquiring entity), (C) the closing of the transfer (whether by merger, consolidation or otherwise), in one transaction or a series of related transactions, to a Person or group of Affiliated Persons, of the Company’s securities if, after such closing, such Person or group of Affiliated Persons would hold 50% or more of the outstanding voting securities of the Company (or the surviving or acquiring entity), or (D) a liquidation, dissolution or winding up of the Company.

“Charter” means documents filed with the Charter State for the purpose of evidencing the organization of the Company pursuant to the laws of the Charter State, as may be amended from time to time in accordance with this Agreement and applicable law.

“Charter State” means the State of Delaware.

“Class A Member” means a holder of Class A Units.

“Class A Units” means the Class A Units issued to the Members, as reflected on Exhibit A hereto (as it may be amended from time to time in accordance with the terms and conditions hereof), with the rights and obligations described in this Agreement. Class A Units shall be voting Units and shall entitle the holder thereof to one (1) vote per Class A Unit on such matters that are subject to a Member vote as provided in this Agreement or required by applicable law.

“Code” means the Internal Revenue Code of 1986, as it may be amended, or any subsequent federal law concerning income tax as enacted in substitution for, or that corresponds with, such Code.

“Consent” means the consent of a Person, given as provided in Section 6.11, to do the act or thing for which the consent is solicited, or the act of granting such consent, as the context may require.

“Equity Securities” means Units and options and/or warrants to acquire such Units.

"Excluded Securities" means Units issued in connection with: (a) a grant to any existing or prospective consultants, employees, officers or Managers pursuant to any profits interest plan or similar equity-based plans or other compensation agreement; (b) the conversion or exchange of any securities of the Company into Units, or the exercise of any warrants or other rights to acquire Units; (c) any acquisition by the Company of any equity interests, assets, properties or business of any Person; (d) any merger, consolidation or other business combination involving the Company; (e) any transaction or series of related transactions involving a Change in Control; (f) a split of Units, payment of distributions or any similar recapitalization; or (g) any private placement of warrants to purchase membership interests to lenders or other institutional investors (excluding the Members) in any arm's length transaction providing debt financing to the Company or any of its Subsidiaries, in each case, approved in accordance with the terms of this Agreement; provided, however, that issuances under subsections (a) and (g) above shall not have Percentage Interests in excess of 5% in the aggregate for all such issuances.

"Fair Market Value" means, with respect to any item, the price (in cash or other consideration) at which such item would be sold in a sales transaction between a willing buyer and a willing seller negotiating on arms'-length terms. The Fair Market Value of an item shall be deemed for all purposes to be equal to the Fair Market Value of such item as determined by the Board, so long as such determination is made in good faith by the Board.

"Family Group" means, with respect to any Person who is an individual: (i) such Person's spouse and descendants (whether natural or adopted); (ii) the trustee, fiduciary or personal representative of such Person after such Person's death or adjudication of incompetence; or (iii) any trust, limited partnership, limited liability company or corporation the governing instruments of which provide and will continue to provide that such Person (or after such Person's death such Person's spouse or descendants (whether natural or adopted)) shall have the exclusive, non-transferable power to direct the management and policies of such entity and of which the sole owners and beneficiaries are, and will remain, limited to such Person and such Person's spouse and descendants (whether natural or adopted).

"Independent Third Party" means any Person who, immediately prior to the contemplated transaction, is not an Affiliate of any Member.

"Investment Amount" means the total amount of Capital Contributions made to the Company by the holders of Class A Units.

"Majority Vote" means the affirmative vote of Members holding a majority of the outstanding Class A Units. Such vote may be evidenced by a written consent signed by such Members, which may be executed in counterparts.

"Managers" means those Persons appointed as Managers from time to time by the Members in accordance with ARTICLE VI hereof.

"Members" means the Persons designated as the members of the Company and any Persons who hereafter become members of the Company pursuant to the terms hereof.

"Notification" means a writing, containing the information required by this Agreement to be communicated to any Person.

"Percentage Interest" means, with respect to a Member, the quotient of the number of Units held by such Member, divided by the total number of Units held by all of the Members, the current calculation of which is set forth in Exhibit A hereto.

"Permitted Transfer" shall mean a Transfer of Units by a Member which is in compliance with Section 7.02 to any Affiliate of such Member.

"Person" means a natural person, corporation, trust, partnership, joint venture, association, limited liability company or other business or other legal entity of any kind.

"Proceeding" means any threatened, pending or completed action, suit, appeal or other proceeding of any nature, whether civil, criminal, administrative or investigative, whether formal or informal, and whether brought by or in the right of the Company, its Members or otherwise.

"Profit" or "Loss" means, for a period, the Company's taxable income or loss determined under Code §703(a), including all items stated separately thereunder, with the following adjustments, to the extent not otherwise taken into account: (i) income exempt from federal income tax shall be added; (ii) expenditures described in Code §705(a)(2)(B) or treated as such pursuant to Regs. §1.704-1(b)(2)(iv) shall be deducted; (iii) in lieu of cost recovery deductions taken in computing taxable income or loss, such deductions shall be determined under Regs. §1.704-1(b)(2)(iv)(g)(3); (iv) in lieu of taxable gain or loss from an asset disposition, gain or loss shall be determined by reference to the asset's Book Value instead of tax basis.

"Pro Forma Liquidation Amount" means, with respect to a Member, the amount of money which would be distributed by the Company to such Member if the Company were to sell all of its assets to a single buyer in a sales transaction for an amount of money equal to the Fair Market Value of such assets, and then immediately distribute the net proceeds of such sale in a liquidation to the Members in accordance with Section 8.02(b) after providing for the payment of creditors and establishment of due and adequate reserves as provided for therein.

"Pro Rata" means in the proportion that the item being measured for each Member bears to the total of all such items for all Members for whom a contribution, distribution, allocation or other item is due or being made, shared, or determined.

"Pro Rata Portion" means, with respect to any Pre-emptive Member, on any issuance date for New Units, the number of New Units equal to the product of (i) the total number of New Units to be issued by the Company on such date and (ii) the fraction determined by dividing (x) the number of Class A Units owned by such Pre-emptive Member immediately prior to such issuance by (y) the total number of Class A Units held by the Members on such date immediately prior to such issuance.

"Regulations" and "Regs." means the Treasury Regulations of the United States Treasury Department pertaining to the Code, as amended, and any successor provisions thereto.

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

"Subsidiary" means, with respect to any Person (a) any corporation of which more than fifty percent (50%) of the stock of any class or classes having by the terms thereof ordinary

voting power to elect a majority of the directors of such corporation (irrespective of whether or not at the time stock of any class or classes of such corporation has or might have voting power by reason of the happening of any contingency) is owned by such Person directly or indirectly through one or more subsidiaries of such Person and (b) any partnership, association, joint venture, limited liability company or other entity in which such Person directly or indirectly through one or more subsidiaries of such Person has more than a fifty percent (50%) equity interest.

"Target Capital Balance" means, with respect to a Member, the net amount which would be distributed to such Member under this Agreement in a hypothetical liquidation of the Company, determined as if the Company were to sell all of its assets for cash in an amount equal to their Book Value and distribute the net proceeds of such sale to the Members, after providing for the claims of creditors, pursuant to the provisions of this Agreement relating to a liquidation of the Company. To the extent applicable, the Target Capital Balance of a Member shall be reduced (below zero if necessary) by the sum of such Member's share of the Company's "partnership minimum gain" under Regs. §1.704-2(g), such Member's "partner nonrecourse debt minimum gain" under Regs. §1.704-2(i)(3), and the amount, if any, such Member would be required to contribute in the foregoing hypothetical liquidation. Nothing in this paragraph shall require any Member to be liable to the Company or any Person for any amount.

"Tax Distribution Amount" means, with respect to each Member, (i) the cumulative amounts of each class of income and gain allocated to such Member for federal tax purposes, multiplied by the respective Assumed Tax Rates applicable to such items; minus (ii) the cumulative amounts of each class of deduction, loss and expense allocated to such Member for federal tax purposes, multiplied by the respective Assumed Tax Rates applicable to such items; minus (iii) the cumulative distributions distributed to such Member pursuant to Section 5.02 of this Agreement.

"Tax Matters Member" means Next or such other Person as may be designated by Next.

"Transfer" means, as a noun, any voluntary or involuntary transfer, sale, pledge, hypothecation or other disposition and, as a verb, voluntarily or involuntarily to transfer, sell, pledge, hypothecate or otherwise dispose of.

"Units" means units issued hereunder which represent rights of equity ownership in the Company. Units shall not be evidenced by certificates and their ownership is evidenced solely by this Agreement and by the records of the Company.

"Unreturned Capital" means, with respect to each Member, the sum of all Capital Contributions made to the Company by the Member, minus the cumulative distributions paid to such Member pursuant to Section 5.01(a).

(b) In addition to the terms defined in Section 1.04(a), additional defined terms used herein shall have the respective meanings assigned thereto in the Sections indicated on Annex A.

**ARTICLE II
PURPOSES AND BUSINESS OF THE COMPANY;
RIGHTS OF THE COMPANY**

2.01 **Purposes of the Company.** The Company has been formed for the purpose of carrying on any lawful purpose permitted to be carried on by limited liability companies under applicable law.

2.02 **Authority of the Company.** To carry out its purposes, the Company, consistent with and subject to the provisions of this Agreement and all applicable laws, is empowered and authorized to do any and all acts and things incidental to, or necessary, appropriate, proper, advisable, or convenient for, the furtherance and accomplishment of its purposes.

2.03 **Special Limitations.** Notwithstanding the authority of the Company set forth in Section 2.02 or any other provision of this Agreement, the Company shall not (a) fail to preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the laws of the jurisdiction of its organization or formation; (b) fail to file its own tax returns; or (c) fail either to hold itself out to the public as a legal entity separate and distinct from any other entity or Person or to conduct its business solely in its own name in order not to mislead others as to the identity with which such other party is transacting business.

