PSERS-011-086

COMMONWEALTH OF PENNSYLVANIA
PUBLIC SCHOOL EMPLOYEES' RETIREMENT SYSTEM
PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM
Office of Chief Counsel
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March 19, 2012

Chris P. Kallos, P.C.
Kirkland & Ellis LLP
300 North LaSalle
Chicago, IL 60654

RE: Windjammer Senior Equity Fund IV, L.P.

Dear Mr. Kallos:

Enclosed are the following documents which have been executed by PSERS for the above-referenced fund:

1. Agreement of Limited Partnership
2. Subscription Booklet
3. Side Letters

If you have any questions, please call Steven Skoff, Esq. at (717) 720-4673.

Sincerely,

Heather Funk

Heather Funk
Administrative Officer

Enclosures

cc: Charles Spiller

bcc: Brian Carl (w/o enclosures)
Andy Fiscus
Terri Mirarchi
Treasury

2012-07

K&E Draft 2/27/12

AGREEMENT OF LIMITED PARTNERSHIP

OF

WINDJAMMER SENIOR EQUITY FUND IV, L.P.

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AGREEMENT OF LIMITED PARTNERSHIP
OF
WINDJAMMER SENIOR EQUITY FUND IV, L.P.

THIS AGREEMENT OF LIMITED PARTNERSHIP, dated as of March [1], 2012, is made and entered into by and between the General Partner and the Initial Limited Partner. The General Partner and the Limited Partners are collectively referred to herein as the "Partners."

WHEREAS, the Partnership was formed pursuant to (a) the Certificate and (b) an Agreement of Limited Partnership dated as of September 30, 2011 (the "Initial Agreement"), entered into by and between the General Partner, as general partner, and Windjammer Capital Partners, LLC, as the sole limited partner (the "Initial Limited Partner");

WHEREAS, the General Partner and the Initial Limited Partner desire to enter into this Agreement in anticipation of the admission of additional limited partners and to amend and restate the Initial Agreement in its entirety as hereinafter set forth; and

WHEREAS, the Initial Limited Partner desires to withdraw as a limited partner of the Partnership upon the admission of one or more additional limited partners;

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I

GENERAL PROVISIONS

1.1 Continuation.

(a) The Initial Limited Partner and the General Partner hereby amend and restate the Initial Agreement by deleting the Initial Agreement in its entirety and replacing it with this Agreement. The Partners hereby agree to continue the limited partnership of Windjammer Senior Equity Fund IV, L.P. (the "Partnership") pursuant to and in accordance with the Delaware Revised Uniform Limited Partnership Act, as amended from time to time (the "Partnership Act"). The term of the Partnership commenced upon the filing of the Certificate of Limited Partnership (the "Certificate") with the Secretary of State of Delaware (the date of such filing is referred to herein as the date of "formation" of the Partnership) and shall continue until dissolution of the Partnership in accordance with the provisions of Article IX hereof. The Aggregate Commitments of the General Partner, the Parallel Fund General Partner and their respective partners and affiliates in the aggregate shall not be less than 2% of the Aggregate Commitments.

(b) Upon the admission of the first additional Limited Partner to the Partnership, (i) the Initial Limited Partner hereby simultaneously withdraws as a limited partner of the Partnership, and none of the Partners shall have any claim against the Initial Limited Partner as such, and (ii) the Initial Limited Partner shall receive a return of any capital contributions made by it to the Partnership and have no

further right, interest or obligation of any kind whatsoever as a Partner of the Partnership.

1.2 Name. The name of the Partnership shall be "Windjammer Senior Equity Fund IV, L.P." or such other name or names as the General Partner may designate from time to time. The General Partner shall promptly notify each Limited Partner in writing of any change in the Partnership's name.

1.3 Purpose. The Partnership is organized for the principal purposes of (a) making investments of the kind and nature described in the Partnership's confidential Private Placement Memorandum dated October 2011, as supplemented or amended prior to the date hereof, (b) managing, supervising and disposing of such investments, and (c) engaging in such other activities incidental or ancillary thereto as the General Partner deems necessary or advisable.

1.4 Principal Office. The General Partner shall maintain a principal office in Newport Beach, California, Waltham, Massachusetts, or at such other place or places as the General Partner may from time to time designate.

1.5 Admission of Limited Partners. Subject to Sections 7.3 and 7.6, a Person shall be admitted as a limited partner of the Partnership and shall be bound by this Agreement as a party hereto at such time as (a) a subscription agreement or a counterpart thereof is executed by such Person and (b) such Person's subscription agreement is accepted by the General Partner.

ARTICLE II

DEFINITIONS; DETERMINATIONS

2.1 Definitions. Capitalized terms used in this Agreement shall have the meanings set forth below or as otherwise specified herein:

"Active Partner" means, as of any time of determination, a limited partner or other direct or indirect beneficial owner of the General Partner who is an active full-time employee of the General Partner, its general partner or the Management Company with respect to Partnership activities as of such time.

"Adverse Effect" means, with respect to a prospective Investment Contribution or Bridge Financing Contribution by a Limited Partner or such Limited Partner's continued participation in an Investment or the Partnership, that such contribution or participation, when taken by itself or together with the contribution or participation by any other Partner(s), is reasonably likely to (i) result in a violation of a law, statute, rule, regulation, order or administrative guideline of a United States federal, state or local governmental authority or a non-U.S. governmental authority that is reasonably likely to have an adverse effect on the Partnership, any other Partnership Entity, the general partner or other control Person of any Partnership Entity or any of their respective partners, members, managers, shareholders or owners, (ii) subject any Person referred to in clause (i) to any material filing requirement, material regulatory requirement (including the registration or other requirements of the

Investment Company Act or the Investment Advisers Act) or material tax to which it would not otherwise be subject, or materially increase any tax, or make any filing or regulatory requirement materially more burdensome, (iii) result in any assets owned by the Partnership, the Parallel Fund, the Executive Fund or any Alternative Investment Vehicle being deemed to include Plan Assets, (iv) impair or have an adverse impact on the ability of the Partnership or any other Partnership Entity to make or continue to hold an investment or require the General Partner to modify the terms of any investment in a manner that is materially adverse to any Partnership Entity, (v) cause the Partnership or any other Partnership Entity to invoke the provisions of Section 7.7 or 7.14 or similar provisions under an agreement or instrument governing such Person, (vi) result in the Partnership or any other Partnership Entity investing in a "new issue" as defined in the New Issue Rules with the aggregate "beneficial interest" of "restricted persons" (both as defined in the New Issue Rules) in the Partnership exceeding the relevant percentage specified by FINRA), or (vii) have an adverse impact on the value or prospective value of an investment or the ability of the Partnership or any other Partnership Entity to exit an investment; and, in the case of any of the foregoing clauses, such result, as determined by the General Partner, would not be advisable in light of the circumstances.

"Advisory Board" has the meaning set forth in Section 8.1(a).

"Advisory Board Indemnitees" has the meaning set forth in Section 6.10(a).

"Affiliate" of any Person means any other Person (excluding, with respect to the General Partner and its affiliates, (i) Portfolio Companies (and their subsidiaries) and (ii) portfolio companies (and their subsidiaries) of any fund existing as of the Initial Closing Date or of any fund the formation of which is not prohibited by Section 6.12) controlling, controlled by or under common control with such Person.

"Affiliated Partners" means each Partner to the extent designated as an "Affiliated Partner" by the General Partner (with such Partner's consent) with respect to all or any portion of such Partner's interest in the Partnership and all or any provisions of this Agreement (which designation shall not be a side letter or similar agreement for purposes of Section 13.8).

"Aggregate Commitments" means the aggregate Commitments and Parallel Fund Commitments, and each Partner and Parallel Fund Partner shall be deemed to hold a portion of the Aggregate Commitments equal to its Commitment or Parallel Fund Commitment, as applicable.

"Agreement" means this Agreement of Limited Partnership of Windjammer Senior Equity Fund IV, L.P., as amended, restated, waived or otherwise modified from time to time in accordance with its terms.

"Allocable Share" means, with respect to any Partner, a fraction, but in no event greater than one, (i) the numerator of which is such Partner's aggregate Investment Contributions invested in all Realized Investments and (ii) the denominator of which is such Partner's aggregate Investment Contributions invested in Portfolio Company investments then or previously held by the Partnership.

"Alternative Investment Vehicle" means any alternative investment vehicle formed in accordance with the provisions of Section 3.4.

"Applicable Law" means Title I of ERISA, Code §4975 or any other comparable U.S. federal, state or local law that is substantially similar to Title I of ERISA or Code §4975.

"Approved Executive Officer" means each of Robert Bartholomew and Costa Littas and any other executive officer or manager of the General Partner, the Management Company or the Ultimate General Partner who has been selected by the General Partner as an Approved Executive Officer and approved by the Advisory Board or Limited Partners and Parallel Fund Limited Partners holding, in the aggregate, a majority of the Aggregate Commitments (in each case, only for so long as such Person continues to be an executive officer or manager of the General Partner, the Management Company or the Ultimate General Partner).

"Base Rate" means, on any date, a variable rate per annum equal to the rate of interest most recently published by The Wall Street Journal as the "prime rate" at large U.S. money center banks.

"Benefit Plan Investor" means (i) an "employee benefit plan" subject to Title I of ERISA, (ii) a "plan" subject to Code §4975 or (iii) an entity whose assets are deemed to include Plan Assets of any such "employee benefit plan" or other "plan."

"BHCA" means the U.S. Bank Holding Company Act of 1956, as amended (including any modifications made pursuant to the U.S. Gramm-Leach-Bliley Act), and other similar banking legislation, and the rules and regulations promulgated thereunder.

"BHCA Interest" means, as of the date of any determination, that portion of the Commitment or Capital Contributions of a BHCA Limited Partner that exceeds 4.99% (or if modified by the BHCA without regard to Section 4(k) of the BHCA, such modified percentage) of total Commitments or Capital Contributions, respectively, of the Limited Partners (other than BHCA Interests and any other Limited Partner interests that are non-voting) that are not Defaulting Partners. Each BHCA Limited Partner and any affiliate of such BHCA Limited Partner that itself is a BHCA Limited Partner shall be considered a single BHCA Limited Partner for purposes of determining "BHCA Interest."

"BHCA Limited Partner" means, as of the date of any determination, (i) each Limited Partner that (A) is subject to the BHCA and (B) has notified the General Partner in writing of such status at any time prior to such determination (other than a Limited Partner that is investing under Section 4(k) thereof and has delivered a written notice to the General Partner so stating prior to such determination) and (ii) any transferee of such Limited Partner but, with respect to such transferee, only to the extent that the portion of its Commitment or Capital Contribution acquired from such Limited Partner was a BHCA Interest at the time of such acquisition.

"Breakup Fees" means an amount equal to (i) all commitment fees, breakup fees and litigation proceeds received by any Windjammer Person from transactions not consummated by the Partnership in connection with the Partnership's proposed investment in such transactions, less (ii) any amount necessary to reimburse the Windjammer Persons for all unreimbursed costs

and expenses (other than ordinary overhead and administrative expenses) incurred by them in connection with any consummated or unconsummated transactions or in connection with generating any such fees. "Breakup Fees" shall not include any (x) Directors' Fees, (y) Monitoring Fees or (z) Transaction Fees.

"Bridge Financing" means, with respect to each Investment, the portion of such Investment (whether in the form of debt or equity) that the General Partner (i) reasonably believes the Partnership will be able to sell down or otherwise recoup or such Portfolio Company will be able to, and the General Partner intends to cause the Portfolio Company to, repay, to the Partnership within 13 months after the date of such Investment and (ii) designates as a "Bridge Financing"; provided that any such Investment shall cease to be a Bridge Financing to the extent that the related Bridge Financing Contribution is not repaid to or otherwise recouped by the Partnership within 13 months after the date such Investment was made, and thereafter the unrecouped portion (if any) of such related Bridge Financing Contribution will be treated as a permanent Investment.

"Bridge Financing Contributions" means Capital Contributions that are used to provide Bridge Financing to a Portfolio Company or, as determined by the General Partner, to pay any expenses incurred in direct connection with the making, maintaining or disposing of such Investment.

"Bridge Financing Income" means interest and dividend payments to the Partnership with respect to any Bridge Financing, but only to the extent paid or accrued during the 13-month period commencing on the date any such Bridge Financing is made by the Partnership.

"business day" means any day on which commercial banks are open for business in New York, New York.

"Capital Account" has the meaning set forth in Section 3.2.

"Capital Call Notice" has the meaning set forth in Section 3.1(a).

"Capital Contribution" means, with respect to each Partner, subject to Section 3.1(d), the amount of cash received by the Partnership from such Partner pursuant to its Commitment (excluding any yield paid under Section 3.1(f) or payments made pursuant to Section 7.6(d)).

"Carried Interest" means the (i) General Partner's right to receive distributions pursuant to Sections 4.3(d) and 4.3(e)(i) and advances with respect thereto pursuant to Section 4.4 and obligations to return such distributions pursuant to this Agreement and (ii) allocations of items of Partnership income, gain, loss or deduction related thereto.

"Certificate" has the meaning set forth in Section 1.1(a).

"Cessation Event" has the meaning set forth in Section 9.2(a).

"Code" means the U.S. Internal Revenue Code of 1986, as amended from time to time.

"Commitment" means, with respect to each Partner, the aggregate amount of cash agreed to be contributed as capital to the Partnership by such Partner (excluding any yield paid under Section 3.1(f) or payments made pursuant to Section 7.6(d)), as specified on Schedule I, as such Schedule I may be modified from time to time pursuant to the terms of this Agreement.

"Communications Laws" means the U.S. Communications Act of 1934, as amended, and the FCC's rules and regulations promulgated thereunder.

"Confidential Information" means (i) all information, materials and data relating to any Partnership Entity or any Partner that are not generally known to or available for use by the public (including this Agreement, the Parallel Fund Agreement, information and materials relating to products or services, pricing structures (including historical or projected pricing, cost, sales and profitability of each product or service offered), accounting and business methods, financial data (including historical performance data, investment returns, valuations, financial statements or other information concerning historical or projected financial condition, results of operations or cash flows), inventions, devices, new developments, methods and processes, prospective investments, customers, clients and investors, customer, client and investor lists, copyrightable works and all technology, trade secrets and other proprietary information), (ii) all information, materials and data the disclosure of which the General Partner in good faith believes is not in the best interests of any Partnership Entity or any Partner and (iii) all other information, materials and data, if any, that any Partnership Entity or any Partner is required by law or agreement to keep confidential.

"Conflict Parties" has the meaning set forth in Section 6.11(a).

"Continuing Investment Approval" has the meaning set forth in Section 9.2(a).

"Conversion" has the meaning set forth in Section 9.5(b)

"Cost Contributions" means Capital Contributions (other than Investment Contributions and Bridge Financing Contributions) that are used to pay an expense of the Partnership (including Organizational Expenses and other Partnership Expenses); provided that upon the liquidation of the Partnership, any Capital Contribution that is not an Investment Contribution or Bridge Financing Contribution shall be a Cost Contribution.

"Current Income" means interest, dividend and similar income from investments held by the Partnership (other than Short-Term Investment Income).

"Defaulted Amounts" has the meaning set forth in Section 7.9(a).

"Defaulting Partner" has the meaning set forth in Section 7.9(a).

"Designated Person" means a Person that is resident for applicable local income tax purposes in any country set forth on the Partnership's list of designated countries, which list may be modified from time to time by the General Partner.

"Directors' Fees" means all reasonable and customary directors' fees received by any Windjammer Person from a Portfolio Company.

"Disclosure Recipient" means, with respect to any Limited Partner, such Person's Affiliates, directors, officers, employees, representatives, agents, investors, attorneys or other financial or professional advisors.

"ECI" means income realized by the Partnership that, for a Non-U.S. Partner, is income "effectively connected with the conduct of a trade or business within the United States," as defined in Code §864(b).

"Effective Date" means the later of (i) the date as of which the General Partner in its sole discretion has determined that its partners have commenced identifying and investigating new investment opportunities for the Partnership and (ii) the Initial Closing Date.

"ERISA" means the U.S. Employee Retirement Income Security Act of 1974, as amended from time to time.

"ERISA Partner" means, with respect to any determination hereunder, any Limited Partner that is (i) a Benefit Plan Investor and has notified the General Partner in writing of such status at any time prior to such determination or (ii) designated as an "ERISA Partner" by the General Partner with such Limited Partner's consent (which designation may be for purposes of any or all provisions of this Agreement and shall not be a side letter or similar agreement for purposes of Section 13.8).

"Estimated Future Give Back Amount" has the meaning set forth in Section 11.3(b).

"Excess Organizational Expenses" has the meaning set forth in Section 5.3.

"Excluded Limited Partner" means (i) any Conflict Party that is also a Limited Partner and (ii) solely with respect to the Partnership Media or Common Carrier Company covered by a waiver under Section 7.12, each Limited Partner who makes such waiver with the requisite consent of the General Partner.

"Executive Fund" has the meaning set forth in Section 6.14.

"Existing Funds" means, collectively, Windjammer Mezzanine & Equity Fund II, L.P., a Delaware limited partnership, Windjammer Senior Equity Fund III, L.P., a Delaware limited partnership, and their respective parallel funds, executive funds and alternative investment vehicles.

"Fair Value Capital Account" means, with respect to each Partner, the amount that would be distributed to such Partner by the Partnership if, on the date as of which such determination is being made, each investment owned by the Partnership and each investment owned by any Alternative Investment Vehicle had been sold at its "value" (determined in accordance with Article X) and both the Partnership and each Alternative Investment Vehicle

had been liquidated in accordance with Section 9.4 and the corresponding provision of the agreement or instrument governing each Alternative Investment Vehicle, respectively.

"FCC" means the U.S. Federal Communications Commission.

"Final Closing Date" means the first anniversary of the Initial Closing Date, or such later date approved by the Advisory Board.

"FINRA" means the Financial Industry Regulatory Authority, and its successors.

The date of "formation" of the Partnership has the meaning set forth in Section 1.1(a).

"Freely Tradable Securities" has the meaning set forth in Section 4.1(a).

"GAAP" means U.S. generally accepted accounting principles, consistently applied.

"General Excused Investment" means, with respect to any Limited Partner, any portion of a proposed Investment with respect to which (i) according to an Opinion of Limited Partner's Counsel for such Limited Partner, participation by such Limited Partner, and not such Partner's participation generally in the Partnership as a whole, would result or be reasonably likely to result in a violation of a statute, rule or regulation of a U.S. federal, state or local governmental authority or a non-U.S. governmental authority (including the Investment Company Act, but excluding any non-U.S. statute, rule or regulation that violates, or compliance with which by Persons subject to the jurisdiction of the United States would violate, any statute, rule or regulation of a U.S. federal, state or local governmental authority), and as to which such Limited Partner has given notice thereof, accompanied by a copy of such Opinion of Limited Partner's Counsel, to the General Partner within five (5) business days after delivery of the Capital Call Notice with respect to such proposed Investment, provided that such Opinion of Limited Partner's Counsel shall indicate the portion of such proposed Investment, if any, in which such Limited Partner could participate without such participation resulting or being reasonably likely to result in a violation of the applicable statute, rule or regulation, and such portion of such proposed Investment shall not constitute a General Excused Investment with respect to such Limited Partner, or (ii) the General Partner and such Limited Partner have agreed in writing (which agreement shall not be a side letter or similar agreement for purposes of Section 13.8) that, based on the particular investment, legal or similar considerations applicable to such Limited Partner, such Limited Partner shall not be permitted to participate.

"General Partner" means Windjammer Capital Investors IV, L.P., a Delaware limited partnership, in its capacity as general partner of the Partnership, and any successor general partner of the Partnership in such capacity.

"Giveback Reduction Amount" has the meaning set forth in Section 9.4(f).

"Governmental Plan Partner" means, with respect to any determination hereunder, any Partner that (i) is, or is more than 95% owned by, a "governmental plan" (as defined in

§3(32) of ERISA), and (ii) has notified the General Partner in writing of such status at any time prior to such determination.

"GP Indemnitees" has the meaning set forth in Section 9.5(c).

"GP Removal Date" has the meaning set forth in Section 9.5(b).

"GP Removal Notice" has the meaning set forth in Section 9.5(a).

"Initial Agreement" has the meaning set forth in the preamble.

"Initial Closing Date" means the earlier of (i) the Partnership Initial Closing Date and (ii) the initial closing date of the Parallel Fund.

"Initial Limited Partner" has the meaning set forth in the preamble.

"Interim Contribution" has the meaning set forth in Section 3.1(f).

"Interim Give Back Amount" has the meaning set forth in Section 9.4(f).

"Interim Give Back Determination Date" has the meaning set forth in Section 9.4(f).

"Investment" means any investment made by the Partnership in a Portfolio Company (including follow-on investments, Bridge Financings and Temporary Investments).

"Investment Advisers Act" means the U.S. Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder.