**ARTICLE III
MEMBERS; CAPITAL CONTRIBUTIONS;
CAPITAL ACCOUNTS; UNITS**

3.01 **Members.** The name, address and Capital Contribution of each Class A Member, and number and class of Units issued to, and the Percentage Interest of, each Class A Member, are set forth in Exhibit A hereto, as may be amended from time to time to reflect the admission of Additional Members or the issuance or redemption of Units.

3.02 **Additional Members.** Additional Members may be admitted to the Company only with the Consent of the Board and consistent with this Agreement. This Agreement shall be amended to reflect the Additional Members as parties, and Exhibit A shall be amended to set forth the information relating to such Additional Members that are Class A Members, including the amount of their Capital Contributions, the number of Class A Units issued to the Additional Members and the resulting Percentage Interests of the Members and Additional Members. The Members acknowledge and agree that the admission of Additional Members will reduce their proportionate rights with respect to the Company, including their economic sharing percentages, and hereby Consent to the admission of Additional Members and to such reductions, if admitted pursuant to the terms and conditions hereof. The Additional Members shall be required to execute a Joinder Agreement.

3.03 **Company Capital; Representations and Warranties Regarding Contributions.**

(a) Capital Contributions. The Class A Members have made Capital Contributions in amounts reflected opposite each Member's name in Exhibit A hereto (or shall make them at such times as agreed to by the Company in writing) and such amounts shall be credited to each Member's Capital Account. Notwithstanding the foregoing, in the event a Class A Member does not make its cash Capital Contribution as set forth on Exhibit A hereto, either in its entirety or an amount less than that required, such Class A Member's Percentage Interest shall be reduced proportionately based upon such reduced cash Capital Contribution. No Member shall be paid interest on any Capital Contribution to the Company or on such Member's Capital Account. A Member shall not receive from the Company or out of Company property and shall have no right to withdraw and demand, and the Company shall not return to a Member, any part of its Capital Contribution or Capital Account. Distributions to the Members shall be made only as expressly provided for in this Agreement.

(b) New Issuances. The Company may from time to time determine that additional capital (in addition to the Capital Contributions made pursuant to this Agreement) is required in order to achieve the purposes of the Company described above. Upon such a determination, subject to Section 7.06, the Board is authorized to cause the Company to offer additional Units in the Company to investors upon such terms and conditions as are determined by the Board to be fair and reasonable. In addition, subject to the terms and conditions hereof, including Section 7.06, the Board may cause the Company to issue additional Units in the Company or options and/or warrants to acquire such additional Units to Persons providing services to the Company or other Persons on such terms as the Board may determine. Subject to the terms and conditions hereof, the Board is authorized to cause the Company to take all necessary actions, including the amendment of this Agreement, to reflect the admission of Additional Members and the adjustment of the number of Units held by, and the Percentage Interests of, the Members, resulting from the offering of additional Units in the Company (in each event without any act of the Members).

3.04 Capital Accounts.

(a) A separate Capital Account shall be established, maintained and adjusted for each Member in accordance with Regs. §1.704-1(b), including subclause (2)(iv)(b) thereof. Provisions of this Agreement relating to the maintenance of Capital Accounts shall be interpreted and applied in a manner consistent therewith. If the Board determines that it is prudent to modify the manner in which Capital Accounts, or any debits or credits thereto, are computed in order to comply with such Regulations, the Company may make such modifications.

(b) In the event of a revaluation of Company assets as contemplated in the definition of "Book Value," Capital Accounts shall be adjusted in compliance with the applicable Regulations, and the aggregate adjustment to Capital Accounts shall be classified as Profit or Loss, as applicable, and allocated among the Members in accordance with ARTICLE VIII.

(c) In the event of a transfer of Units in accordance with this Agreement, the proportionate attributes and Capital Account balances thereof shall be transferred to the assignee, such that amounts contributed, distributed or allocated with respect to Units which

were held by a predecessor in interest of a Member shall be taken into account for purposes of determining allocations, distributions and other attributes associated with such Units.

3.05 Liability of Members.

(a) Subject to Section 3.05(b), no Member shall have any personal liability whatsoever in his capacity as a Member, whether to the Company, to any of the Members, or to the creditors of the Company, for the debts, liabilities, contracts, or any other obligations of the Company, or for any losses of the Company. A Member shall be liable only to make its Capital Contributions as expressly provided for herein and shall not be required to lend any funds to the Company or to make any further capital contributions to the Company or to repay to the Company, any Member, or any creditor of the Company all or any fraction of any negative amount in a Member's Capital Account.

(b) In accordance with Applicable Law, a Member of the Company may, under certain circumstances, be required to return to the Company, for the benefit of Company creditors, amounts previously distributed to such Member. It is the intent of the parties that no distribution to any Member shall be deemed a return or withdrawal of capital, and that no Member shall be obligated to pay any such amount to or for the account of the Company or any creditor of the Company. However, if any court of competent jurisdiction holds that, notwithstanding the provisions of this Agreement, any Member is obligated to make any such payment, such obligation shall be the obligation of such Member only and not of any other Member.

(c) A Member shall not be personally liable for the payment or repayment of any amounts standing in the account of another Member including the Capital Contributions. Any such payment or repayment, if required to be made, shall be made solely from the Company's assets. A Member shall have no personal liability to repay to the Company any negative amount of its Capital Account.

3.06 Transaction Expenses. The Company shall pay and assume any pre-formation expenses of the Company; provided, however, that each Member shall pay and assume its own expenses in connection with the negotiation of this Agreement.

ARTICLE IV

ALLOCATIONS

4.01 Determination of Profits and Losses; Preliminary Adjustments. Profits, Losses and/or component items thereof, including individual items of gross income, gain, loss, deduction or credit, shall be determined for each period pursuant to income tax accounting methods adopted by the Board for the Company consistently applied and shall be allocated among the Members in the manner provided in this ARTICLE IV. Prior to making allocations for a period, Capital Accounts shall be adjusted to reflect all contributions, distributions and other events during the period that affect Capital Account balances other than such allocations.

4.02 Allocation of Profits and Losses. Profits shall be allocated to the Members Pro Rata, in proportion to the respective amounts by which their Target Capital Balances exceed their Capital Account balances, until such respective excess amounts are reduced to zero. Losses shall be allocated to the Members Pro Rata, in proportion to the respective amounts by which their Capital Account balances exceed their Target Capital Balances, until such respective excess amounts are reduced to zero.

4.03 Special Allocations.

(a) Priority. Allocations for a period under other provisions of this Agreement shall be of the residual amount of Profit or Loss or items thereof remaining after giving effect to allocations under this Section 4.03 for such period.

(b) Chargebacks, Offsets and Nonrecourse Deductions. The allocations set forth below shall be made to the extent applicable and in the manner provided for in Regulations relating thereto. Items of income and gains shall be allocated to the Members in such manner as shall cause the Company to make allocations in accordance with provisions in the Regulations relating to: "minimum gain chargebacks" under Regs. §1.704-2(f); "partner nonrecourse debt minimum gain chargebacks" under Regs. §1.704-2(i)(4); and "qualified income offsets" under Regs. §1.704-1(b)(2)(ii)(d). Partner nonrecourse deductions under Regs. §1.704-2(i) shall be allocated to the Member who bears the economic risk of loss with respect to the particular partner nonrecourse liabilities to which they relate. Nonrecourse deductions under Regs. §1.704-2(b)(1) shall be allocated to the Members Pro Rata in proportion to their Percentage Interests.

(c) Loss Limits. Allocations of Losses or items of expense or deductions to a Member shall not exceed the maximum amount that can be allocated to the Member pursuant to the limit set forth in Regs. §1.704-1(b)(2)(ii)(d). Items in excess of such limit shall be reallocated to the other Members in accordance with Section 4.02.

(d) Other Allocations. The Board is authorized to cause the Company to make such other allocations of Profit, Loss and items thereof as it may determine such that all of such items will be allocated among the Members in a manner which will be respected pursuant to the Regulations.

4.04 Tax Allocations.

(a) Except as otherwise provided in this Agreement, for Federal income tax purposes, all items of Company income, gain, loss, deduction, basis, amount realized and credit, and the character and source of such items, shall be allocated among the Members in the same manner as the corresponding items of income, gain, loss, deduction or credit are allocated to Capital Accounts in accordance with Sections 4.02 or 4.03. The Company shall maintain such books, records and accounts as are necessary to make such allocations.

(b) The Board is authorized to make, for tax purposes only, allocations of income, gain, loss or deduction or adopt conventions as are necessary or appropriate to comply with the Regulations under Code §704(c), and in particular, in respect of a Capital Contribution of property other than cash and adjustments to the Book Value of Company assets at the times specified in the definition of Book Value. Allocations will be made under methods selected by the Board and permissible under Regs. §1.704-3 and in conformity with Regs. §§1.704-1(b)(2)(iv)(f) and 1.704-1(b)(4)(i).

4.05 Allocations in Event of Assignment; Prorations.

(a) Subject in all cases to applicable law, if there is a Transfer of Units in accordance with this Agreement, for purposes of allocations of Profits and Losses and distributions of cash and property, the effective date of the Transfer as to the Company will be the effective date stated in the Transfer instrument or such other date as the assignor and assignee agree, but not earlier than the date the Board receives Notification of the Transfer and all of the conditions set forth in this Agreement applicable to such Transfer have been satisfied, or, in the case of an involuntary Transfer, the date of the operative event. Distributions of cash and property with respect to any Units shall be made to the Person who is shown as the holder of such Units in the Company's books at the time of the distribution.

(b) In the event of a change in a Member's ownership during the course of a period, allocations to such Member of Profits, Losses and other items arising during such period shall be determined in accordance with the weighted average ownership of the Member during such period, giving equal weight to each day during such period, except that if the Regs. require another method for making such allocations in such case, or if the Board approves another method for making such allocations which is reasonable and complies with the Regs., then the allocations to such Member shall be made in accordance with such other method.