"Investment Capital Contributions" means Investment Contributions and Cost Contributions (other than Cost Contributions that are used to pay Management Fees).

"Investment Company Act" means the U.S. Investment Company Act of 1940, as amended, and the rules and regulations promulgated thereunder.

"Investment Contributions" means Capital Contributions that are used to make an Investment (other than Bridge Financings) or, as determined by the General Partner, to pay expenses incurred in direct connection with the making, maintaining or disposing of such Investment; provided that any Bridge Financing Contribution, to the extent that it is not repaid to or otherwise recouped by the Partnership upon or prior to the date 13 months after the date that the Bridge Financing to which it relates is made, shall be deemed an Investment Contribution at such time.

"Investment Period" means the period commencing on the Initial Closing Date and expiring on the earlier of (i) the date when all of the Commitments of the Limited Partners (other than Affiliated Partners) have been invested (other than in Temporary Investments or Bridge Financings) in Portfolio Companies or used to pay Partnership Expenses (after taking into

account the maximum amount of distributions that are recallable pursuant to Section 3.1(d)) and (ii) the sixth anniversary of the Effective Date.

"Investment Proceeds" means all cash, securities and other property received by the Partnership in respect of any Investment or portion thereof (excluding any portion thereof that constitutes the Investment and excluding non-cash proceeds, except to the extent that such portion or such proceeds are distributed to the Partners in kind), net of any expenses or taxes borne by the Partnership in connection with such Investment (or proceeds with respect thereto), but not including Short-Term Investment Income, proceeds from the repayment or recoupment of Bridge Financing Contributions and proceeds received by the Partnership in direct connection with the disposition of Investments pursuant to Section 6.14 or 6.15.

"IRS Notice" has the meaning set forth in Section 11.7(a).

"Kirkland & Ellis LLP" means Kirkland & Ellis LLP, together with, as the context requires, its affiliate, Kirkland & Ellis International LLP.

"Law Firms" has the meaning set forth in Section 13.5(a).

"Liability" has the meaning set forth in Section 4.6.

"Limited Partner Affiliate" has the meaning set forth in Section 7.12(a)(i).

"Limited Partner interests" has the meaning set forth in Section 2.2(a).

"Limited Partner Regulatory Problem" means that (i) with respect to any Limited Partner, such Limited Partner (or any employee benefit plan that is a constituent of such Limited Partner) would be in material violation of Applicable Law if such Limited Partner were to continue as a Limited Partner of the Partnership, (ii) with respect to any ERISA Partner, the assets of the Partnership are deemed to include Plan Assets of such Limited Partner, or (iii) with respect to any Limited Partner, the General Partner otherwise agrees in writing (which agreement shall not be a side letter or similar agreement for purposes of Section 13.8), in its sole discretion and at the request of such Limited Partner, that the provisions of Section 7.7 shall apply to such Limited Partner in certain specified circumstances to the same extent as if such Limited Partner had a Limited Partner Regulatory Problem pursuant to clause (i) or (ii) above.

"Limited Partners" means the Persons listed on Schedule I as limited partners, in their capacity as limited partners of the Partnership, and, in its capacity as a limited partner of the Partnership, each Person who is admitted to the Partnership as a substitute Limited Partner pursuant to Section 7.3(b) or as an additional Limited Partner pursuant to Section 7.6, in each case for so long as such Person continues to be a limited partner hereunder.

"Management Affiliate" means any Person, other than a Benefit Plan Investor, who has discretionary authority or control with respect to the assets of the Partnership or any Person who provides investment advice for a direct or indirect fee with respect to such assets, including the General Partner, the Initial Limited Partner and their respective affiliates.

"Management Company" means Windjammer Management Partners, L.P., a Delaware limited partnership, or any other Person designated from time to time by the General Partner with such Person's consent as a management company, in its capacity as the management company with respect to the Partnership, and its successors or assigns.

"Management Fee" has the meaning set forth in Section 5.2(a).

"Management Fee Due Date" has the meaning set forth in Section 5.2(a).

"Management Fee Percentage" means, (a) with respect to each Partner other than any Affiliated Partner, (i) with respect to all Management Fees for periods with respect to which Section 5.2(b) does not apply, a fraction (expressed as a percentage), (A) the numerator of which is such Partner's Commitment, and (B) the denominator of which is the aggregate Commitments of all Partners other than Affiliated Partners, and (ii) with respect to all Management Fees for periods with respect to which Section 5.2(b) applies, a fraction (expressed as a percentage), (A) the numerator of which an amount equal to (1) such Partner's aggregate unrecouped Bridge Financing Contributions, plus (2) the sum of the products for each Investment not disposed of or completely written-off for U.S. federal income tax purposes (in each case, as determined by the General Partner for purposes of Section 5.2(b)) of (x) such Partner's Sharing Percentage with respect to each such Investment, multiplied by (y) the aggregate amount of Investment Contributions with respect to such Investment, and (B) the denominator of which is the aggregate amount described in clause (ii)(A) for all Partners other than Affiliated Partners, and (b) with respect to each Affiliated Partner, zero.

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

"Monitoring Fees" means an amount equal to (i) all monitoring fees, consulting fees and other similar fees (whether in the form of cash, securities or otherwise) received by any Windjammer Person from any Portfolio Company in respect of the Partnership's investment in such Portfolio Company (but with respect to non-cash consideration, only to the extent of the net cash proceeds thereof as and when received by any Windjammer Person), in each case, less (ii) any amount necessary to reimburse the Windjammer Persons for all unreimbursed costs and expenses (other than ordinary overhead and administrative expenses) incurred by them in connection with any consummated or unconsummated transactions or in connection with generating any such fees, but not including (w) any amount received by any Windjammer Person or other Person from a Portfolio Company as reimbursement for expenses directly related to such Portfolio Company or as payment for services provided to any Portfolio Company in its ordinary course of business or as compensation for services provided by such Person (other than the

Approved Executive Officers and the managing directors of the Management Company) as an employee of or in a similar capacity for such Portfolio Company or any of its subsidiaries, (x) Breakup Fees, (y) Directors' Fees or (z) Transaction Fees. In the event Monitoring Fees are in the form of options, warrants or other rights to purchase investments in a Portfolio Company and they have not been sold or otherwise liquidated prior to the final distribution of the Partnership's assets pursuant to Section 9.4(b), subject to any restrictions on the transfer thereof, such investments shall be sold at such time to the Partnership at their cost (without duplication of amounts previously paid therefor by the Partnership), if any, or if not sold to the Partnership at their cost, valued at such time in accordance with Article X (net of any amounts paid, or, to the extent not otherwise taken into account in the valuation of such non-cash consideration pursuant to Article X, to be paid, with respect thereto by any Windjammer Person, including any warrant or option exercise price).

"Net Benefit" means, with respect to each Partner, as of any date of determination, subject to Section 3.4, the amount, if any, by which (i) the aggregate amount or value of all distributions preliminarily apportioned to such Partner pursuant to Section 4.3 on or prior to such date and not returned pursuant to Section 4.6 exceeds (ii) the aggregate amount of all Capital Contributions (other than Bridge Financing Contributions) made by such Partner on or prior to such date.

"Net Unrealized Loss" means, with respect to any Partner as of any date of determination, the excess, if any, of (i) such Partner's aggregate Investment Contributions used to fund the purchase price of each Investment that is not a Realized Investment over (ii) the sum of the products, for each such Investment, of (a) the value, as determined under Article X, of such Investment as of such date of determination and (b) such Partner's Sharing Percentage with respect to such Investment.

"New Issue Rules" means Rules 5130 and 5131, adopted by FINRA, or any successor rules.

"Non-Affiliated Partners' Percentage" means, as of the date of determination, a fraction (expressed as a percentage) (i) the numerator of which is the aggregate Commitments of all Partners other than Affiliated Partners and (ii) the denominator of which is the aggregate Commitments of all Partners.

"Non-U.S. Partner" means, with respect to any determination hereunder, any Limited Partner that is not (or any Limited Partner that is a flow-through entity for U.S. federal income tax purposes that has a partner or member that is not) a United States Person and that has notified the General Partner in writing of such status at any time prior to such determination.

"Opinion of Limited Partner's Counsel" means a written opinion of any counsel selected by a Limited Partner, which counsel and form and substance of opinion are acceptable to the General Partner in its reasonable discretion; provided that a Limited Partner's in-house counsel or the office of the attorney general of the state sponsoring such Limited Partner shall be deemed acceptable counsel if such counsel has expertise in the area in which such counsel is providing the opinion.

"Opinion of the Partnership's Counsel" means a written opinion of Kirkland & Ellis LLP or other counsel selected by the General Partner, which other counsel and form and substance of opinion are reasonably acceptable to the Limited Partner (or Limited Partners and Parallel Fund Limited Partners holding a majority of the Aggregate Commitments held by such Persons) directly affected by such opinion.

"Organizational Expenses" means all expenses (including travel, printing, legal, filing and accounting fees and expenses) incurred in connection with the organization, funding and start-up of the Partnership, the General Partner, the Parallel Fund, the Parallel Fund General Partner, the Ultimate General Partner and the Management Company, but not including any Placement Fees.

"Parallel Fund" has the meaning set forth in Section 6.15.

"Parallel Fund Affiliated Partner" means any Parallel Fund Partner who is an "Affiliated Partner" (as defined in the Parallel Fund Agreement) of the Parallel Fund.

"Parallel Fund Agreement" means, collectively, the agreement of limited partnership, operating agreement, articles of incorporation or similar governing agreement or document of each Person constituting the Parallel Fund, as such agreements or documents may be amended, restated, waived or otherwise modified from time to time in accordance with their terms.

"Parallel Fund Commitment" means, with respect to each partner, member, shareholder or other equity owner of the Parallel Fund, the aggregate amount of cash agreed to be contributed as capital to the Parallel Fund by such Person pursuant to the Parallel Fund Agreement.

"Parallel Fund General Partner" means, collectively, the general partners, managers, managing members, controlling shareholders or similar controlling Persons of the Parallel Fund.

"Parallel Fund Limited Partner" means each limited partner, non-managing member, non-controlling shareholder or similar passive investor of the Parallel Fund.

"Parallel Fund Partners" means, collectively, the Parallel Fund General Partner and the Parallel Fund Limited Partners.

"Partners" has the meaning set forth in the introductory paragraph.

"Partnership" has the meaning set forth in Section 1.1(a).

"Partnership Act" has the meaning set forth in Section 1.1(a).

"Partnership Entities" means, collectively, the Partnership, the General Partner, the Parallel Fund General Partner, the Parallel Fund, the Executive Fund, the Ultimate General Partner, the Management Company and each of their respective affiliates, each Alternative

Investment Vehicle, each general partner, manager or other control Person of any of the foregoing Persons and each existing or prospective Portfolio Company and its subsidiaries.

"Partnership Expenses" means all costs, expenses, liabilities and obligations relating to the Partnership's activities, investments and business (to the extent not borne or reimbursed by a Portfolio Company), including (i) all costs, expenses, liabilities and obligations attributable to acquiring, holding and disposing of the Partnership's investments (including interest on money borrowed by the Partnership or the Management Company or the General Partner on behalf of the Partnership, registration expenses and brokerage, finders', custodial and other fees), (ii) legal, accounting, auditing, insurance (including directors and officers and errors and omissions liability insurance), travel, litigation and indemnification costs and expenses, judgments and settlements, consulting, finders', financing, appraisal, filing and other fees and expenses (including expenses associated with the preparation or distribution of the Partnership's financial statements, tax returns and Schedule K-1s or any other reporting to the Limited Partners), (iii) expenses of the Advisory Board incurred in accordance with Article VIII, (iv) all costs, expenses, liabilities and obligations incurred by the Partnership, the General Partner or any other Windjammer Person relating to investment and disposition opportunities for the Partnership not consummated (including legal, accounting, auditing, insurance, travel, consulting, finders', financing, appraisal, filing, printing, real estate title and other fees and expenses), (v) all out-of-pocket fees and expenses incurred by the Partnership, the General Partner or any other Windjammer Person in connection with any conference or meeting of the Limited Partners, (vi) the Management Fee, (vii) any taxes, fees and other governmental charges levied against, or attributable to, the Partnership (including any Securities and Exchange Commission user fees or similar fees or charges imposed on the Partnership, the Management Company, the General Partner or any of their respective affiliates), except to the extent that the Partnership (or such other Person on which such tax, fee or charge is imposed) is reimbursed therefor by a Reimbursing Partner or such tax, fee or charge is treated as having been distributed to the Partners pursuant to Section 7.8, (viii) Placement Fees, (ix) costs and expenses that are classified as extraordinary expenses under GAAP, (x) all costs and expenses incurred in connection with the organization, management, operation and dissolution, liquidation and final winding-up of any Alternative Investment Vehicles and related entities and (xi) all Organizational Expenses, but not including (A) ordinary overhead and administrative expenses that are payable by the General Partner and/or the Management Company pursuant to Section 6.7 or (B) any expenses included as part of the definition of "Investment Contributions."

"Partnership Group" means (i) the Partnership and (ii) any Alternative Investment Vehicle.

"Partnership Initial Closing Date" means March **[1]**, 2012.[1]

"Partnership Legal Matters" has the meaning set forth in Section 13.5(b).

"Partnership Media or Common Carrier Company" has the meaning set forth in Section 7.12(a).

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[1] The initial closing date will be inserted here.

"Partnership Regulatory Risk" means a material risk, as determined by the General Partner, of subjecting the Partnership, the General Partner, the general partner of the General Partner, the Management Company, the Parallel Fund General Partner, the Parallel Fund, any Alternative Investment Vehicle, the general partner or other control Person of any Alternative Investment Vehicle or any of their respective partners, members, managers, shareholders or owners to any governmental law, rule or regulation (or any violation thereof), any material filing or regulatory requirement (including registration with any governmental agency), any Adverse Effect or any material tax or increase in tax to which such Person would not otherwise be subject.

"Partnership's Pro Rata Share" means, as of the date of determination, a fraction (expressed in percentage terms) (i) the numerator of which is the aggregate Commitments of the Partners and (ii) the denominator of which is the Aggregate Commitments.

"Payment Default" has the meaning set forth in Section 7.9(a).

"Pending Investments" has the meaning set forth in Section 9.2(a).

"Person" means an individual, a partnership (general, limited or limited liability), a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, or a governmental, quasi-governmental, judicial or regulatory entity or any department, agency or political subdivision thereof.

"PFIC" has the meaning set forth in Section 6.16(a).

"Placement Fees" means any private placement or finders' fees paid by the Partnership to third parties in connection with the organization or funding of the Partnership.

"Plan Asset Regulation" means the U.S. Department of Labor regulation codified at 29 C.F.R. §2510.3-101, as modified by Section 3(42) of ERISA.

"Plan Assets" means "plan assets" of Benefit Plan Investors under the Plan Asset Regulation.

"Portfolio Company" means any Person in which the Partnership has directly invested (other than pursuant to a Short-Term Investment).

"Preferred Return" means, with respect to each Partner (other than an Affiliated Partner), as of any date of determination, the excess, if any, of (i) the aggregate amount of Partnership distributions (regardless of the source or character thereof) required to cause the annually compounded internal rate of return from the Effective Date through the date of determination on the aggregate Investment Capital Contributions made by such Partner on or prior to such date to equal 8% per annum over (ii) the aggregate amount of Investment Capital Contributions made by such Partner on or prior to such date. For purposes of calculations of Preferred Return pursuant to this paragraph, (x) each Investment Capital Contribution shall be treated as having been made on the date such Investment Capital Contribution was required to be paid to the Partnership, and (y) each distribution shall be taken into account as of the date made by the Partnership.

"QEF Election" has the meaning set forth in Section 6.16(b).

"Realized Investments" means, as of any date of determination, the portion of each investment in each Portfolio Company (excluding Bridge Financings) that has been disposed of (including distributions in kind to the Partners, but not including any disposition pursuant to Section 6.14 or 6.15) or completely written-off for U.S. federal income tax purposes.

"Regulated Partner" has the meaning set forth in Section 7.7(b).

"Regulatory Sale" has the meaning set forth in Section 7.7(d).

"Regulatory Solution" has the meaning set forth in Section 7.7(e).

"Reimbursing Partner" has the meaning set forth in Section 7.8(a).

"Remedy Period" has the meaning set forth in Section 7.7(c).

"Securities Act" means the U.S. Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Sharing Percentage" means, with respect to any Investment and any Partner, a fraction (expressed as a percentage), (i) the numerator of which is the aggregate Investment Contributions made by such Partner with respect to such Investment, and (ii) the denominator of which is the aggregate Investment Contributions made by all Partners with respect to such Investment.

"Short-Term Investment Income" means (i) all income earned on Short-Term Investments, including any gains and net of any losses realized upon the disposition of Short-Term Investments, and (ii) all Bridge Financing Income.

"Short-Term Investments" means (i) cash or cash equivalents, (ii) commercial paper rated no lower than "A-1" by Standard & Poor's Ratings Services or "P-1" by Moody's Investors Service, Inc. or a comparable rating by a comparable rating agency, (iii) any readily marketable obligations issued directly or indirectly and fully guaranteed or insured by a national, provincial, state or territorial government or any of its agencies or instrumentalities, having equivalent credit ratings to the securities listed in clause (ii) above, (iv) obligations of the United States, (v) U.S. state or municipal governmental obligations, money market instruments, or other short-term debt obligations having equivalent credit ratings to the securities listed in clause (ii) above, (vi) certificates of deposit issued by, or other deposit obligations of, commercial banks chartered by the United States, Hong Kong, Japan or any member nation of the European Union, each having, at the date of acquisition by the Partnership, combined capital and surplus of at least $500 million or the equivalent thereof, (vii) overnight repurchase agreements with primary dealers collateralized by direct United States obligations, (viii) pooled investment vehicles or accounts that invest only in securities or instruments of the type described in clauses (i) through (vii) above, and (ix) other similar obligations and securities having equivalent credit ratings to the securities listed in clause (ii) above, in each case maturing in one year or less at the time of investment by the Partnership or other Person.

"Special GP Distribution" has the meaning set forth in Section 5.2(e).

"Special Limited Partner" has the meaning set forth in Section 9.5(b).

"Tax Amount" means, with respect to a fiscal year and with respect to each Partner, an amount equal to the anticipated taxes with respect to the Partnership income allocated to such Partner for such fiscal year. All calculations of anticipated taxes pursuant to this definition shall assume that (i) each Partner is subject to the highest applicable marginal U.S. federal, state and local tax rates to which any of the General Partner's individual (i.e., human being) partners, former partners or other direct or indirect beneficial owners is subject, taking into account the deductibility of U.S. state and local taxes, subject to any applicable limitations on deductibility, and the character of any income, gains, deductions, losses or credits, (ii) for purposes of determining the tax benefit of a deduction, loss or credit, each Partner's only income, gains, losses, deductions and credits for such fiscal year and each prior fiscal year are income, gains, deductions, losses and credits attributable to its ownership interest in the Partnership, (iii) with respect to any distribution of investments in kind received by any Partner, such investments are sold in a taxable transaction immediately after their receipt by such Partner for an amount equal to their value determined for purposes of Section 3.3(a), and (iv) any Partnership losses allocated to such Partner in prior periods but not previously utilized as an offset against income or gains pursuant to this paragraph are available for offset against income and gains (to the extent permitted by applicable tax law) with respect to such fiscal year.

"Tax Exempt Partner" means, with respect to any determination hereunder, any Limited Partner that is (or any Limited Partner that is a flow-through entity for U.S. federal income tax purposes that has a partner or member that is) exempt from U.S. federal income taxation under Code §501(a) or, as determined by the General Partner in its sole discretion from time to time, such other Code sections, and that has notified the General Partner in writing of such status at any time prior to such determination.

"Temporary Investment" means, with respect to any Investment (whether in the form of debt or equity) other than a Bridge Financing, at the General Partner's election, the amount (not to exceed the Investment Contributions therefor) that is repaid to or otherwise recouped by the Partnership in respect of such Investment during the Investment Period or otherwise within 18 months after the date of such Investment, other than a disposition of investments pursuant to Section 6.14 or 6.15.

"Transaction Fees" means an amount equal to (i) all closing fees, investment banking fees, placement fees and other similar fees (whether in the form of cash, securities or otherwise) received by any Windjammer Person from any Portfolio Company in respect of the Partnership's investment in such Portfolio Company (but with respect to non-cash consideration, only to the extent of the net cash proceeds thereof as and when received by any Windjammer Person), in each case, less (ii) any amount necessary to reimburse the Windjammer Persons for all unreimbursed costs and expenses (other than ordinary overhead and administrative expenses) incurred by them in connection with any consummated or unconsummated transactions or in connection with generating any such fees, but not including (w) any amount received by any Windjammer Person or other Person from a Portfolio Company or other Person as reimbursement for expenses directly related to such Portfolio Company or a prospective

investment or as payment for services provided to any Portfolio Company in its ordinary course of business or as compensation for services provided by such Person (other than the Approved Executive Officers and the managing directors of the Management Company) as an employee of or in a similar capacity for such Portfolio Company or any of its subsidiaries, (x) Breakup Fees, (y) Directors' Fees or (z) Monitoring Fees. In the event Transaction Fees are in the form of options, warrants or other rights to purchase investments in a Portfolio Company and they have not been sold or otherwise liquidated prior to the final distribution of the Partnership's assets pursuant to Section 9.4(b), subject to any restrictions on the transfer thereof, such investments shall be sold at such time to the Partnership at their cost (without duplication of amounts previously paid therefor by the Partnership), if any, or if not sold to the Partnership at their cost, valued at such time in accordance with Article X (net of any amounts paid, or, to the extent not otherwise taken into account in the valuation of such non-cash consideration pursuant to Article X, to be paid, with respect thereto by any Windjammer Person, including any warrant or option exercise price).

"Transfer" has the meaning set forth in Section 7.3(a).

"Trust" has the meaning set forth in Section 7.12(c).

"UBTI" means Partnership income that is treated as unrelated business taxable income as defined in Code §512 and §514.

"Ultimate General Partner" means Windjammer Capital Partners, LLC, a Delaware limited liability company, in its capacity as the general partner of the General Partner, and any successor general partner of the General Partner.

"United States" or "U.S." means the United States of America, its territories and possessions, any State of the United States of America and the District of Columbia.

"United States Person" means a "United States person" as defined in Code §7701(a)(30).

"Unpaid Preferred Return" means, with respect to each Partner, as of any date of determination, the excess, if any, of (i) such Partner's Preferred Return, over (ii) the aggregate amount of all distributions made to such Partner pursuant to Sections 4.3(a) and 4.3(e)(ii).

"VCOC" means "venture capital operating company" as such term is defined in the Plan Asset Regulation.

"Windjammer Persons" means the General Partner, the Parallel Fund General Partner, the Management Company, the Ultimate General Partner and each of their respective partners, managers, members, shareholders, officers and employees in their capacities as such; provided that consultants and similar providers of services to the General Partner, the Parallel Fund General Partner, the Management Company or the Ultimate General Partner (whether or not such Persons are partners, managers, members, shareholders or officers of any such entities) shall not be considered Windjammer Persons for purposes of this Agreement.

"Withdrawn Interest" has the meaning set forth in Section 7.7(f).

2.2 Determinations.

(a) Any determination to be made under this Agreement or the Partnership Act based upon a majority or other specified proportion or percentage of the "Commitments" or "Aggregate Commitments" and any other vote hereunder or under the Partnership Act involving the Limited Partners and/or the Parallel Fund Limited Partners shall disregard any consent, approval or vote with respect to (i) any BHCA Interest, (ii) any Limited Partner interest held by a Defaulting Partner, (iii) any interest held by the General Partner, any Active Partner or any of their respective Affiliates, (iv) any other interests that are not entitled to vote on a particular matter pursuant to the terms of this Agreement and (v) in the case of determinations based upon Aggregate Commitments, any Parallel Fund Commitments of Parallel Fund Partners not permitted to vote pursuant to the provisions of the Parallel Fund Agreement. Such proportion or percentage shall be expressed as a fraction, based on Commitments or Aggregate Commitments, as applicable, and shall be calculated by excluding from both the numerator and the denominator the aggregate of all interests described in clauses (i) through (v) above; provided that the foregoing exclusion of BHCA Interests shall not apply to BHCA Interests of any BHCA Limited Partner with respect to any consent, approval or vote concerning the issuance of additional amounts or classes of senior interests in the Partnership, the modification of the terms of the Limited Partner interests or the dissolution of the Partnership (in each case, unless such BHCA Limited Partner has provided prior written notice to the General Partner that the regulations promulgated under the BHCA no longer classify limited partnership interests permitted to vote on such matters as non-voting interests). Any determination to be made under this Agreement or the Partnership Act based upon a majority or other specified proportion or percentage of certain Persons' "Limited Partner interests" shall be determined based on the applicable Persons' Commitments.

(b) The Preferred Return for each Partner shall be determined whenever allocations to the Partners' Capital Accounts are made pursuant to Section 3.2 or distributions are made pursuant to Section 4.3 or more frequently as deemed appropriate by the General Partner in its sole discretion.

(c) Except for the consent rights of specified groups of Limited Partners specifically set forth herein, the Limited Partners (and, as applicable, the Parallel Fund Limited Partners) shall be deemed to constitute a single class or group for purposes of all voting and consent rights provided for herein or under the Partnership Act.

ARTICLE III

CAPITAL CONTRIBUTIONS; COMMITMENTS;

CAPITAL ACCOUNT ALLOCATIONS

3.1 Capital Contributions.

(a) Subject to Sections 3.1(d), 3.1(f), 7.7, 7.9 and 7.14, each Partner shall make Capital Contributions in an aggregate amount not greater than its Commitment in installments when and as called by the General Partner upon at least ten (10) business days' prior written notice (a "Capital Call Notice"). Subject to Section 7.14, such Capital Contributions shall be made (A) by the Partners (other than Affiliated Partners) pro rata based upon their respective Management Fee Percentages to the extent they are intended to be used to pay Management Fees, (B) by the Partners (other than Affiliated Partners) pro rata based upon their respective Commitments to the extent they are intended to be used to pay Placement Fees or Excess Organizational Expenses and (C) by the Partners pro rata based upon their respective Commitments to the extent they are intended to be other Cost Contributions, Investment Contributions or Bridge Financing Contributions. Each Capital Call Notice shall describe the anticipated use of the Capital Contribution called pursuant thereto in reasonable detail (including, in the case of a capital call to fund an investment in a potential Portfolio Company, the identity and a description of the business of such entity); provided that the General Partner may exclude the specific identity of any entity in which the Partnership plans to invest if such disclosure is prohibited or if the General Partner determines in good faith that notifying the Limited Partners of such identity would jeopardize, or risk diminishing the value of, the Partnership's proposed investment in such entity. Each Capital Contribution to the Partnership shall be made by wire transfer of immediately available funds to an account designated by the General Partner.

(b) If 25% or more of the Limited Partner Commitments (excluding Commitments of Management Affiliates) are from Benefit Plan Investors or if the General Partner otherwise so determines, then (notwithstanding Sections 3.1(a) and 3.1(f)) no Capital Contribution shall be made to the Partnership by an ERISA Partner until the Partnership makes an Investment that qualifies the Partnership as a VCOC. In such event, prior to the time when the Partnership first qualifies as a VCOC, (i) Partnership Expenses shall be paid as provided in Section 5.4 and (ii) any Capital Contributions of ERISA Partners (and, if determined by the General Partner, other Partners) required by any Capital Call Notice to permit the Partnership to make an Investment shall be contributed to an escrow fund established by the General Partner, which escrow fund is intended to comply with Department of Labor Advisory Opinion 95-04A (and, upon the release of such Capital Contributions to consummate an Investment, all Short-Term Investment Income earned thereon shall be either returned to the Partners in the same proportion as the Partners made such Capital Contributions or paid to the Partnership on behalf of the applicable Partners as Capital Contributions).

(c) Notwithstanding the provisions of Section 3.1(a), following the expiration of the Investment Period, no Commitments shall be drawn to fund Investments; provided that the Partners shall remain obligated to make Capital Contributions throughout the duration of the Partnership pursuant to their respective Commitments to the extent necessary (i) to pay (or set aside reserves for anticipated)

Partnership Expenses, (ii) to fund then existing commitments to make Investments, provided that such commitments are evidenced by a term sheet, letter of intent or similar agreement in principle, (iii) to complete investments in transactions that were in process as of the end of the Investment Period and are reasonably expected to be funded within 90 days (and are funded within 180 days) following the expiration of the Investment Period, and (iv) to fund follow-on investments in Portfolio Companies and their respective subsidiaries not covered in clause (ii) or (iii) above, in an aggregate amount not to exceed 20% of the aggregate Commitments.

(d) The General Partner may cause the Partnership to return to the Partners all or any portion of (i) any Bridge Financing Contribution that is repaid to or otherwise recouped by the Partnership within 13 months after the date of investment or (ii) any Investment Contribution invested in an Investment that has been sold to either the Executive Fund pursuant to Section 6.14 or the Parallel Fund pursuant to Section 6.15. The General Partner shall cause the Partnership (or, as applicable, the escrow agent of an escrow fund described in Section 3.1(b)) to return to the Partners the Capital Contributions made to the Partnership (or to an escrow fund in accordance with Section 3.1(b)) to the extent that such Capital Contributions have not been invested in a Portfolio Company or used to pay Partnership Expenses within 90 days following the date that such Capital Contributions were due pursuant to the Capital Call Notice with respect to which they were made. Amounts to be returned to the Partners that are described in the immediately preceding sentence shall be returned to all Partners in proportion to the applicable Capital Contributions made by each such Partner, and amounts described in clauses (i) and (ii) of the first sentence of this Section 3.1(d) shall be returned to all Partners in proportion to their respective Sharing Percentages with respect to the Investment so disposed of. All such Capital Contributions that are returned to the Partners and all Capital Contributions returned pursuant to Section 7.6 (excluding payments pursuant to clause (d) thereof) upon the admittance of a new Limited Partner (or pursuant to Section 6.14 or 6.15 upon the admittance of a partner to the Executive Fund or the Parallel Fund) or the increase in the Commitment of an existing Partner (or pursuant to Section 6.14 or 6.15 upon the increase in the commitment of an existing partner of the Executive Fund or the Parallel Fund) shall be treated for all purposes of this Agreement as not having been called and funded (i.e., so that following the return of such Capital Contributions such amounts shall be deemed to no longer represent Capital Contributions and may be called again by the General Partner according to the provisions of this Section 3.1). To the extent any amount that could be returned to a Partner pursuant to clause (i) or (ii) of the first sentence of this Section 3.1(d), or distributed to and recalled from such Partner pursuant to Section 3.1(e), is instead used to pay Partnership Expenses or to make an Investment, subject to Section 7.14(e), the amount so used shall be treated hereunder as if returned or distributed, as applicable, to such Partner and contributed to the Partnership as a Cost Contribution, Bridge Financing Contribution or Investment Contribution, as applicable, made at such time by such Partner based on the use of such amount.

(e) Distributions to a Partner (regardless of the source or character thereof other than distributions to the General Partner with respect to its Carried

Interest) pursuant to Section 4.2 or 4.3 may, at the General Partner's sole discretion, be treated for purposes of this Section 3.1 as Capital Contributions returned to such Partner pursuant to the provisions of Section 3.1(d) to the extent such Partner has made (i) Cost Contributions or (ii) Investment Contributions in respect of Temporary Investments, and any such amounts so treated as returned may be called again by the General Partner according to the provisions of this Section 3.1 as if such amounts had not been previously called and funded. For all purposes of this Agreement (other than this Section 3.1(e)), all references to Section 3.1(d) shall include this Section 3.1(e).

(f) If the General Partner determines to cause the Partnership to make an Investment or pay a Partnership Expense on a timetable that may not permit the General Partner to satisfy the capital call procedures specified in Section 3.1(a) and to receive all of the Capital Contributions to be made with respect thereto prior to the proposed date for such Investment or payment, the General Partner may, in its sole discretion, contribute (or cause an Affiliated Partner to contribute) to the Partnership all amounts necessary to finance such Investment or payment (an "Interim Contribution"). Each such Interim Contribution shall be treated as a Capital Contribution by the General Partner (or Affiliated Partner, as appropriate) and shall be treated for all purposes (including U.S. federal income tax purposes) as an equity contribution and not as a loan. If the General Partner or any Affiliated Partner makes an Interim Contribution pursuant to this Section 3.1(f), the next Capital Call Notice issued will require each Partner that has not funded such Interim Contribution to remit to the Partnership an amount equal to (i) such Partner's ratable portion of the amount of such Interim Contribution that would have been required to be funded pursuant to Section 3.1(a) if a Capital Call Notice had been delivered thereunder for the full amount of such Interim Contribution, plus (ii) a yield on the amount specified in clause (i) above at the Base Rate, which may be increased, as applicable, to reflect the actual rate of interest (together with related expenses, if any) payable by the General Partner (or Affiliated Partner, as appropriate) to any third party with respect to any amounts obtained from such third party for the purpose of making such Interim Contribution (determined for such Partner for the period elapsing between the day on which the Partnership makes such Investment or payment and the day on which such Partner makes such remittance), and all such amounts shall be distributed by the Partnership to the General Partner (or Affiliated Partner, as appropriate). Each Partner shall be deemed to have made a Capital Contribution as of the date of such remittance to the extent of the remittance it makes pursuant to clause (i) above and the General Partner's (or Affiliated Partner's, as appropriate) Capital Contributions shall be reduced by the aggregate amount, if any, distributed to it pursuant to this Section 3.1(f) (excluding amounts, if any, described in clause (ii) above). The General Partner (or the Affiliated Partner, as applicable) shall be entitled to receive distributions pursuant to this Section 3.1(f) of all amounts described in clauses (i) and (ii) above prior to any distributions by the Partnership to its Partners pursuant to Article IV or any other provision of this Agreement.

3.2 Capital Accounts; Allocations. The Partnership shall maintain a separate capital account for each Partner (each, a "Capital Account") according to the rules of U.S. Department of Treasury Reg. §1.704-1(b)(2)(iv). For this purpose, the Partnership may, upon

the occurrence of any of the events specified in U.S. Department of Treasury Reg. §1.704-1(b)(2)(iv)(f), increase or decrease the Capital Accounts in accordance with the rules of such regulation and U.S. Department of Treasury Reg. §1.704-1(b)(2)(iv)(g) to reflect a revaluation of Partnership property. Items of Partnership income, gain, loss, expense or deduction for any fiscal period shall be allocated among the Partners in such manner that, as of the end of such fiscal period and to the greatest extent possible, the Capital Account of each Partner shall be equal to the respective net amount, positive or negative, that would be distributed to such Partner from the Partnership or for which such Partner would be liable to the Partnership under this Agreement, determined as if, on the last day of such fiscal period, the Partnership were to (a) liquidate the assets of the Partnership for an amount equal to their book value (determined according to the rules of U.S. Department of Treasury Reg. §1.704-1(b)(2)(iv)) and (b) distribute the proceeds in liquidation in accordance with Section 9.4, and each Alternative Investment Vehicle were to do likewise.

3.3 Distributions in Kind.

(a) If any security is to be distributed in kind to the Partners as provided in Article IV, (i) such security first shall be written up or down to its value (as determined pursuant to Article X hereof) as of the date of such distribution, (ii) any investment gain or investment loss resulting from the application of clause (i) shall be allocated to the Partners' respective Capital Accounts in accordance with Section 3.2, (iii) such security shall be deemed to have been sold at the value determined pursuant to clause (i) and the proceeds of such sale distributed pursuant to Article IV, and (iv) the value of such security shall be debited against the Partners' respective Capital Accounts upon its distribution to the Partners.

(b) In connection with any distribution of Portfolio Company or other securities in kind, the General Partner may, in its sole discretion, offer to any Partner the right to receive, at such Person's election, all or any portion of such distribution in the form of the net proceeds actually received by the Partnership, on behalf of such Partner, from disposing of the securities that otherwise would have been distributed to such Partner in kind; provided that in the event the Partnership disposes of securities on behalf of a Partner, neither the Partnership nor the General Partner shall, notwithstanding anything contained herein to the contrary, have any liability whatsoever to such Partner or the Partnership with respect to such disposition (including with respect to the timing of such disposition) other than for willful malfeasance. The General Partner's agreement to offer any Partner the right contemplated in the immediately preceding sentence, or to vary any terms relating thereto, shall not be a side letter or similar agreement for purposes of Section 13.8. Notwithstanding any provision contained in this Agreement to the contrary, any (i) expenses (including commissions and underwriting costs) of such disposition and (ii) gain or loss recognized upon the disposition of such securities (including any increase or decrease in the value of such securities from the value of such securities (as determined in accordance with Article X and Section 3.3(a)) had no election to receive proceeds of a disposition of such securities been made and such securities been distributed to all Partners in accordance with Section 3.3(a)) shall be treated as gain or loss only of those Partners receiving proceeds instead of securities in kind.

(c) Except as set forth in Section 3.3(b), to the extent feasible, each distribution of securities by the Partnership (other than pursuant to Section 7.7) shall be apportioned among the Partners in proportion to their respective interests in the proposed distribution, except to the extent a disproportionate distribution of such securities is necessary to avoid distributing fractional shares.

(d) Each Limited Partner covenants and agrees that without the prior written consent of the General Partner, it will not use any information it obtains with respect to a distribution or proposed distribution by the Partnership of securities in kind to effect, at any time prior to the actual date and time of such distribution, purchases or sales of or other transactions involving, or contracts for the purchase or sale of or other transactions involving, securities of the same class or series as those distributed, securities convertible into or exchangeable for such securities, or derivatives of any of the foregoing securities; provided that nothing in this Section 3.3(d) shall restrict a Partner's investment activities with respect to information described in this Section 3.3(d) obtained from a source other than the General Partner or its affiliates. As a condition to, and in connection with, a Partner receiving a distribution in kind of securities, the General Partner may require such Partner to make any representations, warranties and covenants that the General Partner deems necessary or appropriate.

(e) The Partnership will retain sole dominion and control over all securities of Portfolio Companies and subsidiaries thereof (including any securities to be sold in accordance with Section 3.3(b)) until such time as such securities are sold or distributed by or at the direction of the Partnership, with sole discretion over voting and disposition, including determining when to sell such securities. For all purposes under this Agreement (including calculations of distributions and Capital Accounts, but not including allocations of taxable income) other than this Section 3.3, any Limited Partner electing to receive proceeds pursuant to Section 3.3(b) and therefore not receiving a distribution of securities in kind contemporaneously with the other Partners nonetheless shall be treated as if such Partner had received a distribution of such securities in kind in accordance with Section 3.3(a) contemporaneously with the other Partners.

3.4 Alternative Investment Structure.

(a) If the General Partner determines in good faith that for legal, tax, regulatory, accounting or other reasons it is desirable that an investment be made, restructured or otherwise held utilizing an alternative investment structure, the General Partner shall be permitted to structure all or any portion of such investment outside of the Partnership, by requiring any Partner or Partners to, and such Partner or Partners, subject to Section 7.14, shall, make, restructure or otherwise hold such investment either directly or indirectly in, and become a limited partner, member, stockholder or other equity owner of, one or more partnerships, limited liability companies, corporations or other vehicles (other than the Partnership) (i) of which the General Partner, an affiliate of the General Partner or one or more of their respective partners, other beneficial owners, members, managers, directors or officers or their respective

affiliates shall serve as general partner, manager or in a similar capacity and (ii) that will invest (or hold an investment) on a parallel basis with, or in lieu of, the Partnership. Any Alternative Investment Vehicle that invests on a parallel basis with the Partnership shall do so at the same time and on substantially the same terms and conditions as the Partnership, subject to any legal, tax, accounting, regulatory or other considerations that may limit the amount, type or timing of investment by the Partnership or such Alternative Investment Vehicle. Additionally, the General Partner shall be permitted to form more than one Alternative Investment Vehicle for the making, restructuring or otherwise holding of a single investment and may require that different Partners invest in different Alternative Investment Vehicles as the General Partner determines in good faith to be necessary or advisable for legal, tax, accounting, regulatory or other reasons. The General Partner's obligations under Section 6.6 of this Agreement will apply to any Alternative Investment Vehicle in which an ERISA Partner invests, and the governing documents of each Alternative Investment Vehicle in which an ERISA Partner invests shall contain ERISA provisions, taken as a whole, substantially no less favorable to the ERISA Partners than those contained in this Agreement. Nothing in this Section 3.4 shall restrict or apply to the formation of, or restrict the operation of, the Parallel Fund or the Executive Fund.

(b) At least 10 days prior to a Limited Partner first being admitted as a limited partner, member, stockholder, or similar equity owner (other than a holder of a beneficial interest in such entity that is not admitted under the applicable law governing such entity as a limited partner, member, stockholder or similar equity owner) of an Alternative Investment Vehicle, the General Partner shall provide such Limited Partner with a copy of the partnership or similar agreement governing such Alternative Investment Vehicle, and thereafter, in connection with such Limited Partner's admission to such Alternative Investment Vehicle, the General Partner shall provide such Limited Partner with an opinion of counsel of the type provided to the Limited Partners with respect to their investment in the Partnership on the Partnership Initial Closing Date to the extent applicable to such Alternative Investment Vehicle, including an opinion as to limited liability with respect to third parties.

(c) The Limited Partners and the General Partner (or its affiliate), to the extent of their investment participation in an Alternative Investment Vehicle, may be required to contribute amounts directly to such Alternative Investment Vehicle to the same extent, for the same purposes and on substantially the same terms and conditions as Partners are required to contribute amounts to the Partnership, and such contributions shall reduce the unfunded Commitment of each Partner to the same extent that it would be reduced if made to the Partnership.