4.06 **Imputed Interest.** If any Member makes a loan to the Company, or the Company makes a loan to any Member, and interest in excess of the amount actually payable is imputed under Code §§7872, 483, or 1271 through 1288 or corresponding provisions of subsequent Federal income tax law, then any item of income or expense of the Company attributable to any such imputed interest shall be allocated solely to the Member who made or received the loan and shall be credited or charged to its Capital Account, and a corresponding Capital Contribution by or distribution to such Member shall be deemed to have occurred, as appropriate.

ARTICLE V

DISTRIBUTIONS

5.01 **Timing and Priority of Distributions.** Except as otherwise provided in this Agreement, the Company shall distribute cash or other property to the Members at such times and in such amounts as may be determined by the Board in its sole discretion, as follows:

(a) first, to the Members, Pro Rata in proportion to their Unreturned Capital until each Member's Unreturned Capital is reduced to zero; and

(b) then, to the Members, Pro Rata in proportion to their relative Percentage Interests.

5.02 **Tax Distributions.** Notwithstanding Section 5.01 above, prior to making non-liquidating distributions pursuant to Section 5.01 above, the Company shall make cash distributions ("Tax Distributions") to the Members, Pro Rata in accordance with their relative positive Tax Distribution Amounts, until all positive Tax Distribution Amounts are reduced to zero. Tax Distributions shall be calculated after giving effect to allocations pursuant to ARTICLE IV for the period to which the Tax Distributions relate. Tax Distributions shall be in

anticipation of and reduce amounts otherwise distributable to the recipient under Section 5.01 as quickly as possible. Amounts withheld and paid to a tax authority with respect to a Member shall be treated as Tax Distributions made to such Member.

5.03 Distributions In Kind. If the Company distributes property other than cash to its Members, the amount of such distribution shall be deemed to be equal to the Fair Market Value of the property distributed, net of any liabilities that such property may be subject to or which may be assumed by the Members in connection therewith. Such Fair Market Value shall be determined by the Board in its reasonable discretion and in good faith, consistent with the Board's fiduciary duty. No Member shall have the right to demand or receive distributions of any kind or type except cash pursuant to Section 5.02

5.04 Withholding. If the Company is required to withhold any portion of any distribution or allocation to a Member by applicable federal, state, local or foreign tax laws, the Company shall withhold such amounts and make such payments to such taxing authorities as are necessary to ensure compliance with such tax laws. Any funds withheld by reason of this Section 5.04 shall nonetheless be deemed distributed or allocated (as the case may be) to the Member in question for all purposes under this Agreement. If the Company makes any payment to a taxing authority in respect of a Member hereunder that is not withheld from actual distributions to the Member, then the Company may, at its option, (i) require the Member to reimburse the Company for such withholding or (ii) reduce any subsequent distributions to such Member by the amount of such withholding. The obligation of a Member to reimburse the Company for taxes that were required to be withheld shall continue after such Member Transfers its interest in the Company or after a withdrawal by such Member. Each Member agrees to furnish the Company with any representations and forms as shall reasonably be requested by the Company to assist it in determining the extent of, and in fulfilling, any withholding obligations it may have.

5.05 Limitation on Distributions to Members. The Company shall not distribute cash or property to any Member unless, after such distribution is made, the fair value of the Company's assets exceeds its liabilities, and unless such distribution is in compliance with any loan agreements or similar documents to which the Company is subject.

**ARTICLE VI
MANAGEMENT; BOARD OF MANAGERS;
MEETINGS AND CONSENTS OF THE BOARD AND MEMBERS**

6.01 Management Power of Board; Traffic Allocation.

(a) The Board is hereby granted the right, power, and authority to do on behalf of the Company all things which are necessary or appropriate to manage the Company's affairs and fulfill the purposes of the Company, including delegating their management powers to officers, employees, agents or other representatives of the Company. Any and all Persons dealing with the Company shall have the right to rely upon the actions of the Board to bind the Company by its actions or signature. Only the Board has the authority to act for and bind the Company, except to the extent it delegates such authority to other Persons in writing, provided

that no such delegation shall divest the Board of such authority or preclude it from exercising any powers delegated. All Managers and officers shall comply with any applicable code of conduct, policies and procedures of the Company. Without limiting the generality of the foregoing, the Company, its officers and Managers shall not engage in any material transaction outside the ordinary course of business without Board approval, and no Manager or officer shall take any act in contravention of the foregoing. Transactions outside the ordinary course of business shall include, but not be limited to (i) incurring or modifying indebtedness (other than advances under existing working capital lines of credit), (ii) repayment of any debt other than pursuant to its scheduled terms, entering into or modifying leases, employment agreements or consulting agreements, (iii) engaging, terminating or modifying the terms of engagement or employment of any executive level individual or individual in policy making position, (iv) setting or modifying compensation (structure) for any executive level individual or individual in policy making position, (v) any matter relating to company compensation and bonus structure, pay raises, and similar matters, (vi) granting of options, incentive equity compensation or the like, (vii) issuance of any securities, (viii) hiring or terminating of legal counsel, auditors or other professionals, (viii) entering into, modifying or terminating significant agreements (other than standard contracts, such as sales agreements, routinely entered into in the company's ordinary course of business), (ix) entering into, modifying or terminating any material agreement or arrangement calling for payments in excess of \$50,000 (excluding standard agreements in the ordinary course of business routinely being conducted by the Company such as recurring expense type items other than capital expenditures), (x) entering into, modifying or terminating any agreement with a related party or Affiliate of the Company or any Member, including family members or business associates of company management or its Board, (xi) entering into, modifying or terminating any travel and entertainment policy, (xii) adopting or modifying any annual P&L and capital budget, and/or (xiii) matters relating to corporate strategy.

(b) Except as expressly provided for in this Agreement, including in Section 6.13, no actions of the Company require the Consent of any Members, and all Company actions that are authorized by the Board will be deemed to be valid in all respects.

(c) Notwithstanding anything herein to the contrary, the Company's telecommunications traffic shall be allocated, consistent with the Company's legal obligations, to the provider offering the least-cost routing ("LCR"). Any LCR provided by any Class A Member or an Affiliate thereof must be offered to the Company based on good market prices. As a guiding rule, "good" pricing should not exceed Tier 1 prices plus 3%. Notwithstanding the foregoing, Marcatel will have a right of first refusal with regard to all of the Company's Mexican NEA traffic, provided, however, that Marcatel offers its services to the Company at prices not to exceed Tier 1 prices plus 3%, coupled with Tier 1 quality. The remaining traffic shall be divided among the Members on pro rata basis, based upon each Member's Percentage Interest. The Company shall not make any cash distributions in respect of any Unit hereunder until all amounts due and payable to any Member with respect to traffic allocated to it hereunder have been paid in full. If, at any time, the Company is obligated to make payments to multiple Members with respect to traffic allocated to them hereunder and the Company has insufficient cash to make all such payments in full, the Company shall pay to each such Member a fraction of the aggregate amount of cash available to make such payments equal to the quotient of (x) total amount payable to such Member, divided by (y) the total amount payable to all such Members.

6.02 Authority of the Members. No Member, in its capacity as a Member, shall take part in the management or control of the Company's business or affairs. No Member shall have power to represent, act for, sign for or bind the Company. The Members hereby Consent to the exercise by the Board of the powers conferred on it by law and this Agreement.

6.03 Number of Managers; Qualifications. The number of Managers on the Board shall be five (5). Managers need not be Members.

6.04 Appointment of Managers; Removal; Vacancies. (i) Next shall have the right to appoint two Managers, who shall initially be Arik Meimoun and Jerry M. Huerta, (ii) Angel shall have the right to appoint two Managers, who shall initially be Nikolaos Karatzas and Peter Waneck, and (iii) Marcatel shall have the right to appoint one Manager, who shall initially be Gustavo de la Garza. Managers designated or elected in accordance with this Section 6.04 shall be removed from the Board (with or without cause) only upon the vote or written consent of the Member entitled to designate or elect such Manager under this Section 6.04; provided, however, that any Manager may be removed by a Majority Vote for Cause. Each Manager shall remain in office until his or her death, resignation or removal, and in the event of death, resignation or removal (with or without cause) of a Manager, the vacancy created shall be filled the Member entitled to designate or elect such Manager under this Section 6.04.

6.05 Board Meetings. Regular meetings of the Board may be held at such places within or without the Charter State and at such times as the Board may from time to time determine. Written notice of each regular meeting of the Board shall be given to each Manager at least 24 hours prior to each such meeting. Special meetings of the Board may be held at any time or place within or without the Charter State whenever called by any Manager upon at least five days' written notice (if the meeting is to be held in person) or three days' written notice (if the meeting is to be held by telephone communications or video conference) to the Managers, or upon such shorter notice as may be approved by all the Managers. Any Manager may waive any notice required in this Section 6.05 as to himself. Such notice must specify the time and place, and information regarding telephone numbers. Notices must be sent to the addresses, fax numbers or email addresses specified in the records of the Company with respect to each Manager. Members of the Board may participate in a meeting thereof by means of conference telephone or similar communications equipment by means of which all Persons participating in the meeting can hear each other, and such participation shall constitute presence in person at such meeting. The Company shall reimburse each Manager for reasonable out-of-pocket expenses incurred as a result of such Manager's attendance at meetings of the Board or any committee thereof.

6.06 Quorum; Vote Required for Action. At all meetings of the Board a majority of the Board shall constitute a quorum for the transaction of business. The vote of a majority of the Managers present at a meeting at which a quorum is present shall be required and shall be sufficient for approval of any action taken by the Board and shall constitute a Consent of the Board under this Agreement. The Board cannot approve any action at a meeting at which a quorum is not present.