(d) The provisions of this Section 3.4 may be effected by initially forming an Alternative Investment Vehicle, in whole or in part, as an investment of the Partnership, and then distributing the interests in such investment as a special distribution not otherwise subject to the terms of this Agreement to such Partners, and in such amounts, as is necessary or desirable in order to effectuate the purposes of this Section 3.4, as determined by the General Partner.

(e) Each member of the Partnership Group shall maintain separate books of account and the Partnership shall not commingle its assets and liabilities with those of any Alternative Investment Vehicle. All items of income, gain, loss, and deduction of the Partnership shall be allocated to the Partners and all distributions by the Partnership shall be made to the Partners. All items of income, gain, loss, and deduction of any Alternative Investment Vehicle shall be allocated to the partners or members of such Alternative Investment Vehicle and all distributions by any Alternative Investment Vehicle shall be made to the partners or members of such Alternative Investment Vehicle. Subject to the foregoing, but notwithstanding any other provision in this Agreement to the contrary, the economic provisions of this Agreement and the partnership or similar agreement or instrument governing each Alternative Investment Vehicle are intended to be, and hereby shall be, construed in all material respects and effected in such a manner as to cause each Limited Partner individually, and the General Partner and its affiliated entities that may be utilized to effectuate this Section 3.4 collectively, to receive the same aggregate allocations and distributions, at substantially the same times, from the Partnership Group as they would have been entitled to receive if (i) all capital contributions to the Partnership Group were made to, and all distributions from the Partnership Group were made by, the Partnership, (ii) all Partnership Group investments were initially acquired by, and were at all times held by, the Partnership, (iii) all Partnership Group expenses (including management fees incurred or paid by any Alternative Investment Vehicle) were incurred and paid solely by the Partnership, and (iv) all Partnership Group management fee offsets were with respect to the Partnership. Without limiting the foregoing, there shall be no duplication of management fees, management fee offsets, recalls of distributions or general partner giveback obligations among the entities that comprise the Partnership Group. In the event that a Limited Partner transfers any portion of its interest hereunder without a corresponding transfer of a proportionately equivalent interest of such Limited Partner in each Alternative Investment Vehicle in which it is a limited partner or similar investor, or if any limited partner or similar investor in any Alternative Investment Vehicle transfers any portion of its interest in any such entity without a corresponding transfer of a proportionately equivalent interest of such Person hereunder, such corresponding transferred and retained interest shall continue to be subject to the provisions of this Section 3.4, unless otherwise determined by the General Partner in its sole discretion. The General Partner may interpret or amend the definitions herein and the other provisions hereof so as to achieve the result described in this Section 3.4. While the General Partner is not required to have any such interpretation or amendment approved by the Advisory Board, to the extent the Advisory Board does approve any such interpretation or amendment by the General Partner, such interpretation or amendment shall be final and binding on each Limited Partner. Except as otherwise determined by the General Partner on or about the time of formation of any Alternative Investment Vehicle, any issue regarding the interpretation of how the Partnership and such Alternative Investment Vehicle interact shall be governed by the laws of the jurisdiction in which such Alternative Investment Vehicle has been organized.

(f) The General Partner's giveback obligations pursuant to Sections 9.4(c) and 9.4(f), and the corresponding giveback obligations of the general

partners or similar participants in the other Partnership Group members, shall be, in the aggregate, computed as contemplated in Section 3.4(e) and shall be allocated among such Persons pro rata based on the aggregate unreturned carried interest distributions received by each of them or on such other basis as determined by the General Partner.

(g) Any Limited Partner that defaults on its obligations to any Alternative Investment Vehicle in which it invests and becomes a "Defaulting Partner," "Defaulting Member" or similar defaulting Person under an agreement or instrument governing such Alternative Investment Vehicle (after giving effect to any applicable cure periods thereunder) shall also be a Defaulting Partner hereunder.

(h) To the extent permitted by and consistent with applicable law, any side letter or similar agreement entered into in connection with this Agreement shall give rise to substantially the same rights, *mutatis mutandis*, with respect to any Alternative Investment Vehicle as it would with respect to the Partnership to the extent such rights are applicable to such Alternative Investment Vehicle.

ARTICLE IV

DISTRIBUTIONS

4.1 Distribution Policy.

(a) Subject to Section 4.1(b), the General Partner may in its sole discretion (but shall not be required to) cause the Partnership to make distributions of cash, securities and other property to the Partners at any time and from time to time in the manner described in this Agreement; provided that except for distributions made pursuant to Section 7.7 and for distributions that the General Partner has offered each Partner the right to receive in the form of net proceeds pursuant to Section 3.3, without the consent of the Advisory Board, prior to the winding-up and liquidation of the Partnership, in-kind distributions of investments by the Partnership to the Limited Partners (other than the Affiliated Partners) pursuant to this Article IV shall include only investments that (i) are listed or quoted on a national or international securities exchange or quoted on any national or international automated inter-dealer quotation system, (ii) the General Partner reasonably believes are eligible for immediate sale by the distributee (other than the General Partner or its partners, members or affiliates and, in making such determination, the General Partner may assume, whether or not true, that the distributee is not an affiliate of the issuer of such securities and that there are no facts or circumstances particular to the distributee that are not applicable to the distributees generally that otherwise impose a legal restriction on such distributee resulting in such securities being ineligible for immediate sale) at the time of distribution from the Partnership, e.g., pursuant to a registration statement effective under the Securities Act, or pursuant to Rule 144 of the Securities Act or any other similar provision under the Securities Act then in force, and (iii) are not subject to any contractual restrictions on transfer ("Freely Tradable Securities").

(b) The General Partner shall cause the Partnership to distribute (i) Current Income and Short-Term Investment Income at least annually and (ii) the full net cash proceeds from the disposition of Investments in no event later than 90 days after receipt thereof, subject to the availability of cash after paying Partnership Expenses and after setting aside appropriate reserves for anticipated liabilities, obligations and commitments of the Partnership (including Management Fees).

(c) Notwithstanding anything in this Agreement to the contrary, the General Partner may at any time elect to defer distribution of all or any portion of any cash distribution that otherwise would be made to it on account of its Carried Interest with respect to any Partner and may implement the other provisions of this Section 4.1(c). Any deferral of distributions pursuant to the preceding sentence shall be apportioned among the Partners in proportion to the Carried Interest distributions that otherwise would be made to the General Partner with respect to each such Partner at such time; provided that the General Partner may make any adjustments to such apportionment as it believes would be appropriate to reflect the excuse or exclusion of any Partner from one or more investments pursuant to Section 7.14. Any amount that is not distributed to the General Partner due to the first sentence of this Section 4.1(c), in the General Partner's sole discretion, either shall be retained by the Partnership on the General Partner's behalf or distributed to the applicable Partner pursuant to Section 4.3. If an amount with respect to any Partner is not distributed to the General Partner pursuant to this Section 4.1(c), then the General Partner in its sole discretion may elect to receive all or any portion of any subsequent cash distributions otherwise distributable to such Partner (or if the General Partner elects in its sole discretion, solely those made out of profits) until the General Partner has received the same aggregate amount of cash distributions with respect to such Partner it would have received had it not elected to defer such distributions with respect to such Partner pursuant to the first sentence of this Section 4.1(c).

(d) Any distribution by the Partnership pursuant to this Agreement to the Person shown on the Partnership's records as a Partner or to such Person's legal representatives, or to the transferee of such Person's right to receive such distributions as provided herein, shall acquit the Partnership and the General Partner of all liability to any other Person that may be interested in such distribution by reason of any Transfer of such Person's interest in the Partnership for any reason (including a Transfer of such interest by reason of the death, incompetency, bankruptcy or liquidation of such Person).

(e) Notwithstanding anything to the contrary in this Agreement (including Section 3.3 and Article X), in connection with a distribution of net proceeds from the sale by the Partnership of investments in a Portfolio Company or subsidiary thereof, the General Partner may elect to receive all or a portion of its share (determined pursuant to Article IV) of such distribution in the form of an in-kind distribution of such investment. In the event of such election, any such investment distributed to the General Partner shall be valued, for all purposes of this Agreement (including the determination of value pursuant to Article X), at a per share amount

equal to the average per share amount of net proceeds received by the Partnership from the related sale of such investment.

(f) Notwithstanding anything to the contrary contained in this Agreement, neither the Partnership nor the General Partner on behalf of the Partnership shall be required to make a distribution to any Partner on account of its interest in the Partnership to the extent such distribution would violate the Partnership Act or other applicable law.

4.2 Distributions of Short-Term Investment Income. Short-Term Investment Income shall be distributed among the Partners (other than Defaulting Partners) ratably in proportion to their respective interests in the assets generating such Short-Term Investment Income, as reasonably determined by the General Partner.

4.3 Distributions of Investment Proceeds. Investment Proceeds from any Investment shall be apportioned preliminarily among the Partners in proportion to their Sharing Percentages with respect to the applicable Investment. The amount so apportioned to any Affiliated Partner shall be distributed to such Person, and the amount so apportioned to each other Partner shall be distributed between the General Partner and such Partner (subject to Sections 7.8 and 7.9) as follows:

(a) First, 100% to such Partner until the Unpaid Preferred Return of such Partner is reduced to zero.

(b) Second, 100% to such Partner until such Partner has received cumulative distributions pursuant to this Section 4.3(b) equal to the sum of (i) such Partner's aggregate Investment Contributions made with respect to Realized Investments and (ii) such Partner's Net Unrealized Loss.

(c) Third, 100% to such Partner until such Partner has received cumulative distributions pursuant to this Section 4.3(c) equal to such Partner's Allocable Share of such Partner's Cost Contributions.

(d) Fourth, 100% to the General Partner until the General Partner has received cumulative distributions with respect to such Partner pursuant to this Section 4.3(d) equal to 25% of the cumulative amount of distributions made to such Partner pursuant to Section 4.3(a).

(e) Fifth, thereafter, (i) 20% to the General Partner and (ii) 80% to such Partner.

4.4 Distributions to All Partners For Anticipated Taxes. Notwithstanding the priorities set forth in Section 4.3, the General Partner shall have the authority to cause the Partnership to make distributions pursuant to this Section 4.4 pro rata among all Partners (subject to Sections 7.8 and 7.9, and other than Partners excused from any Investment to which such distribution relates) based on the excess, for each Partner, of such Partner's anticipated Tax Amount for such fiscal year, over the amount of distributions previously made to such Partner pursuant to Article IV with respect to such fiscal year. Such distributions shall be treated for all

purposes hereof, other than this Section 4.4, as advances of distributions pursuant to Section 4.2 or the appropriate paragraph of Section 4.3 (as reasonably determined by the General Partner), and thus shall reduce dollar for dollar the amount of future distributions to such Partner pursuant to Section 4.2 or the appropriate paragraph of Section 4.3. For purposes of applying this Section 4.4, the General Partner's Carried Interest and its interest attributable to its Commitment shall be treated as interests held by different Partners.

4.5 Loans in Lieu of Distributions In Excess of Basis.

(a) In the event that the General Partner otherwise would receive a cash distribution hereunder pursuant to Section 4.3, Section 5.2(e) or otherwise (other than in connection with the liquidation and winding up of the Partnership) in excess of its U.S. federal income tax basis in its interest in the Partnership, the amount of such distribution shall not be distributed to the General Partner until such time, if any, as such distribution would not be in excess of the General Partner's U.S. federal income tax basis in its interest in the Partnership. Any amount not distributed to the General Partner pursuant to the preceding sentence may be loaned to the General Partner.

(b) If any amount is loaned to the General Partner pursuant to this Section 4.5, (i) any amount thereafter distributed to the General Partner pursuant to Section 4.3 or otherwise shall be applied to repay the principal amount of such loan(s) to the General Partner and (ii) interest, if any, received by the Partnership on such loan(s) to the General Partner shall be distributed to the General Partner. Any loans to the General Partner pursuant to this Section 4.5 shall be repaid to the Partnership prior to the liquidation of the Partnership.

4.6 Return of Distributions.

(a) If the Partnership incurs any Liability, subject to Section 7.14(e), it may recall distributions made pursuant to this Agreement pro rata according to the amount that such Liability would have reduced the distributions received by the Partners pursuant to this Agreement had such Liability been incurred by the Partnership prior to the time such distributions were made (in each case, which recalled amounts shall be funded by the Partners within ten (10) days after the date of any notice in the form of a Capital Call Notice or other written request by the General Partner), but in no event shall any Partner be required to contribute amounts pursuant to this Section 4.6 that in the aggregate exceed the lesser of (i) the aggregate amount of distributions (excluding distributions in respect of Tax Amounts attributable to the Carried Interest) received by such Partner from the Partnership pursuant to this Agreement and (ii) other than with respect to returns of distributions made with respect to the Carried Interest, 25% of the amount of such Partner's initial aggregate Commitment, including increases in such Partner's aggregate Commitment pursuant to Section 7.6; provided that in no event shall any Partner be required to contribute amounts pursuant to this Section 4.6 that exceed the aggregate amount of distributions received by such Partner from the Partnership pursuant to this Agreement on or after the date 24 months prior to the date on which the General Partner notified the Partners in writing of such Liability or Liabilities or potential Liability or Liabilities, net of any

such period's distributions returned by such Partner to the Partnership pursuant to this Section 4.6. Following any return of distributions pursuant to this Section 4.6(a), the amount of the General Partner's give back obligation pursuant to Sections 9.4(c) and 9.4(f) shall be adjusted accordingly. For purposes of this Section 4.6(a), the General Partner's Carried Interest and its interest attributable to its Commitment shall be treated as interests held by different Partners.

(b) For purposes of this Section 4.6, "Liability" means any liability or obligation that the Partnership would be required by this Agreement or otherwise to pay if it had adequate funds, including (i) the expenses of investigating, defending or handling any pending or threatened litigation or claim arising out of the Partnership's activities, investments or business, (ii) the amount of any judgment or settlement arising out of such litigation or claim, (iii) the Partnership's obligation to return proceeds following the disposition of any Investment and (iv) the Partnership's obligation to indemnify any Partner or other Person pursuant to Section 6.10 or otherwise.

(c) Any amounts contributed by a Partner pursuant to Section 4.6(a) shall be credited to such Partner's Capital Account but shall not constitute a Capital Contribution hereunder. For purposes of Sections 4.3, 9.4(c) and 9.4(f), without duplication, such contributions by a Partner shall be treated as reductions of the applicable distribution amounts received by such Partner; provided that for purposes of computing the Preferred Return, such contributions shall be treated as having been received by such Partner as distributions when initially received and returned by such Partner when actually returned. Any debit pursuant to Section 3.2 on account of a Liability shall be allocated to the Partners' Capital Accounts after crediting the contributions required by this Section 4.6 to the Partners' Capital Accounts.

(d) A Partner's obligation to make contributions to the Partnership under this Section 4.6 shall survive the dissolution, liquidation, winding up and termination of the Partnership, subject to any limitations on survival expressed elsewhere in this Section 4.6, and for purposes of this Section 4.6, the Partnership may pursue and enforce all rights and remedies it may have against each Partner under this Section 4.6, including instituting a lawsuit to collect any contribution with interest from the date such contribution was required to be paid under Section 4.6(a) calculated at a rate equal to the Base Rate plus six percentage points per annum (but not in excess of the highest rate per annum permitted by law).

(e) The rights and remedies contained in this Section 4.6 shall be exercisable only by the General Partner for the benefit of the Partnership and the General Partner, and nothing in this Section 4.6 is intended to or shall provide any Person that is not a party hereto with any rights or remedies with respect to or under this Agreement.

ARTICLE V

MANAGEMENT FEE; ORGANIZATIONAL EXPENSES

5.1 Management Company. The General Partner may cause the Partnership to appoint a separate Management Company to manage the affairs of the Partnership. The General Partner shall have the duty to manage the affairs of the Partnership during any period when no Management Company has been appointed. The appointment of the Management Company shall not in any way relieve the General Partner of its responsibilities and authority vested pursuant to Section 6.1.

5.2 Management Fee.

(a) Initial. Subject to Sections 5.2(b), 5.2(c) and 5.4, the Partnership shall pay the Management Company, commencing on the Effective Date, and payable on the Effective Date (or, if later, 175 days prior to the end of the semi-annual period during which the Effective Date occurs), for the period from and including the Effective Date through the end of the semi-annual period during which the Effective Date occurs, and thereafter on a quarterly basis in advance on January 1, April 1, July 1 and October 1 of each year (each such payment date, a "Management Fee Due Date") until the final distribution of the Partnership's assets pursuant to Section 9.4(b), an annual fee (the "Management Fee") as compensation for managing the affairs of the Partnership equal to 1.625% of an amount equal to the Non-Affiliated Partners' Percentage of the aggregate Commitments (including any Commitments of any Limited Partners admitted, or any increase in Commitments, pursuant to Section 7.6 as if made on the Effective Date).

(b) Reduction. Effective on the first Management Fee Due Date after the earlier to occur of (i) the date the Investment Period expires and (ii) the date six months after the occurrence of a Cessation Event (unless Continuing Investment Approval is obtained, in which case the Management Fee shall be determined (or redetermined, as necessary) as if such Cessation Event had not occurred), (A) the Management Fee shall be calculated on a semi-annual basis on January 1 and July 1 of each year, provided that if such first Management Fee Due Date is April 1 or October 1, the Management Fee then payable shall be calculated on such date for the quarterly period commencing thereon, (B) the Management Fee shall be payable in advance on a quarterly basis on January 1, April 1, July 1 and October 1 of each year based on the most recent prior or contemporaneous calculation, as applicable, of the Management Fee, and (C) the Management Fee calculation shall equal 1.5% per annum of the Non-Affiliated Partners' Percentage of an amount equal to (x) the aggregate amount of unrecouped Bridge Financing Contributions plus (y) the aggregate amount of Investment Contributions with respect to Investments that have not been disposed of or completely written-off for U.S. federal income tax purposes, in each case as determined on the first day of the period with respect to which a determination is being made; provided that Investments (other than Bridge Financings) in a Portfolio Company that have been disposed of or completely written-off shall be treated for this purpose as having been disposed of or completely written-off only to the extent that, as of the date of any such disposition or write-off, the aggregate value (as determined pursuant to Article X) of all remaining Investments (other than Bridge Financings) in such Portfolio Company is less than the aggregate Investment Contributions with respect to all existing and former Investments (other than

Investments previously treated as having been disposed of or written-off for this purpose) in such Portfolio Company; and provided further that, effective on the first Management Fee Due Date after the General Partner or any of its Affiliates first receives or begins to accrue management fees with respect to a new equity investment fund with objectives, strategy and scope substantially similar to those of the Partnership and committed capital equal to at least 75% of the Aggregate Commitments the commencement of operations of which was restricted pursuant to Section 6.12, the percentage used to compute the Management Fee shall be reduced to 1.0%, but such Management Fee otherwise shall be determined in accordance with this Section 5.2(b).

(c) Breakup Fees, Transaction Fees and Monitoring Fees. The Management Fee payable in any semi-annual period shall be reduced by an amount equal to the Non-Affiliated Partners' Percentage of 100% of any (i) Breakup Fees, (ii) Transaction Fees and (iii) Monitoring Fees received by a Windjammer Person during the immediately preceding semi-annual period. In addition, the Management Fee payable in any semi-annual period shall be reduced by an amount equal to the aggregate amount of all Placement Fees and Excess Organizational Expenses paid or reimbursed by the Partnership during the immediately preceding semi-annual period. In the event that the amount of fee reduction referred to in the two preceding sentences exceeds the Management Fee for such semi-annual period, such excess shall be carried forward to reduce the Management Fee payable in following semi-annual periods. To the extent any such excess remains unapplied upon dissolution of the Partnership, each Partner shall receive from the General Partner or the Management Company its share of such unapplied excess (based upon the amount such Partner would receive if such amounts were distributed at such time pursuant to Section 4.3) unless such Partner has previously notified the General Partner in writing of its irrevocable election not to receive its share of such excess. Notwithstanding the foregoing provisions of this Section 5.2(c), if the Partnership and an existing or subsequent investment fund (including the Parallel Fund and any Alternative Investment Vehicle, but excluding the Executive Fund) formed by the General Partner or any of its members or partners, and/or other investors have co-invested (or committed to co-invest) in a Portfolio Company or potential Portfolio Company, then for the purpose of calculating reductions in the Management Fee pursuant to this Section 5.2(c), any fees of the type included in the definition of "Breakup Fees," "Transaction Fees" or "Monitoring Fees" will be allocated among the Partnership and such other funds and/or investors in proportion to the cost of the investment in such Portfolio Company or potential Portfolio Company held (or proposed to be held) by each or in such other manner as the General Partner and the governing bodies of such other funds and/or investors may mutually agree and only the Partnership's allocable portion of such fees shall be included in calculating such Breakup Fees, Transaction Fees or Monitoring Fees.