6.07 Action by Managers by Written Consent. Any action required or permitted to be taken at any meeting of the Board may be taken without a meeting if a majority of the Board

Consents thereto in writing; provided, however, that, if such majority written consent of the Board is not unanimous, the action consented thereto shall not become effective until three (3) Business Days after a copy of such written consent has been provided to each member of the Board.

6.08 Executive Officers; Election; Qualifications; Term of Office; Resignation; Removal; Vacancies. The Board may elect a Chief Executive Officer, one or more Vice Presidents, a Secretary, one or more Assistant Secretaries, a Treasurer, one or more Assistant Treasurers, and such other officers as the Board deems necessary. Each such officer shall hold office until the first annual meeting of the Board after the Officer's election, or until the Officer's successor is elected and qualified or until the Officer's earlier resignation or removal. Any officer may resign at any time upon written notice to the Company. The Board may remove any officer with or without cause at any time. Any number of offices may be held by the same Person. Any vacancy occurring in any office of the Company by death, resignation, removal or otherwise may be filled for the unexpired portion of the term by the Board at any regular or special meeting.

6.09 Powers and Duties of Executive Officers. The officers of the Company shall have such powers and duties in the management of the Company as may be prescribed by the Board.

6.10 Meetings of Members. Any matter requiring the Consent of all or any of the Members pursuant to this Agreement may be considered at a meeting of the Members held not less than five (5) business days after Notification thereof shall have been given to all other Members by (i) Members owning at least 10% of the Class A Units, or (ii) any Manager. The Notification shall state the proposed action to be taken. The Company shall not be required to hold a special or annual meeting of Members. A Member may issue a proxy or power of attorney to any Person to act on its behalf at any meeting, and the actions of such Person pursuant to such proxy or power of attorney shall be deemed to be the actions of such Member.

6.11 Method of Giving Consent. Any Consent or action of a Member or Members may be effected by a written Consent given by the Consenting Members at or prior to the doing of the act or thing for which the Consent is solicited, or by the affirmative vote by the Consenting Members to the doing of the act or thing for which the Consent is solicited at any meeting called and held pursuant to this Agreement to consider the doing of such act or thing. A written Consent of the Members shall be sufficient to approve of the matters and take the actions set forth therein if signed by Members holding sufficient Units and authority to take the action set forth therein in accordance with this Agreement.

6.12 Submissions to Members. The Board shall give all the Members Notification of any proposal or other matter required by any provision of this Agreement or by law to be submitted for the consideration and approval of the Members. Such Notification shall include any information required by the relevant provision of this Agreement or by law.

6.13 Major Decisions. Notwithstanding anything to the contrary contained in this Agreement, at any time that there are any Class A Units outstanding, the Company shall not, and shall not permit any of its Subsidiaries to, engage in or cause any of the following transactions or

take any of the following actions, and the Board shall not permit or cause the Company or any of its Subsidiaries to engage in, take or cause any such action except with the prior approval of the holders of at least 80% of the outstanding Class A Units voting separately as a class:

- (a) a transaction or series of transactions pursuant to, or as a consequence of which, any person or group of related persons (other than the Class A Members and their respective Affiliates) in the aggregate acquire(s) (x) equity securities of the Company possessing the voting power to elect a majority of the Board (whether by merger, consolidation, reorganization, combination, sale or transfer of the Company's Equity Securities) or (y) all or substantially all of the assets of the Company and its Subsidiaries determined on a consolidated basis;
- (b) an underwritten public offering of the Company's Equity Securities registered under the Securities Act;
- (c) any transaction or agreement with any Class A Member or Affiliate thereof other than any transaction or agreement which is contemplated by this Agreement;
- (d) a voluntary bankruptcy action of the Company or an involuntary bankruptcy action of the Company which the Company does not contest;
- (e) a dissolution, liquidation or winding up of the Company;
- (f) the creation, issuance, subdivision, reclassification, or change of any class or series of the Company's Equity Securities, or any securities convertible into or exchangeable for the Company's Equity Securities, or admission of Additional Members;
- (g) engaging in any business other than the Business, or any business incidental thereto or reasonable extension thereof; and
- (h) the approval of any amendment or change of the Certificate of Formation, this Agreement or other governance documents of the Company.

6.14 **Indemnification by the Company.** The Company shall indemnify and hold harmless the Members, the Managers and the Company's officers and employees, and the Affiliates of each of the foregoing Persons (each of the foregoing Persons is referred to as a "Covered Person"), to the fullest extent permitted by law against losses, judgments, liabilities, expenses and amounts incurred or paid, including attorneys' fees, costs, judgments, amounts paid in settlement, fines, penalties and other liabilities, by the Covered Person in connection with any claim, action, suit or proceeding in which such Covered Person becomes involved as a party or otherwise, or with which such Covered Person shall be threatened, in connection with the conduct of the Company's affairs; provided, however, that such indemnification shall not apply with respect to breaches of this Agreement, breaches of confidentiality or the appropriation by a Covered Person of a Company Opportunity in violation of applicable law. Expenses incurred by any Covered Person in connection with the preparation and presentation of a defense or response to any claims covered hereby shall be paid by the Company. The Company shall pay the amounts described herein to the Covered Person (or to the parties making claims against the Covered Person in satisfaction of such claims) within 10 days after written demand therefor is

delivered to the Company by the Covered Person. Without limiting the foregoing, the indemnities by the Company provided for therein shall apply with respect to all actions taken by the Managers or Members which they believe to be in the best interests of the Company in accordance with the business judgment rule, other than actions which constitute willful misconduct or gross negligence.

**ARTICLE VII
TRANSFERABILITY OF UNITS; RIGHT OF FIRST REFUSAL;
TAG-ALONG; DRAG-ALONG; PRE-EMPTIVE RIGHTS**

7.01 Prohibition Against Transfers. Except for (i) Permitted Transfers, and (ii) as otherwise expressly permitted by this ARTICLE VII, no Transfer of any Units, or any interest in any of such Units may be made by any to any Person, whether voluntarily or by operation of law, and any transfers in contravention of this ARTICLE VII shall be void *ab initio*. Transfers which are Permitted Transfers are not subject to the provisions of Section 7.03 or Section 7.04.

7.02 Certain Agreements by Transferees. Except with respect to Units acquired by the Company, in the event of any Transfer of Units, the transferee shall in all events take such Units subject to all of the provisions, conditions and agreements set forth in this Agreement. No transfer of Units shall be valid or permitted, nor shall any transferee of Units have any rights hereunder, until the transferee shall have executed and delivered to the Company a Joinder Agreement. All transferors and transferees of Units hereby indemnify the Company for any loss or damages it may incur as a result of the Company's recognition or failure to recognize a Transfer or purported Transfer of their Units. The preceding sentence shall also apply to all Units acquired by any Person directly from the Company.

7.03 Right of First Refusal.

(a) At any time, and subject to the terms and conditions specified in this Section 7.03, each Member shall have a right of first refusal if any other Member (the "Offering Member"), receives an offer from an Independent Third Party that the Offering Member desires to accept to purchase all or any portion of the Equity Securities owned by the Offering Member (the "Offered Units"). Each time the Offering Member receives an offer for any of its Equity Securities from an Independent Third Party that it desires to accept, the Offering Member shall first make an offering of the Offered Units to the other Members in accordance with the following provisions of this Section 7.03 prior to Transferring such Offered Units to the Independent Third Party (other than Permitted Transfers or Transfers made pursuant to Section 7.04 and Section 7.05).

(b) Offer Notice.

(i) The Offering Member shall, within five Business Days of receipt of the offer from the Independent Third Party, give written notice (the "Offering Member Notice") to the Company and the other Members stating that it has received a bona fide offer from an Independent Third Party that it desires to accept and specifying: (w) the number of Offered Units to be sold by the Offering Member; (x) the name of the person or entity who has offered to purchase such Offered Units; (y) the per Unit purchase price and the other material terms and

conditions of the Transfer, including a description of any non-cash consideration in sufficient detail to permit the valuation thereof; and (z) the proposed date, time and location of the closing of the Transfer, which shall not be less than 60 days from the date of the Offering Member Notice.

(ii) The Offering Member Notice shall constitute the Offering Member's offer to Transfer the Offered Units to the other Members, which offer shall be irrevocable until the end of the ROFR Notice Period.

(iii) By delivering the Offering Member Notice, the Offering Member represents and warrants to the Company and each other Member that: (x) the Offering Member has full right, title and interest in and to the Offered Units; (y) the Offering Member has all the necessary power and authority and has taken all necessary action to sell such Offered Units as contemplated by this Section 7.03; and (z) the Offered Units are free and clear of any and all Liens other than those arising as a result of or under the terms of this Agreement.

(c) Exercise of Right of First Refusal.

(i) Upon receipt of the Offering Member Notice, each Member shall have 10 Business Days (the "ROFR Notice Period") to elect to purchase all (and not less than all) of the Offered Units by delivering a written notice (a "ROFR Offer Notice") to the Offering Member and the Company stating that it offers to purchase such Offered Units on the terms specified in the Offering Member Notice. Any ROFR Offer Notice shall be binding upon delivery and irrevocable by the applicable Member. If more than one Member delivers a ROFR Offer Notice, each such Member (the "Purchasing Member") shall be allocated its Pro Rata Portion of the Offered Units, unless otherwise agreed by such Members.

(ii) Each Member that does not deliver a ROFR Offer Notice during the ROFR Notice Period shall be deemed to have waived all of such Member's rights to purchase the Offered Units under this Section 7.03, and the Offering Member shall thereafter, subject to the rights of any Purchasing Member, be free to sell the Offered Units to the Independent Third Party specified in the Offer Notice without any further obligation to such Member pursuant to this Section 7.03.

(iii) Each Member who delivers a ROFR Offer Notice shall be deemed to have waived any rights that such Member may have pursuant to Section 7.04.