(d) Partial Period. Installments of the Management Fee payable for any period other than a full three-month period (including the first Management Fee payment, which shall be payable for the period from and including the Effective Date through the end of the semi-annual period during which the Effective Date occurs)

shall be adjusted on a pro rata basis according to the actual number of days in such period.

(e) Reduced Management Fee and Special GP Distribution. Notwithstanding anything in this Agreement to the contrary:

(i) The Management Fee shall be determined under this Section 5.2 after giving effect to Section 5.2(c) and then shall be reduced by the aggregate dollar amount, if any, of any corresponding amount that, but for this Section 5.2(e), would be treated for U.S. federal income tax purposes as an item of expense allocated to the General Partner in respect thereof; provided that the foregoing shall not affect the Partners' obligations (if any) to make Capital Contributions in respect of such Management Fee as determined without regard to this Section 5.2(e).

(ii) 100% of any amount treated for U.S. federal income tax purposes as an item of expense in respect of the Management Fee (as reduced pursuant to Section 5.2(e)(i)) shall be allocated to the Limited Partners ratably in accordance with their respective Management Fee Percentages.

(iii) Subject to Section 4.5, at the time the Partnership would otherwise pay the Management Fee, the General Partner shall be entitled to receive an aggregate cash distribution (a "Special GP Distribution") equal to the excess of (A) the Management Fee determined under this Section 5.2 without the application of this Section 5.2(e), over (B) the Management Fee determined with the application of this Section 5.2(e). The reduction in the Management Fee pursuant to this Section 5.2(e) and the Special GP Distribution shall be determined on an estimated basis and adjusted thereafter when such amounts are finally determined. Any Special GP Distribution shall reduce the General Partner's Capital Account by the amount distributed to such Person.

(iv) For all purposes of this Agreement, other than Sections 4.5 and 5.2(e)(iii), no Special GP Distribution shall be treated as a distribution. For all purposes of determining the aggregate amount of Cost Contributions, Partnership Expenses shall be deemed to include the additional amount of Partnership Expenses that the Partnership would have incurred but for this Section 5.2(e).

5.3 Organizational Expenses. The Partnership shall pay or reimburse the General Partner for the Partnership's Pro Rata Share of all Organizational Expenses. The Partnership's Pro Rata Share of Organizational Expenses in excess of the Partnership's Pro Rata Share of $2 million ("Excess Organizational Expenses") shall reduce the Management Fee as set forth in Section 5.2(c).

5.4 Direct Limited Partner Payments. If 25% or more of the Limited Partner Commitments (excluding Commitments of Management Affiliates) are from Limited Partners that are Benefit Plan Investors or if the General Partner otherwise so determines, each Partner may be required to pay its pro rata share of each payment of Organizational Expenses and other Partnership Expenses directly to the General Partner or the Management Company, as appropriate, at any time prior to when the Partnership first qualifies as a VCOC, but for purposes

of calculating when such Partner has fulfilled its Commitment and for purposes of calculating profits, losses, distributions, Capital Contributions and sharing ratios, all amounts so paid shall be treated as having been paid into the Partnership as a Capital Contribution by such Partner and as then having been paid by the Partnership to the General Partner or the Management Company, as appropriate, as Organizational Expenses or other Partnership Expenses.

ARTICLE VI

GENERAL PARTNER

6.1 Management Authority.

(a) The management of the Partnership shall be vested exclusively in the General Partner (acting directly or through its duly appointed agents), and the General Partner shall have full control over the business, assets, conduct and affairs of the Partnership. The General Partner shall have the power on behalf and in the name of the Partnership to carry out any and all of the objectives and purposes of the Partnership and to perform all acts and enter into and perform all contracts and other undertakings that the General Partner, in its sole discretion, deems necessary or advisable or incidental thereto, including the power to acquire and dispose of any investment (including Freely Tradable Securities and other marketable securities).

(b) All matters concerning (i) the allocation and distribution of net profits, net losses, Investment Proceeds, Short-Term Investment Income and the return of capital among the Partners, including the taxes thereon, and (ii) accounting procedures and determinations, estimates of the amount of Management Fees payable by any Defaulting Partner or Regulated Partner, tax determinations and elections, determinations as to on whose behalf expenses were incurred and the attribution of fees and expenses to Portfolio Companies, and other determinations not specifically and expressly provided for by the terms of this Agreement, shall be reasonably determined by the General Partner taking into account any interests and factors as it deems appropriate, and such determination shall be final and conclusive as to all the Partners, absent manifest error.

(c) Third parties dealing with the Partnership may rely conclusively upon the General Partner's certification that it is acting on behalf of the Partnership and that its acts are authorized. The General Partner's execution of any agreement or document on behalf of the Partnership is sufficient to bind the Partnership for all purposes.

(d) Notwithstanding anything to the contrary contained in this Agreement, the Partnership and the General Partner, in its own name and on behalf of the Partnership, shall be authorized without the consent of any Person, including any other Partner, to take such actions (including any actions set forth in any subscription agreement) as it determines in its sole discretion to be necessary or advisable to comply with any anti-money laundering or anti-terrorist laws, rules, regulations, directives or special measures.

6.2 Limitations on Indebtedness and Guarantees.

(a) The Partnership may incur indebtedness for borrowed money in order to fund an Investment or pay Partnership Expenses; provided that the aggregate principal amount of such indebtedness of the Partnership for borrowed money outstanding at any time may not exceed the lesser of (i) 25% of the aggregate Commitments (measured as of the date such indebtedness is incurred) and (ii) the Partnership's aggregate Commitments available to be called pursuant to Section 3.1 (measured as of the date such indebtedness is incurred); and provided further that the Partnership shall not incur indebtedness for borrowed money following the expiration of the Investment Period for any purpose for which Capital Contributions could not be called as of such time. Any such borrowings or indebtedness and guarantees permitted by Section 6.2(b) may be secured by the Partnership's assets and the Partnership's right to call and receive, and the General Partner's right to call, each Partner's Capital Contributions. Notwithstanding anything in this Section 6.2 to the contrary, there is no limitation on indebtedness that the Partnership may incur in connection with repurchasing any Partnership interest from a Regulated Partner or a Defaulting Partner and any such indebtedness shall not be applied to the limitations on the amount of indebtedness set forth in this Section 6.2(a).

(b) The Partnership may guarantee the obligations of Portfolio Companies (and any direct or indirect subsidiaries thereof or acquisition vehicles therefor) and other obligations in connection with any Investment or Partnership Expense and, for purposes of Section 6.2(a), any such guarantees of Portfolio Company obligations for borrowed money shall be treated as Partnership indebtedness.

6.3 Investments After Sixth Year. The Partnership shall not make new Investments (other than Short-Term Investments) after the sixth anniversary of the Effective Date, except (a) to fund then existing commitments to make Investments, provided that such commitments are evidenced by a term sheet, letter of intent or similar agreement in principle, (b) to complete Investments in transactions that were in process as of such sixth anniversary and are reasonably expected to be funded within 90 days (and are funded within 180 days) following such sixth anniversary, and (c) to fund follow-on investments in Portfolio Companies and their respective subsidiaries not covered in clause (a) or (b) above, in an aggregate amount not to exceed 20% of the aggregate Commitments.

6.4 Limitations on Investments.

(a) The Partnership shall not (i) invest an amount greater than 15% (or, in the case of each of up to two Portfolio Companies, 20%) of the Partners' aggregate Commitments (measured as of the date any such Investment is to be made) in the securities of any one Portfolio Company, or greater than 35% of the Partners' aggregate Commitments (measured as of the date any such Investment is to be made) in the securities of any two Portfolio Companies (including, without duplication, with respect to each Portfolio Company, the outstanding principal amount of Partnership indebtedness for borrowed money used to acquire interests in such Portfolio Company

and outstanding guarantees of such Portfolio Company's obligations, but excluding Bridge Financings), or (ii) invest more than 25% of the Partners' aggregate Commitments (measured as of the date any such Investment is to be made) in the securities of any one Portfolio Company (including, without duplication, the outstanding principal amount of Partnership indebtedness for borrowed money used to acquire interests in such Portfolio Company, outstanding guarantees of such Portfolio Company's obligations and Bridge Financings); provided that for purposes of such limitations (A) any investments in, guarantees of any obligations of, and indebtedness for borrowed money used to acquire interests in any subsidiaries of a Portfolio Company shall be treated, without duplication, as investments in, guarantees of obligations of and indebtedness for borrowed money used to acquire interests in such Portfolio Company, and (B) the aggregate amount invested in a Portfolio Company shall be treated as being reduced, but not below zero, by the aggregate amount of all proceeds received by the Partnership with respect to such Portfolio Company.

(b) Except as contemplated by Section 3.1(d), net cash proceeds from the sale of Portfolio Company securities shall not be reinvested by the Partnership in Portfolio Company securities. Notwithstanding anything in this Agreement to the contrary, the General Partner may deem, at its sole election, all or any portion of such net cash proceeds, Short-Term Investment Income or Current Income as having been distributed to the Partners and simultaneously returned pursuant to Section 3.1 to the Partnership as Capital Contributions pursuant to the Partners' Commitments, but only to the extent that the General Partner could have made capital calls for such Capital Contributions pursuant to Section 3.1.

(c) The Partnership shall not directly invest in, or assist in financing a tender offer for, any Portfolio Company or potential Portfolio Company if such Investment or tender offer is actively opposed by such Portfolio Company's or potential Portfolio Company's board of directors or other governing body at the time of such Investment, other than an Investment made in connection with or in contemplation of a Portfolio Company's or a potential Portfolio Company's bankruptcy, potential bankruptcy or similar restructuring (whether or not such Investment or tender offer is opposed by the board of directors or other governing body of such Portfolio Company or potential Portfolio Company).

(d) The Partnership shall not, without Advisory Board approval, directly invest (other than Short-Term Investments) in any blind-pool investment fund in which (i) neither the Partnership nor the General Partner retains investment discretion or (ii) the Partnership pays, on a net basis, a management fee or carried interest (other than, in each case, a Director's Fee, Transaction Fee or Monitoring Fee).

(e) The Partnership shall not at any point in time, without Advisory Board approval, directly invest in publicly traded securities (not including private placements of public company securities, securities that were not publicly traded at the time of such Investment, securities purchased in connection with, or in anticipation of, acquiring (alone or with an investor group) influence over a public company, securities

in which the Partnership is permitted to invest pursuant to Section 6.4(i), securities of an existing Portfolio Company or Short-Term Investments) with a cost exceeding 15% of the Partners' aggregate Commitments (measured as of the date any such Investment is to be made).

(f) The Partnership shall not invest in the securities of a Portfolio Company, and shall not cause any Limited Partner to participate in any Alternative Investment Vehicle, organized in a jurisdiction outside of the United States or establish any non-U.S. office of the Partnership without determining, after obtaining written advice of counsel or other tax advisor, that such Investment, participation or establishment of such non-U.S. office, as applicable, will not cause a Limited Partner who is a United States Person or a Designated Person (and who is not a citizen or resident of the jurisdiction in which such Portfolio Company or Alternative Investment Vehicle is organized or such non-U.S. office is established), solely as a result of such Limited Partner's status as a limited partner of the Partnership or participant in such Alternative Investment Vehicle, as applicable, to be obligated to (i) file income tax returns in such non-U.S. jurisdiction (other than any tax return necessary to obtain a refund of a withholding tax imposed on the Limited Partner or any tax paid by the Partnership or such Alternative Investment Vehicle, as applicable), or (ii) pay any tax in such non-U.S. jurisdiction based on its net income or any portion thereof, other than its income from the Partnership or such Alternative Investment Vehicle, as applicable. In addition and without limiting the foregoing, as and when requested by a Limited Partner, so long as such request is not unreasonably time consuming, as determined by the General Partner, the General Partner shall, at such Limited Partner's expense, use its reasonable efforts to (x) make its applicable non-U.S. tax advisors available to assist such Limited Partner with any filing obligations it has in any jurisdiction outside of the United States as a result of its investment in the Partnership or such Alternative Investment Vehicle, as applicable, and (y) assist such Limited Partner in recovering, to the extent permitted by applicable law, any tax withheld by any jurisdiction outside of the United States as a result of its investment in the Partnership or such Alternative Investment Vehicle, as applicable.

(g) The Partnership shall not invest in the securities of a Portfolio Company that is organized under the laws of a jurisdiction outside the United States and Canada unless the General Partner has received written advice of local counsel prior to such Investment to the effect that the courts in such jurisdiction will respect the limited liability of the Limited Partners.

(h) The Partnership shall not, without Advisory Board approval, purchase securities of any Portfolio Company that is organized under the laws of a jurisdiction outside of the United States and Canada and, at the time of the Partnership's initial investment in such Portfolio Company, has its principal place of business and headquarters outside of the United States and Canada if the aggregate cost of all such securities then held by the Partnership would exceed 15% of the Partners' aggregate Commitments (measured as of the date any such Investment is to be made).

(i) Without Advisory Board approval, the Partnership shall not directly make any investments in uncovered options, futures contracts, or other derivative securities other than to hedge non-U.S. currency or interest rate exposure or to otherwise protect, hedge or enhance an existing or prospective investment in an existing or prospective Portfolio Company.

(j) The Partnership shall not directly invest in the securities of a Portfolio Company whose primary business is (i) the exploration or production of oil and/or gas or (ii) the passive ownership, development or management of real estate; provided that clause (ii) shall not apply to any Portfolio Company that conducts business as an operating company even if real estate is a material asset of such Portfolio Company.

With respect to Investments made prior to (or pursuant to commitments made prior to) the Final Closing Date, all determinations made with respect to the limitations contained in this Section 6.4 shall be determined as if the Partnership's aggregate Commitments were equal to the greater of the actual amount of aggregate Commitments and the Partnership's Pro Rata Share of $700 million.

6.5 UBTI; ECI. The Partnership may engage in transactions (including transactions described in Section 6.2) that will cause Tax Exempt Partners and Non U.S. Partners to recognize UBTI or ECI, respectively, as a result of their investment in the Partnership.

6.6 Plan Asset Regulation. The General Partner shall use its reasonable best efforts to ensure that the Partnership either (a) qualifies as a VCOC on and after the "initial valuation date" (as defined in the Plan Asset Regulation) of the Partnership or (b) is in compliance with another applicable exception to the Plan Asset Regulation. If 25% or more of the Limited Partner Commitments (excluding Commitments of Management Affiliates) are from Limited Partners that are Benefit Plan Investors, at the Partnership's expense, the General Partner shall furnish to each ERISA Partner that has notified the General Partner in writing of its desire to receive the following, (x) within ten (10) business days following the Partnership's first long-term Investment in a Portfolio Company, an opinion of counsel, dated as of the date such Investment is made, addressed to the Partnership with respect to the VCOC status of the Partnership, and (y) within sixty (60) days following the end of each "annual valuation period" (as defined in the Plan Asset Regulation) of the Partnership succeeding the date of the Partnership's first long-term Investment in a Portfolio Company, a certificate from the Partnership as to the Partnership's qualification as a VCOC.

6.7 Ordinary Operating Expenses. The General Partner and/or the Management Company shall pay all ordinary overhead and administrative expenses of the Partnership incurred by the General Partner, the Ultimate General Partner or the Management Company in connection with maintaining and operating their respective offices (including salaries, rent and equipment expenses) to the extent not borne or reimbursed by a Portfolio Company, but not including any Partnership Expenses.

6.8 No Transfer, Withdrawal or Loans. The General Partner shall not Transfer its general partner interest in the Partnership, and shall not borrow or withdraw any

funds or securities from the Partnership, except as expressly permitted by this Agreement. Notwithstanding any provision of this Agreement, including this Section 6.8, if the General Partner is regulated as a registered investment adviser under the Investment Advisers Act, the General Partner shall not engage in any "assignment" (within the meaning of the Investment Advisers Act) of its interest in the Partnership without the requisite consent required under the Investment Advisers Act; provided that the rights of the Limited Partners with respect to any breach of this sentence shall be limited to those set forth in the Investment Advisers Act.

6.9 No Liability to Partnership or Limited Partners.

(a) To the maximum extent not prohibited by applicable law, none of the General Partner, the Ultimate General Partner, the Management Company or any member, manager, shareholder, partner, director, officer, employee, agent, advisor, representative or affiliate of the General Partner, the Ultimate General Partner or the Management Company (or any of their respective members, managers, shareholders, partners, directors, officers, employees, agents, advisors, representatives or affiliates), shall be liable to any Limited Partner or the Partnership for (i) any action taken, or failure to act, as the General Partner or the Management Company, or on behalf of the General Partner or the Management Company, with respect to the Partnership or the Parallel Fund unless and only to the extent that such action taken or failure to act is a willful violation of the material provisions of this Agreement or constitutes gross negligence or willful malfeasance by such Person or was in bad faith taken or failed to be taken, (ii) any action or inaction arising from reliance in good faith upon the opinion or advice as to legal matters of legal counsel or as to accounting matters of accountants selected by any of them with reasonable care or (iii) the action or inaction of any agent, contractor or consultant selected by any of them with reasonable care. To the extent that, at law or in equity, the General Partner or any other Person has duties (including fiduciary duties) and liabilities relating thereto to the Partnership or any Limited Partner, any such Person acting under this Agreement shall not be liable to the Partnership or any Limited Partner for its good faith reliance on the provisions of this Agreement. The provisions of this Agreement, to the extent they restrict or eliminate the duties and liabilities of the General Partner or any other Person otherwise existing at law or in equity, are agreed by the Partners to replace such other duties and liabilities of such Person.

(b) No Advisory Board member (or Limited Partner or Parallel Fund Limited Partner represented by such Advisory Board member) shall be liable to any Partner or the Partnership for any such Advisory Board member's action taken or failure to act (but solely with respect to any action or omission of such Advisory Board member in his or her capacity as such) unless and to the extent such member failed to act in good faith.

6.10 Indemnification of General Partner and Others.

(a) To the maximum extent not prohibited by applicable law, the Partnership shall indemnify each of (i) the General Partner, (ii) the Ultimate General Partner, (iii) the Management Company, (iv) the Advisory Board members and

observers (but solely with respect to any action or omission of such Advisory Board member or observer in his or her capacity as such) and the Limited Partners and Parallel Fund Limited Partners represented by the Advisory Board members and observers (but, in each case, solely to the same extent that the applicable Advisory Board member or observer is entitled to indemnification) (collectively, exclusive of any General Partner representative that is a non-voting member of the Advisory Board, the "Advisory Board Indemnitees") and (v) unless otherwise determined by the General Partner in its sole discretion, each of their respective members, managers, shareholders, partners, directors, officers, employees, agents, advisors, assigns, representatives and affiliates (and their respective members, managers, shareholders, partners, directors, officers, employees, agents, advisors, assigns, representatives and affiliates) against any claims, losses, liabilities, damages, costs or expenses (including attorney fees, judgments and expenses in connection therewith and amounts paid in defense and settlement thereof) to which any of such Persons may directly or indirectly become subject in connection with the Partnership, the Parallel Fund or any Alternative Investment Vehicle or in connection with any involvement with a Portfolio Company or a portfolio company of any Alternative Investment Vehicle (including serving as an officer, director, consultant or employee of any Portfolio Company or Alternative Investment Vehicle portfolio company), except to the extent that the General Partner or such Person (x) failed to act in good faith or (y) other than an Advisory Board Indemnitee, was grossly negligent, engaged in willful malfeasance (including fraud or conviction of a similar felony) or willfully and materially breached this Agreement and such breach was the direct proximate cause of the loss for which indemnification is being sought. The Partnership shall not indemnify any Windjammer Person indemnifiable hereunder against the costs of defending any litigation, including settlement costs with respect thereto, involving an internal dispute solely among Windjammer Persons that has not arisen as a result of a claim or potential claim by a third party. The Partnership may in the sole judgment of the General Partner pay the expenses incurred by any such Person indemnifiable hereunder, as such expenses are incurred, in connection with any proceeding in advance of the final disposition, so long as the Partnership receives an undertaking by such Person to repay the full amount advanced if there is a final determination that such Person acted or failed to act as described in clause (x) or (y) above or that such Person is not entitled to indemnification as provided herein for other reasons; provided that in connection with an action against any Person indemnifiable hereunder brought on behalf of the Partnership by Limited Partners and Parallel Fund Limited Partners representing a majority of the Aggregate Commitments, the Partnership shall not advance the expenses incurred by such Person. An Advisory Board member's or observer's indemnification rights set forth in this Section 6.10 shall survive such Person ceasing to be a member or observer of the Advisory Board for any reason. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the General Partner or any other Person acted or failed to act as described in clause (x) or (y) above. Subject to the terms of this Section 6.10, to the maximum extent permitted by law, as between (1) Portfolio Companies, (2) the Partnership and (if applicable) the Parallel Fund and (3) the General Partner or the

Management Company, this Section 6.10 is intended to reflect an ordering of liability for potentially overlapping or duplicative indemnification payments, with any applicable Portfolio Company having primary liability, the Partnership and (if applicable) the Parallel Fund having only secondary liability and (if applicable) the General Partner and/or the Management Company having only tertiary liability. The Partnership's obligation, if any, to indemnify or advance expenses to any Person shall be reduced by any amount such Person may collect as indemnification or advancement from any Portfolio Company or subsidiary thereof.