(d) If no Member delivers a ROFR Offer Notice in accordance with Section 7.03(c), the Offering Member may, during the 60 Business Day period immediately following the expiration of the ROFR Notice Period, and subject to the provisions of Section 7.04 with respect to those Members who have not delivered ROFR Offer Notices, Transfer all of the Offered Units to the Independent Third Party on terms and conditions no more favorable to the Independent Third Party than those set forth in the Offering Member Notice. If the Offering Member does not Transfer the Offered Units within such period, the rights provided hereunder shall be deemed to be revived and the Offered Units shall not be Transferred to the Independent Third Party unless the Offering Member sends a new Offering Member Notice in accordance with, and otherwise complies with, this Section 7.03.

(e) Each Member shall take all actions as may be reasonably necessary to consummate the sale contemplated by this Section 7.03, including entering into agreements and delivering certificates and instruments and consents as may be deemed necessary or appropriate.

7.04 Tag-Along Rights. Subject to the terms and conditions specified in Section 7.01 Section 7.02 and Section 7.03, if any Class A Member (other than Marcatel) (the "Selling Member") proposes to Transfer any of its Units to any Person (a "Tag-Along Sale"), then the Class A Members not participating in such Tag-Along Sale (the "Remaining Members") may, by giving notice to the Selling Member (a "Tag-Along Notice," such Remaining Members issuing a Tag-Along Notice, the "Tag-Along Members") within 10 Business Days after the date that the Remaining Members are provided notice of the Tag-Along Sale, require, as a condition to the closing of such Tag-Along Sale, that the Selling Member include in the Transfer that number of the Tag-Along Members' Units equal to the number of such Tag-Along Member's Units multiplied by a fraction, the numerator of which is the total Units being transferred by the Selling Member, and the denominator of which is equal to the total number of Units held by the Selling Member. The sale terms of the Tag-Along Sale shall be offered to each Tag-Along Member desiring to participate in such Transfer and such Tag-Along Member(s) shall be required to execute all documentation (and, only in the case of any Remaining Member who is also an employee or former employee of the Company or any of its Subsidiaries, reasonable non-competition, non-solicitation, confidentiality and restrictive covenants) and take such action as may be required or requested by the Selling Member(s) holding a majority of the Units being Transferred (including the applicable purchase or comparable agreement and/or indemnification or contribution or escrow agreement and other documents related to such Transfer) on terms and conditions no less favorable to such Tag-Along Members than the terms and conditions of all Selling Members (except as otherwise provided herein). The consideration shall be allocated among the Selling Member(s) and the Tag-Along Members Pro Rata in accordance with their relative Pro Forma Liquidation Amounts. In the event of any inconsistency between this Section and Section 5.01, the terms of this Section shall prevail. If a Remaining Member fails to deliver a Tag-Along Notice to the Selling Member within the period prescribed in this section, such Remaining Member will be deemed to have waived any tag-along rights hereunder. Permitted Transfers, Transfers to a Member under Section 7.03 and Transfers under Section 7.05 are not subject to the provisions of this Section. If the rights of the Remaining Members provided for above are not exercised within the prescribed time periods, the Selling Member shall have the right to sell its Units, but only in strict accordance with all of the provisions as specified herein, and only if the sale is fully consummated within 60 Business Days after the expiration of the last of such time periods. The Selling Member shall furnish such proof of the completion of the sale and the terms thereof as the Company may reasonably request. If, at the end of such 60 Business Day period, the Selling Member has not sold the Units specified as provided herein, all of the restrictions on and procedures relating to Transfers set forth in this Agreement shall again come into effect with respect thereto. Any Remaining Member delivering a Tag-Along Notice shall be deemed to have irrevocably agreed to participate in such Transfer in accordance with the terms of this Section.

7.05 Drag-Along Rights.

(a) Subject to the Member approval rights set forth in Section 6.13, Members holding a majority of the outstanding Class A Units (the "Majority Members") may at

their option at any time require the other Members (the "Minority Members"), in connection with a Change of Control transaction with an Independent Third Party, to sell the same percentage of their Units as are being sold by the Majority Members and to otherwise act as provided herein. In order to exercise the foregoing right, the Majority Members shall issue a written notice (a "Drag-Along Notice") signed by the Majority Members to each of the Minority Members advising the Minority Members that they are exercising their rights hereunder, and describing the sales transaction, including the nature and value of the consideration to be paid to each Member, the time of closing, the identity of the buyer, and copies of any purchase and sale or merger agreement to the extent that such agreement is in execution form. Upon receipt of a Drag-Along Notice, the Minority Members shall be obligated to sell that number of Units pursuant to the transaction referred to therein equal to the number of such Minority Member's Units multiplied by a fraction, the numerator of which is the total Class A Units being transferred by the Majority Members, and the denominator of which is equal to the total number of Class A Units held by the Majority Members. The terms of such sale shall be offered to each Minority Member participating in such transaction and each such Minority Member shall be required to execute all documentation (and, only in the case of any Member who is also an employee or former employee of the Company or any of its Subsidiaries, reasonable non-competition, non-solicitation, confidentiality and restrictive covenants) and take such action as may be required or requested by the Majority Members (including the applicable purchase or comparable agreement and/or indemnification or contribution or escrow agreement and other documents related to such Transfer) on terms no less favorable than the Majority Members (except as otherwise provided herein). The total consideration for all of the Units pursuant to the foregoing transaction shall be divided and apportioned among the Members Pro Rata in accordance their relative Pro Forma Liquidation Amounts. Section 7.03 and Section 7.04 shall not apply to a transaction which is the subject of a Drag-Along Notice. Each Minority Member further agrees to (i) take all necessary or desirable actions reasonably requested by the Majority Members in connection with the consummation of such Change of Control (including appointing a Members' representative designated by the Majority Members), (ii) in the event such transaction is to be brought to a vote, to be present, in person or by proxy, as a holder of Equity Securities, at all such meetings and be counted for the purposes of determining the presence of a quorum at such meetings, (iii) in the event such transaction is to be brought to a vote at a meeting or presented to for approval by written consent, to vote (in person, by proxy or by action by written consent, as applicable) all Equity Securities as to which it has record or beneficial ownership in favor of such Change of Control and in opposition of any and all other proposals that could reasonably be expected to delay or impair the ability of the Company to consummate such Change of Control, and (iv) refrain from exercising any dissenters' rights or rights of appraisal under applicable law at any time with respect to such Change of Control.

(b) Each Minority Member hereby constitutes and appoints Next as its true and lawful agent and attorney-in-fact, with full power of substitution, to act in the name, place and stead of such Minority Member with respect to the terms and provisions of this Section 7.05 applicable to such Minority Member, and to do or refrain from doing all such further acts and things, and to execute all such documents, as Next deems reasonably necessary to consummate the Transfer of Units owned by such Minority Investor in connection with any Drag-Along Notice on the terms set forth herein. The granting of the power of attorney set forth in this Section 7.05 will not relieve any Minority Member from its obligation to perform its obligations under this Agreement, including any such obligation the performance of which could be effected

by Next acting on behalf of such Minority Member. The power of attorney given herewith is irrevocable, is coupled with an interest and shall also constitute a voting agreement hereunder.

7.06 Pre-emptive Rights.

(a) *Issuance of Additional Equity Securities.* The Company hereby grants to each Class A Member (each, a "Pre-emptive Member") the right to purchase its Pro Rata Portion of any new Units (other than any Excluded Securities) (the "New Units") that the Company may from time to time propose to issue or sell to any party.

(b) *Additional Issuance Notices.* The Company shall give written notice (an "Issuance Notice") of any proposed issuance or sale described in subsection (a) above to the Pre-emptive Members within five Business Days following any meeting of the Board at which any such issuance or sale of New Units is approved. The Issuance Notice shall, if applicable, be accompanied by a written offer from any prospective purchaser seeking to purchase New Units and shall set forth the material terms and conditions of the proposed issuance, including:

(i) the number and description of the New Units proposed to be issued and the percentage of the Company's outstanding Units such issuance would represent;

(ii) the proposed issuance date, which shall be at least 10 days from the date of the Issuance Notice; and

(iii) the proposed purchase price per unit.

(c) *Exercise of Pre-emptive Rights.* Each Pre-emptive Member shall for a period of 10 days following the receipt of an Issuance Notice (the "Exercise Period") have the right to elect irrevocably to purchase its Pro Rata Portion of the New Units at the purchase price set forth in the Issuance Notice by delivering a written notice to the Company. The closing of any purchase by any Pre-emptive Member shall be consummated concurrently with the consummation of the issuance or sale described in the Issuance Notice.

(d) *Over-Allotment.* No later than five Business Days following the expiration of the Exercise Period, the Company shall notify each Pre-emptive Member in writing of the number of New Units that each Pre-emptive Member has agreed to purchase (including, for the avoidance of doubt, where such number is zero) (the "Over-allotment Notice"). Each Pre-emptive Member exercising its rights to purchase its Pro Rata Portion of the New Units in full (an "Exercising Member") shall have a right of over-allotment such that if any other Pre-emptive Member fails to exercise its right under this Section 7.06 to purchase its Pro Rata Portion of the New Units (each, a "Non-Exercising Member"), such Exercising Member may purchase its Pro Rata Portion of such Non-Exercising Member's allotment by giving written notice to the Company within five days of receipt of the Over-allotment Notice (the "Over-allotment Exercise Period").

(e) *Sales to the Prospective Buyer.* If any Pre-emptive Member fails to purchase its allotment of the New Units within the time period described in subsection (c) and after the expiration of the Over-allotment Exercise Period, the Company shall be free to

complete the proposed issuance or sale of New Units described in the Issuance Notice with respect to which Pre-emptive Members failed to exercise the option set forth in this Section 7.06 on terms no less favorable to the Company than those set forth in the Issuance Notice (except that the amount of New Units to be issued or sold by the Company may be reduced); provided, that (x) such issuance or sale is closed within 60 Business Days after the expiration of the Over-allotment Exercise Period and (y) for the avoidance of doubt, the price at which the New Units are sold is at least equal to or higher than the purchase price described in the Issuance Notice. In the event the Company has not sold such New Units within such time period, the Company shall not thereafter issue or sell any New Units without first again offering such securities to the Members in accordance with the procedures set forth in this Section 7.06.