(b) Notwithstanding anything to the contrary in this Agreement, the Partnership may, in the sole judgment of the General Partner, pay any obligations or liabilities arising out of this Section 6.10 as a secondary indemnitor at any time prior to any primary indemnitor making any payments any such primary indemnitor owes, it being understood that any such payment by the Partnership shall not constitute a waiver of any right of contribution or subrogation to which the Partnership is entitled (including against any primary indemnitor) or relieve any other indemnitor from any indemnity obligations. Neither the General Partner nor the Partnership shall be required to seek indemnification or contribution from any other sources (other than applicable third party insurance policies, if any) with respect to any amounts paid by the Partnership in accordance with this Section 6.10.

6.11 Conflicts of Interest.

(a) None of the Management Company, the General Partner, the Ultimate General Partner, any Approved Executive Officer or any other Active Partner (the foregoing Persons are collectively referred to herein as the "Conflict Parties") shall invest directly or, to the General Partner's actual knowledge, indirectly (other than through the Partnership, the Parallel Fund, the Executive Fund or an Alternative Investment Vehicle or in an immaterial amount principally for tax, accounting, regulatory or similar structuring purposes), in any Person in which the Partnership either is actively considering making an Investment or has an Investment; provided that none of the Conflict Parties shall be precluded from (i) investing in, funding follow-on investments in, or receiving interests from, a Person in which any of the Conflict Parties held a direct or indirect investment on the Effective Date or a successor to such Person, (ii) receiving interests distributed to them from the Partnership or a fund described in clause (v) below, (iii) investing in publicly traded securities, (iv) investing through a blind-pool investment vehicle or a discretionary brokerage account in which a Person other than a Conflict Party makes investment decisions with respect to specific investments, (v) investing in a Portfolio Company through an existing fund or subsequent investment fund (including the Executive Fund, the Parallel Fund and any Alternative Investment Vehicle) formed by the General Partner or any of its affiliates, members or partners that is not prohibited from being formed pursuant to Section 6.12, provided that the Partnership's Investment, to the extent reasonably practical, is made on substantially the same terms and at substantially the same time as a corresponding investment by such other fund, and that any existing interests in such Portfolio Company held by the Partnership or such other fund likewise were acquired in a co-investment among such Persons made in

substantially the same proportions, on substantially the same terms and at substantially the same time, subject to any tax, regulatory, accounting, legal or other considerations that may limit, or may have limited, the timing, amount or type of investment by the Partnership or such other fund, (vi) receiving interests from such Person as payment of any Transaction Fees, Monitoring Fees, Breakup Fees or Directors' Fees or as payment of any similar fees with respect to a direct or indirect investment in such Person by the Parallel Fund, the Executive Fund, an Alternative Investment Vehicle or any other investor, or (vii) receiving interests upon disposition or exchange of any interests referred to in clauses (i) through (vi).

(b) After the Effective Date and subject to Section 7.10, the General Partner shall present to the Partnership and the Parallel Fund (in the event the Parallel Fund is formed) all investment opportunities (other than investment opportunities described in clauses (a)(i) through (a)(vii) above); provided that (i) such investment opportunities, in the good faith judgment of the General Partner, meet the Partnership's and the Parallel Fund's investment criteria and are available to the Partnership and the Parallel Fund and (ii) the Partnership and the Parallel Fund are otherwise able to make such investments and such investments are not materially limited as a result of investment restrictions or applicable law or regulation. The obligations under the preceding sentence shall terminate on the date the General Partner may commence the operation of a new equity investment fund with objectives, strategy and scope substantially similar to those of the Partnership as permitted by Section 6.12; provided that, unless the Advisory Board otherwise consents, for so long as the General Partner is permitted to commence the operation of any such new fund solely as a result of satisfying the requirements set forth in Section 6.12(a) and the Partnership has sufficient available capital in the reasonable judgment of the General Partner to make another Investment of the type described in the immediately preceding sentence (taking into account amounts committed or allocated for investment, used for Partnership Expenses or reserved for follow-on Investments or reasonably anticipated expenses of the Partnership, and distributions that are subject to recall pursuant to Section 3.1(d) (including amounts that are treated as returned to the Partners pursuant to Section 3.1(e))), the General Partner shall offer at least 50% (but not more than the Partnership's capital available for investments in new Portfolio Companies, as so determined by the General Partner) of each investment opportunity to make an initial investment (as opposed to a follow-on investment) in a prospective Portfolio Company to the Partnership, the Parallel Fund and the Executive Fund. Notwithstanding the foregoing, the obligations under this Section 6.11(b) shall not affect or restrict the ability of an existing fund to invest the remainder of its available capital (whether as follow-on investments, new investments or otherwise) without offering any such opportunity to the Partnership, the Parallel Fund and the Executive Fund.

(c) The Partnership shall not invest directly in any securities issued by a Person, other than an existing Portfolio Company, in which a Conflict Party has a material economic interest (other than an amount held principally for tax, accounting, regulatory or similar structuring purposes or any interest held through the Partnership, a Portfolio Company, the Parallel Fund, the Executive Fund or an Alternative Investment Vehicle); provided that the Partnership shall not be precluded from

investing in (i) a public company of which the Conflict Parties own, other than pursuant to any of clauses (ii) through (iv) below, in the aggregate, less than 2% of the outstanding stock, (ii) a Portfolio Company of which the Conflict Parties own only interests that they received in a distribution by the Partnership, the Executive Fund, the Parallel Fund or an Alternative Investment Vehicle or that are to be treated as Transaction Fees, Monitoring Fees, Breakup Fees or Directors' Fees or as payment of any similar fees with respect to a direct or indirect investment in such Portfolio Company by the Parallel Fund, the Executive Fund, an Alternative Investment Vehicle or any other investor, (iii) a Portfolio Company in which an existing or subsequent investment fund (including the Executive Fund, the Parallel Fund and any Alternative Investment Vehicle) formed by the General Partner or any of its affiliates, members or partners invests, provided that the Partnership's investment is made on substantially the same terms and at substantially the same time as a corresponding investment by such existing or subsequent investment fund, and that any existing interests in such Portfolio Company held by the Partnership or such existing or subsequent investment fund likewise were acquired in a co-investment among such Persons made in substantially the same proportions, on substantially the same terms and at substantially the same time, subject to any tax, regulatory, accounting, legal or other considerations that may limit, or may have limited, the timing, amount or type of investment by the Partnership or such other fund, or (iv) a company of which any Conflict Party owns interests through a blind-pool investment vehicle or a discretionary brokerage account in which a Person other than a Conflict Party makes investment decisions with respect to specific investments. The General Partner shall disclose to the Advisory Board annually all Partnership investments made during the preceding year in securities issued by any Person, other than an existing Portfolio Company, in which a Conflict Party has a material economic interest; provided that such disclosure shall not be required with respect to any Conflict Party interests described in clause (iv) of the preceding sentence.

(d) Notwithstanding the other provisions of this Section 6.11, (i) none of the Partnership, the Parallel Fund, the Executive Fund, any Alternative Investment Vehicle or any of the Conflict Parties shall be precluded by this Section 6.11 from making an investment in any Person or entering into any other transaction if such investment or other transaction is approved by the Advisory Board and (ii) none of the Conflict Parties shall be precluded by this Section 6.11 from making an investment in any Person if the Partnership decides not to make such investment. The General Partner shall disclose to the Advisory Board annually any investments made by any Conflict Parties during the preceding year in opportunities that were required to be presented to the Partnership pursuant to Section 6.11(b) and were declined by the Partnership.

(e) Notwithstanding anything in this Agreement to the contrary, the Conflict Parties, at the General Partner's sole discretion, shall be entitled to receive a management fee, "carried interest" or other compensation with respect to any investment made by any Partner or third party alongside the Partnership in a co-investment, and any such co-investment shall not be subject to the provisions of Section 13.8.

(f) No Conflict Party shall be precluded from engaging directly or indirectly in any other business or activity, including exercising investment advisory and management responsibility and buying, selling or otherwise dealing with investments for their own accounts, for the accounts of their family members and estate or wealth planning vehicles, and for the accounts of other funds (to the extent not otherwise expressly restricted by this Agreement).

(g) Neither the Partnership nor any Portfolio Company shall buy or sell any securities, assets or services to or from a Conflict Party, except (i) for transactions in the ordinary course of business of the Partnership or such Portfolio Company or on arms-length terms or (ii) as otherwise permitted or contemplated by this Agreement. The General Partner shall provide to the Advisory Board annually a summary of (A) any transactions described in clause (i) or (ii) of the preceding sentence that were consummated during the preceding year, in each case to the extent not otherwise required to be disclosed, and (B) any conflict of interest known to the General Partner between the Partnership or any Portfolio Company, on the one hand, and any Conflict Party, on the other hand, that the General Partner believes to be material, is not otherwise required to be disclosed, and is not otherwise permitted or contemplated by this Agreement, in each case that has arisen during the preceding year.

(h) The obligations set forth in this Section 6.11 shall terminate upon dissolution of the Partnership.

6.12 Formation of New Fund. Each Partner's interest in the business endeavors of the other Partners is limited to its interest in the Partnership and no Partner's future business activities are restricted, except that the General Partner, the Ultimate General Partner, the Management Company and each Approved Executive Officer (for so long as such Person is an Approved Executive Officer) may not commence the operation of a new equity investment fund with objectives, strategy and scope substantially similar to those of the Partnership (other than the Executive Fund, the Parallel Fund and Alternative Investment Vehicles), unless the Advisory Board consents in writing, until the earliest of (a) the time at which at least 75% of the Partners' aggregate Commitments have been invested, committed or allocated for investment, used for Partnership Expenses or reserved for follow-on Investments or reasonably anticipated expenses of the Partnership, (b) the date the Investment Period expires, (c) the date six months after the occurrence of a Cessation Event, unless the General Partner has received within such six-month period Continuing Investment Approval, (d) the date the General Partner or the Limited Partners and the Parallel Fund Limited Partners deliver a notice of dissolution pursuant to Section 9.1 or 9.3 and (e) the date the Limited Partners and Parallel Fund Limited Partners deliver a notice of the removal of the General Partner pursuant to Section 9.5.

6.13 General Partner Time and Attention. From the Effective Date until the earlier of (a) the date the Investment Period expires and (b) such time as the General Partner becomes eligible to commence the operation of a new equity investment fund with objectives, strategy and scope substantially similar to those of the Partnership under Section 6.12, each Approved Executive Officer (for so long as such Person continues to be an Approved Executive Officer) shall devote substantially all of such Person's business time and attention to the affairs

of the Partnership, the Executive Fund and the Parallel Fund, except for time and attention devoted to the affairs of Existing Funds and such industry, business development, educational, civic and charitable activities as do not otherwise interfere with such Person's obligations to the Partnership. Thereafter until the Partnership's dissolution, each Approved Executive Officer (in each case, for so long as such Person continues to be an Approved Executive Officer) shall devote an amount of such Person's business time and attention to the affairs of the Partnership, the Executive Fund and the Parallel Fund as the General Partner determines is consistent with the Partnership achieving its investment objectives.

6.14 Executive Fund.

(a) Notwithstanding anything in this Agreement to the contrary, the General Partner and its partners, its members and its affiliates may, and may permit certain executives and/or other Persons to, invest side-by-side with the Partnership and may form one or more partnerships or other entities consisting of Persons selected by the General Partner for the purposes of investing side-by-side with the Partnership (all of such Persons that are designated by the General Partner as an "Executive Fund," together with (to the extent the General Partner reasonably determines to be applicable) any alternative investment vehicles created for such entities, are collectively referred to herein as the "Executive Fund"). If the Executive Fund is formed it may have different terms and conditions that may be more or less favorable than the terms and conditions of the Partnership. If the Executive Fund is formed, it shall invest in each Portfolio Company either, at the General Partner's sole election, (i) the same proportion of its aggregate capital commitments available for investment as the portion of the Partnership's aggregate Commitments available for investment that is invested directly in each such Portfolio Company, provided that the Executive Fund shall not invest in any such Portfolio Company an amount that exceeds 2.5% of the Partnership's, the Parallel Fund's and the Executive Fund's aggregate investment in such Portfolio Company, or (ii) a percentage of the Partnership's, the Parallel Fund's and the Executive Fund's aggregate investment in such Portfolio Company, which percentage shall not exceed 2.5% and may be changed annually at any time prior to January 1 of the calendar year to which such change applies (provided that such percentage may be increased or decreased from time to time in connection with the hiring, withdrawal, resignation, termination or other association or disassociation of any Person with or from the General Partner, the Management Company or any of their respective affiliates), in each case on substantially the same terms and conditions as the Partnership's Investment in the Portfolio Company, subject to any tax, regulatory, accounting, legal or other considerations that may limit the amount, type or timing of investment by the Executive Fund or the Partnership; provided that the Executive Fund shall not be required to make any such investment in Portfolio Company interests if the General Partner is notified by the issuer or seller thereof that such issuer or seller will not permit the Executive Fund to invest on such terms and conditions. Except as set forth in Section 6.14(b), to the extent reasonably practical, the Executive Fund shall dispose of any Portfolio Company interests at substantially the same time, on substantially the same terms, and in the same relative proportions as the Partnership disposes of its investment in such Portfolio Company interests, in each case, except to the extent reasonably necessary or advisable to address tax, regulatory,

accounting, legal or other considerations. Nothing in this Section 6.14 shall restrict or apply to the formation or operation of the Parallel Fund.

(b) Notwithstanding anything in this Agreement to the contrary, the Executive Fund may, from time to time on or prior to 90 days after the later of the Final Closing Date and the Final Closing Date (as defined in the Parallel Fund Agreement), at the General Partner's sole election, purchase from or sell to the Partnership at cost plus an additional amount calculated at the Base Rate plus two percentage points per annum, but not in excess of 8% per annum, a portion of any Portfolio Company investment to the extent necessary for the Executive Fund and the Partnership to each own the portion of each Portfolio Company that it would own if all investments had been made as of the date of such transfer as contemplated by this Section 6.14; provided that the General Partner may make any equitable adjustments to such purchase price as it believes would be fair or equitable, including to reflect a material change or significant event relating to the value of an Investment (subject to the approval of the Advisory Board in the event that any downward adjustment to the value of an Investment results in such Investment being valued at less than the purchase price of such Investment), accrued but unpaid interest or dividends, prior distributions made to the Partners, Parallel Fund Partners or Executive Fund participants (including distributions in respect of Investments no longer held by the Partnership, the Parallel Fund or the Executive Fund) with respect thereto and/or the excuse or exclusion of any Partner, Parallel Fund Partner or Executive Fund participant from one or more investments pursuant to Section 7.14 (or any corresponding Parallel Fund or Executive Fund provision). Following a sale by the Partnership to the Executive Fund pursuant to this Section 6.14, the General Partner may elect to distribute all or any portion of the proceeds from such sale to the Partners pro rata according to their respective Investment Contributions with respect to the Investment(s) sold. Such distributed amounts, other than additional amounts, may be redrawn by the Partnership in accordance with Section 3.1(d). The Executive Fund (subject to Section 7.14) shall bear its pro rata share (based upon its and the Partnership's aggregate capital commitments) of fees and expenses that would otherwise be Partnership Expenses relating to the negotiation, consummation and disposition of each investment in a Portfolio Company by the Executive Fund hereunder, and such amounts shall not be Partnership Expenses for purposes of this Agreement. Each Limited Partner hereby consents and agrees to such activities and investments and further consents and agrees that neither the Partnership nor any of its Limited Partners shall have any rights in or to such activities or investments, or any profits derived therefrom.

6.15 Parallel Fund.

(a) Each Limited Partner hereby acknowledges and agrees that, in order to facilitate investment by certain investors, the General Partner or the Ultimate General Partner may form and thereafter serve, or have an affiliate serve, as a general partner, managing member, manager, similar controlling Person or management company for one or more partnerships or other entities (all of such Persons designated by the General Partner as a "Parallel Fund," together with (to the extent the General

Partner reasonably determines to be applicable) any alternative investment vehicles created for such entities, are collectively referred to herein as the "Parallel Fund"). If the Parallel Fund is formed, it shall (subject to Sections 6.15(b) and 7.14(e)) invest in each Portfolio Company and bear expenses relating to each Portfolio Company in the same proportion of its aggregate capital commitments available for investment as the portion of the Partnership's aggregate Commitments available for investment that is invested in each such Portfolio Company, in each case on substantially the same terms and conditions as the Partnership's Investment in the Portfolio Company, subject to any tax, regulatory, accounting, legal or other considerations that may limit the amount, type or timing of investment by the Partnership or the Parallel Fund. Except as set forth in Section 6.15(b), to the extent reasonably practical, the Parallel Fund shall dispose of any Portfolio Company interests that were acquired in any investment made alongside the Partnership at substantially the same time, on substantially the same terms and in the same relative proportions (based upon the aggregate amount invested in such interests by each of the Partnership and the Parallel Fund) as the Partnership disposes of its investment in such Portfolio Company interests that were acquired by the Partnership in the transaction that gave rise to the investment, in each case except to the extent reasonably necessary or advisable to address tax, regulatory, accounting, legal or other considerations.

(b) Notwithstanding anything in this Agreement to the contrary, from time to time prior to 90 days after the later of the Final Closing Date and the Final Closing Date (as defined in the Parallel Fund Agreement), and subject to any tax, regulatory, accounting, legal or other considerations that may limit the amount, type or timing of investment by the Parallel Fund, the Parallel Fund shall purchase from or sell to the Partnership, at cost plus an additional amount calculated by the General Partner in a manner consistent with the terms of Section 7.6(d) as if the Partners and Parallel Fund Partners were partners of a single pooled investment vehicle, a portion of any investment to the extent necessary for the Parallel Fund and the Partnership to each own the portion of each investment as contemplated by this Section 6.15(b) that it would own if all investments had been made as of the date of such transfer; provided that the General Partner may make any equitable adjustments to such purchase price as it believes would be fair or equitable, including to reflect a material change or significant event relating to the value of an investment (subject to the approval of the Advisory Board in the event that any downward adjustment to the value of an Investment results in such Investment being valued at less than the purchase price of such Investment), accrued but unpaid interest or dividends, prior distributions made to the Partners or Parallel Fund Partners with respect thereto and/or the excuse or exclusion of any Partner or Parallel Fund Partner from one or more investments pursuant to Section 7.14 (or any corresponding Parallel Fund provision) (including distributions in respect of investments no longer held by the Partnership or the Parallel Fund). Following a sale by the Partnership to the Parallel Fund pursuant to this Section 6.15, the General Partner may elect to distribute all or any portion of the proceeds from such sale to the Partners pro rata according to their respective Investment Contributions with respect to the Investment(s) sold. Such distributed amounts, other than additional amounts, may be redrawn by the Partnership in accordance with Section 3.1. Each Limited Partner hereby consents and agrees to such

activities and investments and further consents and agrees that neither the Partnership nor any of its Limited Partners shall have any rights in or to such activities or investments, or any profits derived therefrom. Any agreement with a Parallel Fund Limited Partner of a type that would not be a side letter or similar agreement for purposes of Section 13.8 if entered into with a Limited Partner shall similarly not be a side letter or similar agreement for purposes of Section 13.8. Each Limited Partner hereby agrees and consents to the formation of the Parallel Fund and the execution by the General Partner or the Ultimate General Partner on each Limited Partner's behalf of any amendments, consents or acknowledgments necessary in order to effectuate the foregoing, including amendments to this Agreement in order to enable the General Partner or the Ultimate General Partner to operate the funds on a side-by-side basis.

(c) Notwithstanding anything to the contrary in this Agreement, the General Partner may, in its good faith discretion (and without the act of any other Partner), (i) enter into any agreement (which agreement shall not be a side letter or similar agreement for purposes of Section 13.8) that permits an existing Limited Partner to withdraw from the Partnership and instead participate as a limited partner of the Parallel Fund or (ii) if the General Partner reasonably determines that a Limited Partner's status as a Partner creates a Partnership Regulatory Risk, require such Limited Partner to withdraw from the Partnership and instead participate as a limited partner of the Parallel Fund, in each case with a Parallel Fund Commitment equal to such Person's Commitment prior to such withdrawal, and, in connection therewith, take any other necessary action to treat such Limited Partner as if such Limited Partner were a limited partner of the Parallel Fund from the date when such Limited Partner was admitted to the Partnership. Notwithstanding anything to the contrary in this Agreement, the General Partner may, in its good faith discretion (and without the act of any other Partner), require or enter into any agreement (which agreement shall not be a side letter or similar agreement for purposes of Section 13.8) that permits, as applicable, a Person withdrawing from the Parallel Fund pursuant to a provision similar to this Section 6.15(c) in the Parallel Fund Agreement to be admitted to the Partnership as a Limited Partner with a Commitment equal to such Person's Parallel Fund Commitment prior to such withdrawal and, in connection therewith, take any other necessary action to treat such Person as if such Person were a Limited Partner of the Partnership from the date when such Person was admitted to the Parallel Fund. Notwithstanding anything in this Agreement to the contrary (including Section 6.15(b)), the Partnership may, from time to time, at the General Partner's sole election, purchase from or sell to the Parallel Fund at cost, as may be equitably adjusted by the General Partner, a portion of any investment to the extent necessary for the Parallel Fund and the Partnership to each own the portion of each investment as contemplated by this Section 6.15(c) that it would own if all investments had been made as of the date of such transfer. In connection with this Section 6.15(c), the General Partner may take any other necessary or advisable action to consummate the foregoing.

6.16 Certain Tax Matters.

(a) The General Partner shall use commercially reasonable efforts to determine (i) whether the Partnership owns, directly or indirectly through one or more entities treated as fiscally transparent for U.S. federal income tax purposes, an interest in a "passive foreign investment company" as defined in Code §1297 (a "PFIC"), and (ii) whether any Alternative Investment Vehicle is a PFIC.

(b) If the General Partner reasonably determines that the Partnership owns, directly or indirectly through one or more entities treated as fiscally transparent for U.S. federal income tax purposes, an interest in a PFIC, the General Partner shall so notify the Limited Partners. If the General Partner determines in its reasonable discretion that making a "qualified electing fund" election ("QEF Election") with respect to such PFIC pursuant to Code §1295 would be desirable for the Partnership or its Partners, the General Partner shall use commercially reasonable efforts to cause the PFIC to furnish to the Partnership such statements as will enable the Partnership to make and maintain such election and, if such statements are so furnished, the General Partner shall cause the Partnership to make such election.

(c) If the General Partner reasonably determines that (i) any Alternative Investment Vehicle is a PFIC or (ii) any Alternative Investment Vehicle that is treated as a "foreign partnership" for U.S. federal income tax purposes owns, directly or indirectly through one or more entities treated as fiscally transparent for U.S. federal tax purposes, an interest in a PFIC, the general partner or manager of such Alternative Investment Vehicle shall (x) so notify the equity owners of the Alternative Investment Vehicle, (y) further notify the equity owners of the Alternative Investment Vehicle if the general partner or manager of the Alternative Investment Vehicle (or, to its knowledge, any of its indirect owners) is expected to make a QEF Election with respect to such PFIC, and (z) use commercially reasonable efforts to obtain and provide to such equity owners such information as they may reasonably require to timely file and maintain a QEF Election with respect to such PFIC.

(d) The General Partner shall use commercially reasonable efforts to cause the Partnership to comply with any filing requirement imposed on any Limited Partner by Code §§6038, 6038B or 6046A and the rules and regulations promulgated thereunder with respect to such Limited Partner's investment in the Partnership, where the filing by the Partnership would satisfy such filing requirement.

(e) The General Partner shall use its reasonable best efforts to not cause the Partnership to engage in a transaction that the General Partner knows, as of the date the Partnership enters into a binding contract to engage in such transaction, is (i) a "listed transaction" as defined in Code §6707A(c)(2) or (ii) a "prohibited tax shelter transaction" as defined in Code §4965 to which any Tax Exempt Partner is treated as a party because such prohibited tax shelter transaction is facilitated by reason of the tax-exempt, tax indifferent or tax-favored status of such Tax Exempt Partner.

6.17 General Partner Interests. At least two-thirds of the beneficial interest in the Carried Interest shall at all times be held, directly or indirectly, by the then current or former Active Partners and other then current or former employees of and/or consultants to the General Partner, the Ultimate General Partner, the Management Company or any of their respective Affiliates, family members of any of the foregoing (including as family members any former spouses and any adopted children), estates, affiliates and wealth planning vehicles for any of the foregoing and any heirs or beneficiaries of any of the foregoing; provided, however, that any such interests may be transferred for charitable purposes or as an assignment to a financial institution in connection with a pledge of such interest. During the term of the Partnership, the General Partner shall not commence any public offering of any class of its equity securities.

6.18 Feeder Fund. Notwithstanding anything to the contrary contained in this Agreement, in order to facilitate investment in the Partnership by certain investors, the General Partner or the Ultimate General Partner may form and thereafter serve, or have an affiliate serve, as a general partner, managing member, manager, similar controlling Person or management company for one or more partnerships or other entities that shall be admitted as Limited Partners of the Partnership (all of such Persons designated by the General Partner as a "Feeder Fund," together with (to the extent the General Partner reasonably determines to be applicable) any alternative investment vehicles created for such entities, are collectively referred to herein as the "Feeder Fund"). If the Feeder Fund is formed, the following provisions shall apply: (i) the Feeder Fund shall not be deemed to be an Affiliate of the General Partner or any Active Partner for purposes of Section 2.2(a), and the Feeder Fund shall be entitled to consent, approve or vote in favor or against any matter involving the Limited Partners and/or the Parallel Fund Limited Partners, as applicable, in its capacity as such, as the beneficial owners of the Feeder Fund so direct the Feeder Fund (with the Feeder Fund deemed to be, with respect to each beneficial owner's interest, such type of Limited Partner (e.g., ERISA Partner, Non-U.S. Partner, Tax Exempt Partner, etc.) as such beneficial owner would be if it held its beneficial interest directly as a Limited Partner, (ii) for purposes of Section 8.1(a), each investor in the Feeder Fund shall be deemed to be a Limited Partner with a Commitment equal to its commitment to the Feeder Fund, (iii) in the event the Feeder Fund fails to make full payment of any portion of its Commitment or any other payment required hereunder when due and such failure is due to the failure of any beneficial owner of the Feeder Fund to make any payment to the Feeder Fund, then the provisions of Section 7.9 shall apply only to that portion of the Limited Partner interest held by the Feeder Fund that is attributable to such beneficial owner with respect to which it has failed to make such payment, (iv) the excuse, exclusion, discontinuation and withdrawal provisions of this Agreement shall be applied to the Feeder Fund as though the Feeder Fund's beneficial owners were Limited Partners of the Fund (i.e., in the event of the need to excuse or exclude the Feeder Fund from, or discontinue the Feeder Fund's participation in, any portion of an Investment (or for the Feeder Fund to withdraw from the Partnership) because of the status of one of the Feeder Fund's beneficial owners, such action shall be exercised only with respect to the portion of the Feeder Fund's interest in the Partnership that is attributable to such beneficial owner), and (v) the General Partner shall be entitled to apply the provisions of this Agreement as it otherwise determines to be appropriate in order to treat each Feeder Fund investor in a manner consistent with how such Person would be treated if it instead held its beneficial interest directly as a Limited Partner.

ARTICLE VII

LIMITED PARTNERS

7.1 Limited Liability. The Limited Partners shall not be personally liable for any obligations of the Partnership and shall have no obligation to make contributions to the Partnership in excess of their respective Commitments specified in Schedule I, except to the extent required by this Agreement or the Partnership Act; provided that a Limited Partner shall be required to return any distribution made to it in error. To the extent any Limited Partner is required by the Partnership Act to return to the Partnership any distributions made to it and does so, such Limited Partner shall have a right of contribution from each other Limited Partner similarly liable to return distributions made to it to the extent that such Limited Partner has returned a greater percentage of the total distributions made to it and required to be returned by it than the percentage of the total distributions made to such other Limited Partner and so required to be returned by it.

7.2 No Participation in Management. The Limited Partners (in their capacity as such) shall not participate in the control, management, direction or operation of the affairs of the Partnership and shall have no power to bind the Partnership. To the maximum extent not prohibited by applicable law, no Limited Partner (including any Limited Partner with a representative on the Advisory Board) or any Advisory Board member, in each case in its capacity as such, shall have a fiduciary duty to the Partnership or any other Partner.

7.3 Transfer of Limited Partnership Interests.

(a) A Limited Partner may not sell, assign, transfer, pledge, encumber, mortgage or otherwise dispose of, including by merger or operation of law to the extent such form of disposition was utilized to avoid the limitations set forth in this Section 7.3 (a "Transfer"), all or any of its interest in the Partnership (including any transfer or assignment of all or a part of its interest to a Person who becomes an assignee of a beneficial interest in Partnership profits, losses and distributions even though not becoming a substitute Limited Partner) unless the General Partner has consented to such Transfer in writing, which consent may be withheld in the General Partner's sole discretion, except that (i) such consent shall not be unreasonably withheld with regard to an assignment by a Limited Partner of its entire beneficial interest to its Affiliate if all of the following conditions are satisfied as reasonably determined by the General Partner (or waived by the General Partner in its sole discretion): (A) such assignee constitutes only one beneficial owner of the Partnership's securities for purposes of the Investment Company Act and only one partner of the Partnership within the meaning of U.S. Department of Treasury Reg. §1.7704-1(h), (B) such assignee is an "accredited investor" within the meaning of Regulation D promulgated under the Securities Act, a "qualified purchaser" as such term is defined under the Investment Company Act, and a "qualified client" within the meaning of the rules and regulations promulgated under the Investment Advisers Act, (C) such assignment does not cause the General Partner, any of its affiliates, the Partnership or any of the Limited Partners to be subjected to (or materially increase its obligation with respect to) any regulations or reporting requirements that the General

Partner reasonably believes to be significant or burdensome or to any tax obligation, (D) such assignee in the General Partner's judgment has the financial ability to hold the Limited Partner interest and perform in a timely manner all of its obligations as a Limited Partner under this Agreement, and (E) as reasonably determined by the General Partner, none of such assignee, its Affiliates, agents or advisors or any Person associated with such assignee is a competitor of the Partnership, the General Partner, the Management Company, any Portfolio Company or any of their respective Affiliates, and (ii) a Limited Partner that is a trust under an employee benefit plan may, upon prior written notice to the General Partner, Transfer a beneficial interest in all (but not less than all) of its interest in the Partnership to any other trust under such employee benefit plan; provided that such trust satisfies each of the requirements described in clauses (A) through (E) above (as reasonably determined by the General Partner). Notwithstanding anything in this Section 7.3(a) to the contrary, the transferor shall remain liable for all liabilities and obligations relating to the transferred beneficial interest (unless the transferee becomes a substitute Limited Partner as provided in Section 7.3(b) or the General Partner otherwise consents in its sole discretion), and such transferee shall become an assignee of only a beneficial interest in Partnership profits, losses and distributions and shall not become a substitute Limited Partner except with the consent of the General Partner as provided in Section 7.3(b). No consent of any other Limited Partner shall be required as a condition precedent to any Transfer or the admission of a transferee as a substitute Limited Partner. The voting rights associated with any Limited Partner's interest shall automatically terminate upon any Transfer of such interest to a trust, heir, beneficiary, guardian or conservator or upon any other Transfer if the transferor no longer retains control over such voting rights and the General Partner in its sole discretion has not consented in writing to such transferee becoming a substitute Limited Partner. As a condition to any Transfer of a Limited Partner's interest (including a Transfer not requiring the consent of the General Partner), the transferor and the transferee shall provide such legal opinions, documentation and information (including information necessary to comply with the requirements of Code §743, if applicable) as the General Partner shall reasonably request.

(b) Notwithstanding anything to the contrary contained in this Section 7.3 or Section 7.7, 7.9 or 7.11, a transferee or assignee of a Limited Partner interest shall not become a substitute Limited Partner without the consent of the General Partner in its sole discretion and without executing a copy of this Agreement or an amendment, joinder or deed of adherence hereto in form and substance satisfactory to the General Partner in its sole discretion; provided that if any such transferee or assignee is an Affiliate of the transferor or is a trust described in Section 7.3(a)(ii) and became a transferee or assignee in accordance with the provisions of this Section 7.3, the General Partner shall not unreasonably withhold its consent to the transferee or assignee becoming a substitute Limited Partner. Any substitute Limited Partner admitted to the Partnership with the consent of the General Partner or otherwise pursuant to this Section 7.3 shall succeed to all rights and be subject to all the obligations of the transferring or assigning Limited Partner with respect to the interest to which such Limited Partner was substituted. The General Partner may modify Schedule I to reflect such admittance of any substitute Limited Partners.

(c) Unless the General Partner otherwise determines in its sole discretion, the transferor and transferee of any Limited Partner's interest shall be jointly and severally obligated to reimburse the General Partner and the Partnership for all reasonable expenses (including attorneys' fees and expenses and any immediate or ongoing accounting costs attributable to the Partnership's compliance with the requirements of Code §743(b) or (e) with respect to the transferred interest) of any Transfer or proposed Transfer of a Limited Partner's interest, whether or not consummated.

(d) The transferee of any Limited Partner interest shall be treated as having made all of the Capital Contributions made by, and received all of the allocations and distributions received by, the transferor of such interest in respect of such interest.

(e) Notwithstanding any other provision of this Agreement, no Transfer of a Limited Partner's Partnership interest (including any Transfer of an interest in Partnership profits, losses or distributions) shall be permitted if such Transfer would (i) unless the General Partner otherwise consents in its sole discretion, cause (A) the Partnership to have more than 100 partners, as determined for purposes of U.S. Department of Treasury Reg. §1.7704-1(h), or (B) the aggregate Transfer of Limited Partner interests for a given Partnership taxable year to exceed 2% of total Limited Partner interests (excluding for this purpose any Transfer by a Limited Partner described in U.S. Department of Treasury Reg. §1.7704-1(e), (f) or (g)), (ii) unless the General Partner otherwise consents in its sole discretion, cause the Partnership to lose its ability to rely on the "qualified purchaser" exemption of Section 3(c)(7) of the Investment Company Act, or other exemption from registration under the Investment Company Act upon which the Partnership is entitled to rely at such time, (iii) cause the Partnership to be treated as a publicly traded partnership within the meaning of Code §7704 and U.S. Department of Treasury Reg. §1.7704-1, (iv) cause all or any portion of the assets of the Partnership to be deemed to include Plan Assets, (v) cause the Partnership to be required to register the Partnership's Limited Partner interests under the U.S. Securities Exchange Act of 1934, as amended, (vi) unless the General Partner otherwise consents in its sole discretion, cause or create a Partnership Regulatory Risk, or (vii) unless the General Partner otherwise consents in its sole discretion, create a significant risk of causing the results contemplated by any of clauses (i) through (vi), as determined by the General Partner in its sole discretion.

(f) Any Transfer that violates this Section 7.3 shall be void and the purported buyer, assignee, transferee, pledgee, mortgagee, or other recipient shall have no interest in or rights to Partnership assets, profits, losses or distributions and neither the General Partner nor the Partnership shall be required to recognize any such interest or rights.

7.4 No Withdrawal or Loans. Subject to the provisions of Sections 7.3, 7.7 and 7.9 and any side letter or similar agreement of the Partnership, no Limited Partner may withdraw as a Partner of the Partnership, nor shall any Limited Partner be required to withdraw from the Partnership, nor may a Limited Partner borrow or withdraw any portion of its Capital

Account from the Partnership. Notwithstanding the foregoing, the General Partner may on behalf of the Partnership, without the consent of any Limited Partner, enter into any agreement (which agreement shall not be a side letter or similar agreement for purposes of Section 13.8) that permits a Limited Partner to withdraw from the Partnership in accordance with provisions substantially similar to those set forth in Section 7.7 or any side letter or similar agreement of the Partnership or the Parallel Fund, e.g., in the event such Limited Partner would be in breach of Section 7.12 of this Agreement or would be in violation of applicable law or policy of such Limited Partner or subjected to a materially burdensome tax, law or regulation if such Limited Partner were to continue as a limited partner of the Partnership.

7.5 No Termination; Waiver of Partition. Neither the substitution, death, incompetency, dissolution (whether voluntary or involuntary) nor bankruptcy of a Limited Partner shall, in and of itself, affect the existence of the Partnership, and the Partnership shall continue for the term set forth in Section 9.1 unless sooner dissolved in accordance with this Agreement or the Partnership Act. Except as may otherwise be provided by law in connection with the dissolution, liquidation and final winding-up of the Partnership, each Limited Partner hereby irrevocably waives any and all rights that it may have to maintain an action for partition of any of the Partnership's property.

7.6 Additional Limited Partners; Increased Commitments. The General Partner may increase its own Commitment and/or accept additional Limited Partners and increases in Commitments from Limited Partners through and including the Final Closing Date; provided that the Aggregate Commitments of the Limited Partners and Parallel Fund Limited Partners (other than any Affiliated Partner or Parallel Fund Affiliated Partner) shall not exceed $800 million. Any such additional Limited Partner and any Partner with respect to any increase in its Commitment shall be (a) treated as having been a party to this Agreement, and any such increased Commitment shall be treated as having been made, as of the Initial Closing Date for all purposes, (b) required to bear its portion of the Management Fee from the Effective Date, Organizational Expenses whenever incurred, and other Partnership Expenses from the date of the Partnership's formation, (c) required to contribute, as set forth in Article III, (i) its portion of the Management Fees from the Effective Date and its portion of Placement Fees and Excess Organizational Expenses when incurred, and (ii) the same portion of its Commitment as the portion of Commitments contributed by all previously admitted Limited Partners (other than contributions to pay Management Fees, Placement Fees and Excess Organizational Expenses) from the Initial Closing Date, and (d) required to pay to the Partnership an additional amount calculated at the Base Rate plus two percentage points per annum (determined as of the date of such Limited Partner's admittance to the Partnership or increase in Commitment, as applicable), but not in excess of 8% per annum, on each portion of its Capital Contribution (including to fund Management Fees) pursuant to clause (c) of this Section 7.6 from the date such portion of such Capital Contribution would have been made if such Partner had been admitted as a Partner for its full Commitment on the Initial Closing Date; provided that the General Partner may make any equitable adjustments to such required contributions and payments as it believes would be fair or equitable, including to reflect a material change or significant event relating to the value of an Investment (subject to the approval of the Advisory Board in the event that any downward adjustment to the value of an Investment results in such Investment being valued at less than the purchase price of such Investment), accrued but unpaid interest or dividends, prior distributions made to the Partners (including distributions in respect of Investments no longer held by the

Partnership), the excuse or exclusion of any Partner(s) from one or more Investments pursuant to Section 7.14 and/or the application of Section 7.14(e). Proceeds therefrom representing additional Management Fees and amounts paid pursuant to clause (d) above thereon shall be paid to the Management Company. The General Partner may elect to cause the Partnership to distribute all or any portion of the other proceeds (excluding the portion of such other proceeds as the General Partner determines may be required for the purchase of investments from the Parallel Fund in accordance with Section 6.15(b)) to the Partners pro rata according to their respective Commitments (as adjusted by the General Partner pursuant to this Section 7.6), to retain such amounts and apply them to satisfy subsequent Capital Contribution obligations of the Partners or to purchase a portion of any investment from the Executive Fund in accordance with Section 6.14(b). Such distributed amounts, other than amounts paid pursuant to clause (d) above, may be redrawn by the Partnership in accordance with Section 3.1(d). Upon the admittance of an additional Limited Partner or the increase in a Partner's Commitment, the General Partner shall modify Schedule I to reflect such admittance or increase. For purposes of all calculations under this Agreement, any additional amounts paid pursuant to clause (d) above that are distributed pursuant to this Section 7.6 (excluding amounts paid to the Management Company in respect of Management Fees) will be treated as Short-Term Investment Income.

7.7 Government Regulation.

(a) The General Partner shall use reasonable efforts to ensure that it and the Partnership are in substantial compliance with those provisions, if any, of Applicable Law with which they are obligated by such statutes to comply, subject to the provisions of this Section 7.7. Each Limited Partner shall cooperate with the General Partner and the Partnership in complying with the applicable provisions of any material U.S. federal, state, local or non-U.S. law, shall provide the Partnership any information reasonably requested by the General Partner in complying with any such law or inquiry from any governmental, quasi-governmental, judicial or regulatory authority, agency or entity and shall use reasonable efforts not to take any affirmative action that would create a Partnership Regulatory Risk.

(b) If (i) in the Opinion of the Partnership's Counsel, a Limited Partner's status as a Partner creates a Partnership Regulatory Risk that the General Partner reasonably believes to be significant, (ii) in the reasonable judgment of the General Partner, a Limited Partner's status as a Partner would be reasonably likely to result in a significant and adverse delay with respect to the activities of, or an extraordinary expense of, or a material adverse effect on, the Partnership, any of its Portfolio Companies or any of their respective Affiliates, (iii) either the Limited Partner or the General Partner obtains an Opinion of Limited Partner's Counsel or an Opinion of the Partnership's Counsel, respectively, to the effect that a Limited Partner has a Limited Partner Regulatory Problem or (iv) a Limited Partner has a Limited Partner Regulatory Problem pursuant to clause (iii) of the definition of "Limited Partner Regulatory Problem" (each such Limited Partner described in this sentence is referred to herein as a "Regulated Partner"), then the withdrawal provisions of this Section 7.7 shall apply. Each Limited Partner shall promptly notify the General Partner in writing of any change in Applicable Law or other event coming to its

attention that is reasonably likely to be cause for withdrawal under the provisions of this Section 7.7(b).