ARTICLE VIII DISSOLUTION; LIQUIDATION AND TERMINATION OF THE COMPANY

8.01 Dissolution.

(a) Subject to the Member approval rights set forth in Section 6.13, the Company shall be dissolved upon the election by the Board to dissolve the Company following the sale, distribution to the Members, or other disposition of all or substantially all of the assets of the Company, or as required by Applicable Law.

(b) Dissolution of the Company shall be effective on the day on which the event occurs giving rise to the dissolution, but the Company shall not terminate until the Certificate of Formation of the Company have been canceled, the business of the Company wound-up and assets of the Company distributed as provided in Section 8.02.

8.02 Liquidation.

(a) Upon dissolution of the Company, the Board or a liquidating trustee, if one is appointed, shall wind up the affairs of the Company and liquidate all or any part of the assets of the Company. The Board or such liquidating trustee shall determine the time, manner and terms of any sale or other disposition of the Company's property for the purpose of obtaining, in its opinion, fair value for such assets.

(b) Profits and Losses arising from such sales and distributions upon liquidation shall be allocated to the Member's Capital Accounts as provided in ARTICLE IV prior to making liquidating distributions to the Members. In settling accounts after dissolution, the assets of the Company shall first be paid out to creditors, whether by payment or by establishment of due and adequate reserves, in the order of priority as provided by law; and then to the Members, in accordance with the priorities set forth in Section 5.01.

(c) When the Board or liquidating trustee has complied with the foregoing liquidation plan, the Members shall execute, acknowledge, and cause to be filed an instrument evidencing the cancellation of the Certificate of Formation of the Company.

**ARTICLE IX
AMENDMENTS**

9.01 Amendments Generally.

(a) Amendments to this Agreement to reflect the addition or substitution of a Member, the admission of a successor Member by the Company or the withdrawal of a Member shall be made at the time and in the manner referred to in ARTICLE III. It is acknowledged and agreed that the Board may authorize an amendment to this Agreement providing rights to purchasers in any future financing of the Company authorized in accordance with Section 6.13 (but subject to compliance with the rights under Section 7.06), and the effect of admitting additional members and/or issuing additional classes of Units that have rights superior to or different from those of the Members shall not itself be deemed to adversely affect a Member or its rights and/or obligations hereunder.

(b) The Board shall, within a reasonable time after the adoption of any amendment to this Agreement, make any filings or publications required or desirable to reflect such amendment, including any required filing for recordation of any certificate of the Company or other instrument or similar document of the type contemplated by this Agreement.

9.02 Adoption of Amendments.

(a) Subject to 9.01, this Agreement may be amended from time-to-time only with the prior approval of the holders of at least 80% of the outstanding Class A Units voting separately as a class as provided in Section 6.13; provided, however, that any proposed amendment or waiver that adversely affects any Class A Member in a manner materially, adversely and disproportionately from any other Class A Member shall require the consent of such Class A Member. Consistent with Section 9.02(b) below, any amendment, restatement, modification or waiver effected in accordance with this Section 9.02 shall be binding upon each Member and its respective successors and assigns regardless of whether such Member executed such amendment or waiver.

(b) Notwithstanding any other provision of this Agreement to the contrary, the Board has the authority to amend this Agreement without the consent of any Member if the amendment either is necessary or advisable to reflect the economic arrangement of the Members or does not have a material adverse economic effect on any Members. Each Member by executing this Agreement acknowledges and agrees that amendments to this Agreement approved by the holders of at least 80% of the outstanding Class A Units voting separately as a class as provided in Section 6.13 are valid and enforceable against each Member, and each Member irrevocably waives any appraisal or dissenters' rights the Member may have under Applicable Law or other applicable law.

(c) On the adoption of any amendment to this Agreement, the amendment shall be executed by the Board and all of the Members and, only if necessary under applicable law, be recorded in the proper records of each jurisdiction in which recordation is necessary for the Company to conduct business or to preserve the limited liability of the Members. Each Member hereby irrevocably appoints and constitutes the Board as his agent and attorney-in-fact to execute, swear to, and record any and all such amendments. The power of attorney given

herewith is irrevocable, is coupled with an interest, shall survive the leaving of a Member granting it and shall constitute a voting agreement hereunder.

9.03 **Amendments on Admission or Withdrawal of Members.** If this Agreement shall be amended to reflect the admission or substitution of a Member, the amendment to this Agreement shall be adopted and executed by all Members and the Person to be substituted or added and the assigning Member. Any such amendment may be executed by the Board on behalf of the Members, the substituted or added Member, and the assigning Member pursuant to the power of attorney granted in Section 9.02(c).

ARTICLE X RECORDS AND ACCOUNTING; REPORTS; TAX MATTERS

10.01 **Records and Accounting.** The financial statements of the Company shall be kept in accordance with United States generally accepted accounting principles in effect from time to time, and such financial statements shall be compiled on an annual basis by independent certified public accountants. As soon as available, and in any event within one hundred twenty (120) days after the end of each fiscal year, the Company shall furnish such compiled financial statements to each of the Class A Members. Proper and complete records and books of account of the business of the Company, including a list of the names and addresses and the number and class of Units of all Members, shall be maintained by the Board at the Company's principal place of business. Any Member, or its or his duly authorized representatives, shall be entitled to reasonable access during normal business hours to the Company's corporate, financial and similar records, reports and documents, including, all books and records, minutes of proceedings, internal management documents, reports of operations, reports of adverse developments, copies of any management letters and communications with Members or Managers. Such information shall be used for Company purposes only. There shall be an interim closing of the books of account of the Company at such time as the Company's taxable year ends pursuant to the Code and at such other times as the Board determines is required under this Agreement.

10.02 **Tax Information.** Within a reasonable period of time after the end of each calendar year, the Board will cause to be delivered to each Person who was a Member at any time during such calendar year all information necessary for the preparation of such Member's federal income tax returns, including a statement showing each Member's share of Profits or Losses, and the amount of any distribution made to or for the account of such Member pursuant to this Agreement.

10.03 Designation of Tax Matters Member.

(a) Next shall act as the Tax Matters Member of the Company, as provided in Regulations pursuant to Code §6231 (referred to therein as "tax matters partner"). Each Member hereby approves of such designation and agrees to execute, certify, acknowledge, deliver, swear to, file, and record at the appropriate public offices such documents as may be deemed necessary or appropriate to evidence such approval, including statements required to be filed with the tax returns of the Company in order to effect the election and designation of the foregoing Member as Tax Matters Member.

(b) To the extent and in the manner provided by applicable law, the Tax Matters Member shall furnish the name, address, profits interest, and taxpayer identification number of each Member (or assignee) or each indirect member (as defined in Code §6231(a)(10)) to the IRS. The Tax Matters Member shall have the duties and authority accorded to a tax matters partner in Code §§6221 through 6234 and the Regulations thereunder in the event of an administrative or judicial proceeding relating to the adjustment of Company items required to be taken into account by a Member or indirect member for United States federal income tax purposes.

(c) Notwithstanding any other provision of this Agreement, the Company shall indemnify and reimburse, to the fullest extent provided by law, the Tax Matters Member for all expenses, including legal and accounting fees (as such fees are incurred), claims, liabilities, losses, and damages incurred in connection with any tax audit or judicial review proceeding with respect to the tax liability of the Members, the payment of all such expenses to be made before any cash distributions are made to the Members. No Member shall be obligated to provide funds for such purpose.

(d) The Tax Matters Member may be removed as such and a successor designated from time to time by Majority Vote of the Members.

10.04 Elections. The Board may cause the Company to make all elections required or permitted to be made by the Company under the Code and not otherwise expressly provided for in this Agreement, including an election under Section 754 of the Code and the safe harbor election provided for by the Proposed Revenue Procedure included in Notice 2005-43, or any similar election provided in a final revenue procedure relating to the compensatory transfer of a partnership interest (the latter election, a "Safe Harbor Election") and not otherwise expressly provided for in this Agreement, in the manner that the Board determines will be most advantageous to all Members. The Company and each Member agrees to comply with all requirements of the Proposed Revenue Procedure included in Notice 2005-43, or any similar final revenue procedure relating to the compensatory transfer of partnership interests, if a Safe Harbor Election is made.

ARTICLE XI MISCELLANEOUS

11.01 Joinder to Agreement. Notwithstanding anything to the contrary set forth herein, any Person to whom Equity Securities are to be Transferred pursuant to any section of this Agreement or any Person to whom Equity Securities are to be issued by the Company must execute and deliver, as a condition to such Transfer or issuance, a joinder to this Agreement in substantially the same form as attached as Exhibit B hereto (the "Joinder Agreement"); and if such transferee or issuee is an individual, such transferee or issuee must execute and deliver, as a condition to such Transfer or issuance, the applicable consent, waiver and/or acknowledgement as required pursuant to the terms hereof ("Spousal CWA"). Each transferor of Equity Securities will, before the Transfer, cause the transferee thereof to so execute and deliver such Joinder Agreement (and Spousal CWA if applicable). Equity Securities which are Transferred pursuant to this Agreement (or otherwise) will continue to be subject to all restrictions and will be entitled to all rights which are contained in this Agreement, regardless of whether or not a Joinder

Agreement or Spousal CWA has been executed by such transferee. Such transferred Equity Securities shall remain "Equity Securities" hereunder. Upon the execution and delivery of a Joinder Agreement (and Spousal CWA, as applicable) by such a transferee or issuee in accordance with the terms hereof, such transferee or issuee shall be deemed to be a Party hereto as if such transferee's signature appeared on the signature page(s) hereto. By its execution hereof or any Joinder Agreement or Spousal CWA, each of the Parties hereto appoints the Company as its attorney-in-fact for the purpose of executing any Joinder Agreement or Spousal CWA which may be required to be delivered hereunder. Any transferee or assignee of a Member shall be treated as a Member for purposes of this Agreement, and the holder of only such Class of Units as received; provided, however, that, notwithstanding anything to the contrary set forth herein, if such transferee or assignee received only Class A Units, it shall be treated only as a holder of Class A Units for purposes of this Agreement.

11.02 Confidentiality. Each Member acknowledges that the Confidential Information (as defined below) is a valuable, special, sensitive, proprietary and unique asset of the business of the Company, the continued confidentiality of which is essential to the continuation of its business, and the improper disclosure or use of which could severely and irreparably damage the Company. Each Member agrees, for and on behalf of itself, its legal representatives, and its transferees, successors and assigns that all Confidential Information is the property of the Company (and not of such Member). Each Member further agrees that such Member (i) shall keep all Confidential Information strictly confidential and (ii) shall not at any time in the future, without the express prior written approval of the Board, directly or indirectly, disclose, communicate or divulge to any Person, or use or cause or authorize any Person to use any Confidential Information. "Confidential Information" means all information, data and items relating to the Company (or any of its customers) which the Company reasonably deems valuable, confidential or proprietary. Confidential Information may be in either human, electronic or computer readable form, including software, source code, or any other form. Each Member agrees not to reproduce any Confidential Information (or materials containing or derived from Confidential Information) without the prior written consent of the Board. The restrictions in this Section 11.02 will not apply to any Member to the extent any Confidential Information: (i) becomes publicly known without breach of such Member's obligations under this Section 11.02, or (ii) is required to be disclosed by law or by court order or government order, provided that such Member seeks an appropriate protective order for the information (or other appropriate protections) at the Company's sole expense.

11.03 Notification. All Notifications under this Agreement shall be in writing and shall be given by personal delivery, nationally recognized overnight courier or certified mail at the addresses set forth on the signature pages hereto (or to such other address as a Party may have specified by notice given to the other Party pursuant to this Section), with copies (which shall not constitute notice) to the counsel to any Party to the extent and in the manner required by any other agreement executed in connection herewith to which the Company is a party. Any such notice or communication shall be deemed to have been received (i) when delivered, if personally delivered, (ii) on the next business day after dispatch, if sent postage pre-paid by nationally recognized, overnight courier guaranteeing next business day delivery, and (iii) on the 5th business day following the date on which the piece of mail containing such communication is posted, if sent by certified mail, postage prepaid, return receipt requested.

11.04 Governing Law. It is the intention of the parties that the internal laws of the Charter State shall govern the validity of this Agreement, the construction of its terms and interpretation of the rights and duties of the parties.

11.05 Entire Agreement; Further Assurances. This Agreement (including any exhibits and schedules attached hereto) contains the entire understanding of the parties in respect of its subject matter and supersedes all prior agreements and understandings (oral or written) between or among the parties or their Affiliates with respect to their respective subject matters, including that certain Voting Agreement, dated January 9, 2013 between Next and Angel AG. The exhibits and schedules attached hereto constitute a part hereof as though set forth in full above. The parties agree to execute such further instruments and to take such further actions as may reasonably be necessary to carry out the intent of this Agreement. Each Member agrees to cooperate affirmatively with the Company to enforce rights and obligations pursuant hereto.

11.06 Waiver. No failure to exercise, and no delay in exercising, any right, power or privilege under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any right, power or privilege hereunder preclude the exercise of any other right, power or privilege. No waiver of any breach of any provision shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision, nor shall any waiver be implied from any course of dealing between the parties. No extension of time for performance of any obligations or other acts hereunder or under any other agreement shall be deemed to be an extension of the time for performance of any other obligations or any other acts. The rights and remedies of the parties under this Agreement are in addition to all other rights and remedies, at law or equity, that they may have against each other.

11.07 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by facsimile, pdf or other electronic means shall be effective as delivery of a manually executed counterpart to the Agreement.

11.08 Interpretation. When a reference is made in this Agreement to an article, section, paragraph, clause, schedule or exhibit, such reference shall be deemed to be to this Agreement unless otherwise indicated. The headings contained herein and on the schedules are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement or the schedules. Time shall be of the essence in the performance of each and every provision of this Agreement. For purposes of applying the Code and Regulations as provided in this Agreement only, references to the "Company" and the "Members" in this Agreement standing alone or as part of other defined terms shall be deemed to correspond to references to a "partnership" and "partners," respectively. Nothing herein or in the tax reporting of the Company and Members shall be construed to cause any of them to be considered to be a partnership or partners of any kind pursuant to any applicable non-tax laws or doctrines. The parties agree that they have jointly participated in the negotiation and drafting hereof. In the event of an ambiguity or if a question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumptions or burdens of proof shall arise favoring any party by virtue of the authorship of any of the provisions of this Agreement. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed to be

followed by the words "without limitation." As used herein, words in the singular will be held to include the plural and vice versa (unless the context otherwise requires), words of one gender shall be held to include the other gender (or the neuter) as the context requires, and the terms "hereof", "herein", and "herewith" and words of similar import will, unless otherwise stated, be construed to refer to this Agreement as a whole and not to any particular provision of this Agreement.

11.09 Severability. If any provision of this Agreement is invalid, illegal or unenforceable, the balance of this Agreement shall remain in effect. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible; provided, however, that if any one or more of the restrictions on transferability of Equity Securities in ARTICLE VII of this Agreement is held to be unenforceable, then each of the parties shall (a) be deemed to have entered into such amendments to ARTICLE VII of this Agreement as are requested by a Majority Vote as may be necessary to ensure enforcement, or (b) if required by a court of competent jurisdiction for enforceability, be bound by such other restrictions (which other restrictions are intended by the parties to require as few changes to this Agreement as possible) as a court of competent jurisdiction may deem necessary for enforceability.

11.10 Waiver of Jury Trial. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (i) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (ii) EACH SUCH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (iii) EACH SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (iv) EACH SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE WAIVERS AND CERTIFICATIONS IN THIS SECTION.

11.11 Other Activities. The Company acknowledges that its Managers may be employed by or associated with the Members or their Affiliates ("Member Managers"), and that the Members or their Affiliates may be engaged in the same or similar business as the Company or in a business in the same or a similar industry as the Company ("Member's Business"). Notwithstanding the doctrine of corporate opportunity or any other limitation, nothing in this Agreement or in any document or agreement executed in connection herewith nor any aspect of any Member Manager's involvement with the Company shall in any way (i) limit any Member Manager employed by a Member or any of its Affiliates (in his capacities as employee, Affiliate or representative of such Member or any of its Affiliates, or otherwise) or Member or any of its Affiliates from carrying on Member's Business (whether or not such activities include

participating or making investments in businesses that are directly or indirectly competitive with the Company); (ii) give the Company any right or interest in any present or future business, activity or prospective business opportunity (other than a Company Opportunity) of a Member or of any of its Affiliates; or (iii) require a Member or any Member Manager employed by a Member or any of its direct or indirect controlling owners to bring to, offer to or otherwise share with the Company or any Subsidiary thereof any business opportunity (other than a Company Opportunity). Except with respect to a Company Opportunity, the Company and each Member waive any claim (i) that any business opportunity pursued, or to be pursued, by a Member or its Affiliates (or any Member Manager employed by a Manager or any of its direct or indirect controlling owners) constitutes a business opportunity of the Company that was misappropriated, or (ii) in connection with the fact that a Member may, among other things: (a) engage in business operations in competition with the Company or any Subsidiary thereof; (b) engage in financing other entities or in furnishing services in connection therewith (including the financing of, or services in connection with, business opportunities pursued by others in competition with the Company or any Subsidiary thereof); and (c) acquire other entities, or interests therein, engaged in business operations that will compete with the Company or any Subsidiary thereof. Except with respect to a Company Opportunity, no activity by a Member or any Manager designated by it or any of their respective Affiliates described in this Section shall constitute a breach of any fiduciary duty, if any such duty is owed, to the Company or any Member. For purposes hereof, "Company Opportunity" means an opportunity which comes to a Person's attention solely as a result of such Person's position, or the position of such Person's designee, as a Manager or officer of the Company or its direct or indirect Subsidiaries.

11.12 Representations of Members who are Natural Persons. By execution of this Agreement, each Member who is a natural person (and each transferee thereof) represents either (a) that such Member is unmarried and that no other Person has any direct or indirect beneficial interest in his or her Equity Securities; (b) that such Member is married and that the Equity Securities are owned by such Member and such Member's spouse as community property, in which case such spouse shall sign and deliver to the Company the Community Property Spousal Consent in the form prescribed by Company counsel; or (c) that such Member is married and that the Equity Securities are owned by such Member as such Person's separate property, in which case such Member's spouse shall execute and deliver to the Company the Separate Property Waiver and Acknowledgment in the form prescribed by Company counsel). Each Member represents and warrants that it owns only those securities of the Company set forth on Exhibit A, and that it owns and will continue to own such securities free and clear of all liens, claims, charges and encumbrances (except as expressly permitted by Section 11.17). Neither the Company nor any Member shall take any act inconsistent with the provisions hereof, or avoid the performance or observance of any of act to be performed by it hereunder.

11.13 Voting Agreements. No one of the Members and no one of its or their Affiliates or Board designees is a party to any agreement, instrument, trust, voting trust, proxy or other understanding relating to the transfer of, or the voting of, its interests in the Company or its voting at Board meetings. No one of the Members and no one of its or their Affiliates is a party to any agreement, instrument, trust or other arrangement relating to preemptive or other anti-dilutive rights with respect to any securities of the Company. Each of Next and Angel acknowledge that prior to the date hereof, they were party to an agreement relating to the voting of Membership Interests as relates to major decisions under Section 6.13, which agreement has

been terminated and is hereby deemed to be null and void and of no further force or effect. Notwithstanding anything to the contrary contained in this Agreement, including the amendment provisions contained herein, each of the Members hereby agrees that no such Member or its Affiliate or Board designees shall, after the date hereof, enter into any such agreement or other instrument or arrangement referred to herein without the express written consent of all of the parties hereto.