(c) Subject to the provisions of Section 7.7(b) and this Section 7.7(c), each Regulated Partner may elect to withdraw from the Partnership, or upon demand by the General Partner shall withdraw from the Partnership, at the time and in the manner provided under Section 7.7(f). The General Partner shall have a period of 180 days (or such lesser period reasonably recommended in the counsel's opinion delivered pursuant to Section 7.7(b), but in no event less than 90 days) following receipt of such counsel's opinion (the "Remedy Period") to use its reasonable efforts to eliminate the necessity for such withdrawal whether by correction of the condition giving rise to the necessity of the Regulated Partner's withdrawal, an amendment of this Agreement pursuant to Section 13.1, a Regulatory Sale, a Regulatory Solution, or otherwise; provided that the General Partner shall not be required to forego any investment opportunity on behalf of the Partnership or the Parallel Fund to solve a Limited Partner Regulatory Problem. Each such Regulated Partner shall reimburse the Partnership for all costs incurred by the Partnership in connection with the withdrawal of such Regulated Partner under this Section 7.7 or any Regulatory Sale or Regulatory Solution with respect to such Regulated Partner's Limited Partner interest.

(d) At any time during the Remedy Period, the General Partner may in its sole discretion offer a Regulated Partner's interest to one or more of the Partners and/or a third party who is not a "party in interest" (as defined under ERISA) to such Regulated Partner for a price, payable in cash at closing, equal to such Regulated Partner's Fair Value Capital Account (or such other amount and/or such other terms as may be proposed by the General Partner and agreed to by such Regulated Partner in its sole discretion) (a "Regulatory Sale"). In such event, the General Partner shall specify and implement the procedure for making offers and shall set the time limits for acceptance thereof consistent with the other time limits set forth in this Section 7.7. The General Partner shall be entitled to sell a Regulated Partner's interest on behalf of such Regulated Partner on the terms set forth in this Section 7.7(d) (and the Regulated Partner shall be obligated to sell to such Person (or Persons) the Regulated Partner's interest on the terms set forth in this Section 7.7(d)); provided that, as a condition to the consummation of any sale, the acquiring Person (or Persons) shall agree to become a party to this Agreement and to assume the Regulated Partner's obligation to make future Capital Contributions in an amount equal to the amount of such Person's (or Persons') unfunded Commitment in respect of the acquired interest.

(e) In the event that a Partnership Regulatory Risk or a Limited Partner Regulatory Problem is based on the Partnership's failure to qualify for an applicable exception under the Plan Asset Regulation and the General Partner determines that the Partnership can qualify for an exception to the Plan Asset Regulation by a reduction in the amount of interests held by ERISA Partners, the General Partner may cause each ERISA Partner's interest to be reduced on a pro rata basis in the amount the General Partner in its sole discretion determines advisable to permit the Partnership to qualify for such exception, with such reduction to be effected

in accordance with Section 7.7(f). Alternatively, if requested to do so by the General Partner, the Regulated Partner shall cooperate with the General Partner during the Remedy Period in arranging another method to minimize or eliminate a Partnership Regulatory Risk or a Limited Partner Regulatory Problem (a "Regulatory Solution"), including the formation of a separate entity (on terms not substantially less advantageous to the Regulated Partner than the terms of the Partnership) to hold the Regulated Partner's share (or the share of any employee benefit plan that is a constituent of the Regulated Partner) of the Partnership's securities and other assets or negotiating an in-kind redemption of the Regulated Partner's interest in the Partnership.

(f) If the General Partner does not sell the Regulated Partner's interest pursuant to a Regulatory Sale or provide for a Regulatory Solution or otherwise correct the condition giving rise to the necessity of the Regulated Partner's withdrawal within the Remedy Period, then such Regulated Partner may withdraw or be required to withdraw in whole or in part from the Partnership following the expiration of the Remedy Period as of the date that is the earlier to occur of (i) the last day of the calendar quarter during which the election or demand for withdrawal is made and (ii) such date for withdrawal as may be recommended in the Opinion of the Partnership's Counsel or the Opinion of Limited Partner's Counsel, as appropriate. Upon any withdrawal, there shall be distributed (x) to such Regulated Partner, in full payment and satisfaction of the portion of its interest in the Partnership that is being withdrawn (the "Withdrawn Interest"), an amount, subject to reduction pursuant to Section 7.7(h) below, equal to the withdrawing Partner's Fair Value Capital Account balance as of the effective date of withdrawal with respect to the Withdrawn Interest, payable in cash, cash equivalents, securities or other property (as valued in accordance with Article X hereof as of the date of distribution to the Regulated Partner) as the General Partner in its sole discretion selects and (y) to the General Partner, an amount equal to the unpaid Carried Interest (if any) attributable to the Withdrawn Interest; provided that (A) to the extent that investments are to be distributed in kind, the General Partner shall select investments in an equitable manner so that the withdrawing Regulated Partner receives with respect to the Withdrawn Interest approximately a pro rata portion (based on its interest in the applicable Investments) of the investments held by the Partnership (adjusted to eliminate odd lots and taking into account any limitations on the Partnership's ability to divide a particular investment for distribution in kind), (B) if (1) any investments may not be distributed in kind to such withdrawing Regulated Partner because it (or any employee benefit plan constituent of such Regulated Partner) would be in material violation of Applicable Law as a result of receiving or holding such investments or the Partnership is prohibited by any material law, contract, or agreement from distributing such investments and (2) the distribution of a promissory note as described below would not cause such Regulated Partner or any employee benefit plan constituent of such Regulated Partner to be in material violation of Applicable Law, then such distribution may include a promissory note of the Partnership containing such commercially reasonable terms and conditions as shall be determined by the General Partner, and (C) any distributions in cash or cash equivalents may be made at such time and in such

manner so as not to disrupt the Partnership's operations, business or activities or impair the value of any of the Partnership's investments.

(g) Effective upon the date of withdrawal of any Regulated Partner or the Regulatory Sale of any Regulated Partner's entire Partnership interest, (i) such Regulated Partner's Commitment shall be reduced to zero and, in the case of a withdrawing Regulated Partner, the aggregate Commitments of the Partnership and the Aggregate Commitments shall be commensurately reduced, (ii) such Regulated Partner shall cease to be a Partner of the Partnership for all purposes, and (iii) except for such Regulated Partner's right to receive payment for such Person's Partnership interest as provided above, such Regulated Partner shall no longer be entitled to the rights of a Partner under this Agreement, including the right to receive allocations, the right to receive distributions during the term of the Partnership and upon liquidation of the Partnership and the right to vote on Partnership matters as provided in this Agreement.

(h) Except in the case where a Regulated Partner's withdrawal is caused by the General Partner's failure to comply with the first sentence of Section 6.6, the amount payable to a Regulated Partner pursuant to Section 7.7(f) shall be reduced by an amount equal to the estimated amount of Partnership Expense for the Management Fee (determined, for this purpose, without regard to any reduction of the Management Fee pursuant to Section 5.2(d) or 5.2(e)) for the six-month period immediately following such Regulated Partner's withdrawal that would have been allocated to the Regulated Partner if the Regulated Partner had not withdrawn from the Partnership and there had been no reduction in such Regulated Partner's Commitment (which amount shall not exceed such Regulated Partner's Fair Value Capital Account as of the effective date of withdrawal); provided that if upon the date of a Regulated Partner's withdrawal from the Partnership pursuant to this Section 7.7 the amount calculated above without giving effect to the immediately preceding parenthetical exceeds such Regulated Partner's Fair Value Capital Account as of the effective date of withdrawal, the withdrawing Regulated Partner shall pay to the Partnership in cash an amount equal to such excess. The Partnership shall pay to the Management Company an amount equal to the sum of (i) any reduction pursuant to this Section 7.7(h) in the amount payable to a Regulated Partner pursuant to Section 7.7(f) and (ii) any cash payment by such Regulated Partner pursuant to this Section 7.7(h).

(i) Prior to the time of any Regulatory Sale, Regulatory Solution or withdrawal, a Regulated Partner shall continue to fund its Commitment and shall continue to be a Limited Partner for all purposes of this Agreement; provided that if, as set forth in the Opinion of Limited Partner's Counsel or Opinion of the Partnership's Counsel, such Regulated Partner is prohibited by an Applicable Law from fulfilling its Commitment or the assets of the Partnership are, or there is a reasonable likelihood that the assets of the Partnership would be, deemed to include Plan Assets, then for all purposes of this Agreement other than Section 4.6 (including Articles III and IV other than Section 4.6), such Regulated Partner's Commitment shall be reduced to the amount of Capital Contributions made by such Regulated Partner prior thereto, and the aggregate Commitments of the Partnership and the

Aggregate Commitments shall be commensurately reduced. Nevertheless, except in the case of a Regulatory Sale, Regulatory Solution or withdrawal caused by the General Partner's failure to comply with the efforts required by the first sentence of Section 6.6, for a period of six months thereafter, the Management Fee will continue to be calculated as if there had been no reduction in such Regulated Partner's Commitment and the Partnership Expense for such Management Fee will continue to be allocated among the Partners as if there had been no reduction in such Regulated Partner's Commitment and such Regulated Partner shall pay to the Partnership in cash an amount equal to its share of such Partnership Expense to the extent not paid or otherwise borne by such Regulated Partner pursuant to Section 7.7(h) or by any Person (or Persons) that have acquired all or any portion of such Regulated Partner's interest pursuant to a Regulatory Sale or a Regulatory Solution.

(j) Except as specifically provided in this Section 7.7, no consent of any Limited Partner shall be required as a condition precedent to any Regulatory Solution, Regulatory Sale or withdrawal of all or any portion of any Regulated Partner's interest in the Partnership pursuant to this Section 7.7.

(k) Notwithstanding anything in this Section 7.7 to the contrary, (i) no Regulated Partner's interest will be transferred or subdivided, and no Person shall become a substitute Limited Partner, in contravention of Section 7.3(e) and (ii) except as otherwise determined by the General Partner in its sole discretion, no Regulated Partner shall withdraw from the Partnership unless such Regulated Partner also withdraws, to the same proportionate extent, from each Alternative Investment Vehicle in which it has an interest.

7.8 Reimbursement for Payments on Behalf of a Partner; Certain Taxes.

(a) If the Partnership is obligated to pay any amount to a governmental agency or body or to any other Person (or otherwise makes a payment) because of a Partner's status or otherwise specifically attributable to a Partner (including non-U.S. taxes, U.S. federal withholding taxes with respect to non-U.S. partners, U.S. state withholding taxes and U.S. state unincorporated business taxes), then such Partner (the "Reimbursing Partner") shall reimburse the Partnership in full for the entire amount paid (including any interest, penalties and expenses associated with such payment). At the option of the General Partner, the amount to be reimbursed may be charged against the Capital Account of the Reimbursing Partner, and, at the option of the General Partner, but without duplication, promptly upon notification of an obligation to reimburse the Partnership, the Reimbursing Partner shall make a cash payment to the Partnership equal to the full amount to be reimbursed (and the amount paid shall be added to the Reimbursing Partner's Capital Account but shall not be deemed to be a Capital Contribution hereunder).

(b) Except to the extent actually reimbursed in cash by a Reimbursing Partner pursuant to this Section 7.8, (i) any amount of taxes paid by the Partnership (or by any fiscally transparent entity in which the Partnership holds an interest), (ii) any taxes withheld by the Partnership and (iii) any withholding or similar

taxes imposed on amounts payable to the Partnership shall in each case be treated for purposes of this Agreement as an amount actually distributed to the Partners pursuant to Section 4.3 at the time paid or withheld (and the amount of any such tax shall be deemed to have been distributed to such Partners as the General Partner, in its reasonable discretion, may determine). An amount shall be considered paid or withheld by the Partnership if, and at the time, remitted to a governmental agency without regard to whether the remittance occurs at the same time as the distribution or allocation to which it relates; provided, however, that an amount actually withheld from a specific distribution or designated by the General Partner as withheld with respect to a specific allocation shall be treated as if it were distributed at the time such distribution or allocation occurs.

(c) A Reimbursing Partner's obligation to make reimbursements to the Partnership under this Section 7.8 shall survive the dissolution, liquidation, winding up and termination of the Partnership, and, to the fullest extent permitted by law, for purposes of this Section 7.8, the Partnership shall be treated as continuing in existence. The Partnership or the General Partner may pursue and enforce all rights and remedies it may have against each Partner under this Section 7.8, including instituting a lawsuit to collect such contribution with interest calculated at an annual compounded rate equal to the Base Rate plus six percentage points per annum (but not in excess of the highest rate per annum permitted by law).

7.9 Limited Partner's Default on Commitment.

(a) If any Limited Partner (a "Defaulting Partner") fails to make full payment when due (a "Payment Default") of any portion of its Commitment or any other payment required under this Agreement or such Limited Partner's subscription agreement for its interest in the Partnership or under any corresponding agreement or instrument with respect to the Partnership or an Alternative Investment Vehicle (the amount of such defaulted payments in the aggregate, including all accrued and unpaid interest thereon, and together with any other unpaid amounts that are due and owing by such Defaulting Partner thereunder, the "Defaulted Amounts") and such Payment Default is not cured prior to the later of (i) five (5) days after written notice to such Limited Partner from the General Partner with respect to such Payment Default and (ii) in the case of any additional Capital Contribution called pursuant to Section 7.9(f) or Section 7.14(f) only, ten (10) business days after delivery of the Capital Call Notice with respect thereto, unless such Defaulting Partner is a Regulated Partner and is prohibited by law from fulfilling its Commitment, the General Partner in its sole discretion, on its own behalf or on behalf of the Partnership, may (but shall not be obligated to) pursue and enforce any and all rights and remedies the Partnership, the General Partner and/or the Management Company may have against such Defaulting Partner at law, in equity or pursuant to any other provision of this Agreement or otherwise with respect thereto, including taking any one or more of the following actions in any order of priority:

(i) In addition to all Defaulted Amounts owed by the Defaulting Partner, the Partnership may (A) accrue and collect interest computed on all Defaulted Amounts and any

amount due to the Partnership, the General Partner and/or the Management Company pursuant to this Section 7.9 at an annual compounded rate not to exceed the Base Rate plus six percentage points per annum (but not in excess of the highest rate per annum permitted by law) as such rate shall be determined by the General Partner in its sole discretion with respect to each failure to make such payments, and/or (B) require reimbursement from the Defaulting Partner for all out-of-pocket expenses (including for attorneys' fees) incurred by the Partnership, the General Partner, the Management Company and any Alternative Investment Vehicle in connection with the collection and other efforts in respect of the Defaulted Amounts (which payment of such interest and expense reimbursement shall not be treated as a Capital Contribution by the Defaulting Partner). The General Partner may require the payment of such interest and expense reimbursement whether or not it exercises any rights or remedies.

(ii) So long as any Defaulted Amounts remain unpaid, the Partnership may withhold all distributions (or portions thereof) that would otherwise be made to the Defaulting Partner pursuant to this Agreement and apply such withheld distributions to offset any Defaulted Amounts owing by the Defaulting Partner to the Partnership, the General Partner, the Management Company or an Alternative Investment Vehicle under this Agreement or any other agreement.

(iii) The General Partner may assist the Defaulting Partner in finding a buyer for all or any part of the Defaulting Partner's interest in the Partnership; provided that the General Partner shall not have any obligation to contact any particular Limited Partner or other Person with regard to such sale and shall have no liability to any Partner, including the Defaulting Partner, if no such buyer is found.

(iv) The Partnership, the General Partner, the Management Company and any Alternative Investment Vehicle may pursue a lawsuit to collect the Defaulted Amounts due to the Partnership, the General Partner, the Management Company or any Alternative Investment Vehicle, including amounts owed pursuant to Section 7.9(a)(i) and/or (ix).

(v) Subject to Section 7.9(a)(vii), the General Partner may cause the Defaulting Partner to forfeit up to 80% of its interest in the Partnership without payment or other consideration therefor, and the General Partner shall offer such forfeited portion of the Defaulting Partner's interest in the Partnership to the Partners (other than any Defaulting Partners and Persons not able to acquire such interests pursuant to Section 7.3(e)) pro rata according to their respective unfunded Commitments with any adjustment thereto that the General Partner may determine to be equitable in order to reflect any excuse or exclusion pursuant to Section 7.14. The General Partner shall provide a notice to each Partner (other than Defaulting Partners) setting forth the amount of the forfeited portion of the Defaulting Partner's interest offered to such Partner. In the event that any Partner does not elect to accept its pro rata share of the forfeited portion of a Defaulting Partner's interest in the Partnership, such forfeited portion not accepted may be offered again by the General Partner in its sole discretion according to the provisions of this Section 7.9(a)(v) as if such forfeited portion had not previously been offered. Subject to Section 7.9(a)(vii), to the extent a Defaulting Partner's interest forfeited pursuant to this Section 7.9(a)(v) is not reallocated to the Partners, the General Partner may in its sole discretion offer all or any portion of such interest to any Person or Persons, each of which shall, as a condition of purchasing such interest, become a party to this Agreement. The sole

consideration to the Defaulting Partner for each portion of such Defaulting Partner's interest reallocated to another Partner or purchased by a third party pursuant to this Section 7.9(a)(v) shall be the assumption by such Partner or third party, as applicable, of the Defaulting Partner's obligation to make both defaulted and future Capital Contributions (together, in the General Partner's sole discretion, with interest) pursuant to its Commitment that are commensurate with the portion of the Defaulting Partner's interest being reallocated to such Partner or purchased by such third party. The Defaulting Partner acknowledges that it shall not receive any payment for any interest reallocated to Partners or purchased by any Person or Persons pursuant to this Section 7.9(a)(v), including for any funded portion of its Commitment related thereto, even though the purchased interest may actually have significant positive value at the time of such reallocation or purchase.

(vi) Subject to Section 7.9(a)(vii), to the extent a Defaulting Partner's interest is not forfeited and reallocated pursuant to Section 7.9(a)(v) (including the remaining portion of such Defaulting Partner's interest not subject to forfeiture), the General Partner may offer to the Partners (other than any Defaulting Partners and Persons not able to acquire such interests pursuant to Section 7.3(e)) pro rata according to their respective Commitments, with any adjustments thereto that the General Partner may determine to be equitable in order to reflect any excuse or exclusion pursuant to Section 7.14, the portion of the Defaulting Partner's interest in the Partnership that is not forfeited and reallocated or sold pursuant to Section 7.9(a)(v) at an aggregate price equal to the balance of such Defaulting Partner's Capital Account on the effective date such Defaulting Partner's interest is sold (adjusted, as necessary, to exclude any unrealized appreciation with respect to any Investment and to include all unrealized depreciation with respect to each Investment, as determined by the General Partner in its sole discretion) corresponding to the interest so offered. At the closing of such purchase (on a date and at a place designated by the General Partner), each purchasing Partner shall, as payment in full for the Defaulting Partner's interest being purchased by such Partner, deliver, as determined by the General Partner in its sole discretion, (x) cash and/or (y) a non-interest bearing, non-recourse ten-year promissory note (in a form approved by the General Partner), secured only by the Defaulting Partner's interest being purchased, payable to the Defaulting Partner, in an aggregate amount equal to the purchase price for the interest being acquired by such Partner. If the remaining portion of the Defaulting Partner's interest is not purchased in the manner set forth herein, the General Partner in its sole discretion may offer the remaining interest to any Person or Persons on terms not substantially more favorable than originally offered to the Partners, in which case such third party or parties shall, as a condition of purchasing such interest, become a party to this Agreement.

(vii) Any Partner or third party acquiring a portion of the Defaulting Partner's interest shall assume the portion of the Defaulting Partner's obligation to make both defaulted and future Capital Contributions pursuant to its Commitment (plus accrued and unpaid interest, if any, owing by the Defaulting Partner pursuant to Section 7.9(a)(i) unless waived by the General Partner in its sole discretion) that is commensurate with the portion of the Defaulting Partner's interest being acquired by such Person; provided that the General Partner shall have the right, in its sole discretion, to reduce the Commitment pertaining to the portion of the Defaulting Partner's interest acquired by a Person to the amount of Capital Contributions made by the Defaulting Partner with respect to such portion of the Defaulting Partner's Partnership interest (which amount of Capital Contributions shall be equal to the pro rata portion of the aggregate

Capital Contributions made by the Defaulting Partner with respect to its entire interest) on or prior to the date of the Payment Default, and the aggregate Commitments of the Partnership and the Aggregate Commitments shall be commensurately reduced; and provided further that, in the General Partner's sole discretion, such Defaulting Partner's Commitment (and corresponding uncalled Commitment) shall not be deemed reduced for purposes of Section 4.6).

(viii) The General Partner may reduce (and such reduction shall be deemed to be effective as of the actual date of the Payment Default, without giving effect to any applicable cure period, or as of such later date as is determined by the General Partner) any portion of such Defaulting Partner's Commitment (which