11.14 Arm's Length Negotiations. Each Party expressly represents and warrants to all other Parties hereto that (a) such Party has had the opportunity to seek and has obtained the advice of its own legal, tax and business advisors before executing this Agreement and (b) this Agreement is the result of arm's length negotiations conducted by and among the Parties and their respective counsel.

11.15 Venue. In the event any party to this Agreement commences any litigation, proceeding or other legal action with respect to any claim arising under this Agreement, the parties to this Agreement hereby: (a) agree that any such litigation, proceeding or other legal action shall be brought exclusively in any court located in the State of Delaware; (b) agree that in connection with any such litigation, proceeding, or action, such parties will consent and submit to personal jurisdiction in any such court described in clause (a) and to service of process upon them in accordance with the rules and statutes governing service of process or in accordance with the notice provisions contained herein; and (c) agree to waive to the full extent permitted by law any objection that they may now or hereafter have to the venue of any such litigation, proceeding or action was brought in an inconvenient forum.

11.16 Specific Performance. Each party acknowledges and agrees that the other parties would be damaged irreparably in the event any provision of this Agreement not performed in accordance with its specific terms or otherwise is breached, so that a party shall be entitled to injunctive relief to prevent breaches of the provisions of this Agreement and to enforce specifically this Agreement and the terms and provisions hereof in addition to any other remedy to which such party may be entitled, at law or in equity. No limitation herein shall restrict any party from seeking and obtaining equitable relief. Except as otherwise provided herein, no remedy herein conferred upon a party hereto is intended to be exclusive of any other remedy. No single or partial exercise by a party hereto of any right, power or remedy hereunder shall preclude any other or further exercise thereof. All remedies under this Agreement or otherwise afforded to any party, shall be cumulative and not alternative.

11.17 Assignments and Transfers; No Third-Party Beneficiaries. This Agreement and the rights and obligations of the parties hereunder shall inure to the benefit of, and be binding upon, their respective permitted successors, assigns and legal representatives, but shall not (except as expressly provided herein) otherwise be for the benefit of any third party. The rights of Investor hereunder are assignable, including being collaterally assignable to its and its Affiliates' lenders. In the event of a merger or exchange involving the Company in which this Agreement does not terminate, securities which are issued in exchange for the Company's securities shall thereafter be deemed to be subject to this Agreement as if they were Equity Securities.

11.18 Expenses. Except as otherwise expressly provided herein, all costs and expenses, including fees and disbursements of counsel, financial advisors and accountants, incurred in connection with the preparation and execution of this Agreement, or any amendment or waiver hereof, and the transactions contemplated hereby shall be paid by the party incurring such costs and expenses.

11.19 Accredited Investor. If any Party hereto enters into any negotiation or transaction for which Rule 506 or any similar rule then in effect promulgated by the Securities and Exchange Commission may be available with respect to such negotiation or transaction (including a merger, consolidation or other reorganization), then the Parties who are not accredited investors (as such term is defined in Regulation D of the Securities Act), acting as a group, who are required or elect to sell pursuant hereto will, at the request of the Company, appoint a purchaser representative (as such term is defined in Rule 501) reasonably acceptable to the Company. If such Parties appoint a purchaser representative reasonably acceptable to the Company, then the Company will pay the fees of such purchaser representative, but if such Parties decline to appoint a purchaser representative reasonably acceptable to the Company, such Parties will appoint another purchaser representative, and such Parties will be responsible for the fees of the purchaser representative so appointed.

(Signature Pages Follow)

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

COMPANY:

NEXT ANGEI LLC

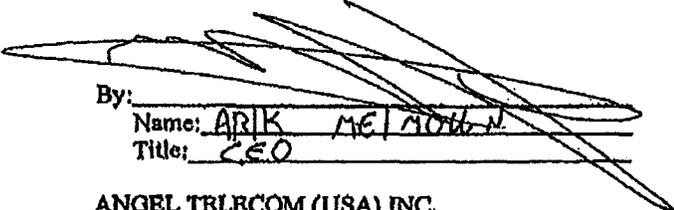
By: 

Name: ARIK MELNIKOV

Title: _____

MEMBERS:

NEXT COMMUNICATIONS, INC.

By: 

Name: ARIK MELNIKOV

Title: CEO

ANGEL TELECOM (USA) INC.

By: 

Name: PETER WANECK

Title: _____

MARCATEL TELECOMMUNICATIONS, LLC

By: _____

Name: _____

Title: _____

**ANNEX A
ADDITIONAL DEFINED TERMS**

Term	Section
Agreement	Preamble
Angel	Preamble
Company	Preamble
Company Opportunity	11.11
Confidential Information	11.02
Covered Person	6.14
Drag-Along Notice	7.05(a)
Effective Date	Preamble
Exercise Period	7.06(c)
Exercising Member	7.06(d)
Issuance Notice	7.06(b)
Joinder Agreement	11.01
LCR	6.01
Marcatel	Preamble
Member Managers	11.11
Member's Business	11.11
Minority Members	7.05(a)
New Units	7.06(a)
Next	Preamble
Non-Exercising Member	7.06(d)
Offering Member	7.03(a)
Offering Member Notice	7.03(b)(i)
Offered Units	7.03(a)
Over-allotment Exercise Period	7.06(d)
Over-allotment Notice	7.06(d)
Pre-emptive Member	7.06(a)
Purchasing Member	7.03(c)(i)
Remaining Members	7.04
ROFR Notice Period	7.03(c)(i)
ROFR Offer Notice	7.03(c)(i)
Safe Harbor Election	10.04
Selling Members	7.04
Spousal CWA	11.01
Tag-Along Members	7.04
Tag-Along Notice	7.04
Tag-Along Sale	7.04
Tax Distributions	5.02

**EXHIBIT A
TO
LIMITED LIABILITY COMPANY AGREEMENT
OF
NEXT ANGEL LLC**

Name and Address of Member	Capital Contributions	Number of Class A Units Issued to the Member	Percentage Interest
Next Communications, Inc. 100 North Biscayne Blvd., 9th Floor Miami, Florida 33132 Attn: Arik Meimoun	\$3,228,750.00*	425 Class A Units	42.5%
Angel Telecom (USA) Inc. Blegistrasse 11a CH-6340 Baar Switzerland Attn: Nicholas Karatzas	\$3,228,750.00**	425 Class A Units	42.5%
Marcatel Telecommunications, LLC 40 Cutter Mill Road Houston, TX 77043 Attn: Gustavo de la Garza	\$1,142,500.00***	150 Class A Units	15%
TOTALS:	\$7,600,000.00	1,000 Class A Units	100%

*Next's Capital Contribution consists of the following consideration paid by it on behalf of the Company in connection with the consummation of the transactions contemplated under that certain Asset Purchase and Sale Agreement (the "Purchase Agreement"), dated January 31, 2013, by and among Vivaro Corporation, STI Prepaid, LLC, Kare Distribution, Inc., STI Telecom, Inc., TNW Corporation, STI CC I, LLC, and STI CC II, LLC (collectively, the "Sellers"), the Company and certain other parties named therein: (a) the forgiveness, pursuant to Section 3.01(a) of the Purchase Agreement, of \$2,542,508.99 in debtor-in-possession financing owed to it by Sellers, and (b) the payment to Sellers of \$686,241.01 in cash under Section 3.01(c) of the Purchase Agreement.

**Angel's Capital Contribution consists of the following consideration paid by it or its parent, Angel Telecom AG ("Angel AG"), on behalf of the Company in connection with the consummation of the transactions contemplated under the Purchase Agreement: (a) the forgiveness, pursuant to Section 3.01(a) of the Purchase Agreement, of \$2,542,508.99 in debtor-in-possession financing owed to Angel AG by Sellers, and (b) the payment to Sellers of \$686,241.01 in cash under Section 3.01(c) of the Purchase Agreement.

***Marcatel's Capital Contribution consists of the following consideration paid by it or its Affiliates on behalf of the Company in connection with the consummation of the transactions contemplated under the Purchase Agreement: (a) the waiver, pursuant to Section 3.01(d) of the Purchase Agreement, of \$800,000 in post-petition administrative claims by Marcatel Com, S.A. De C.V. and Organizacion Radio Beep S.A. De C.V./Unifica, and (b) the payment to Sellers of \$342,500.00 in cash under Section 3.01(c) of the Purchase Agreement.

**EXHIBIT B
TO
LIMITED LIABILITY COMPANY AGREEMENT
OF
NEXT ANGEL LLC**

JOINDER TO LIMITED LIABILITY COMPANY AGREEMENT

By execution of this Joinder to Limited Liability Company Agreement, the undersigned hereby agrees to become a party to, and be bound by, that certain Limited Liability Company Agreement, dated as of January __, 2013 (and as the same may be amended, supplemented or otherwise modified from time to time, the "Agreement"), by and among Next Angel LLC, a Delaware limited liability company (the "Company"), and the other parties thereto, in the same manner as if the undersigned were an original signatory to such Agreement.

The undersigned shall have all the rights, and shall observe all the obligations applicable to the party who transferred the securities to the undersigned in connection herewith in its capacity as a holder of such securities and as a party to the Agreement.

Furthermore, if the undersigned is a transferee of Equity Securities subject to potential forfeiture, the undersigned acknowledges that such potential forfeiture remains applicable.

The undersigned represents and warrants that the undersigned has received a copy of, and has reviewed the terms of, the Agreement and all related or relevant documents and agreements. Capitalized terms used but not defined in this Joinder shall have the meanings set forth in the Agreement.

IN WITNESS WHEREOF, the undersigned has executed this Joinder as of this __ day of _____, _____.

[INSERT NAME]

By: _____

Name:

Title:

Address for

Notices:

with copies to:

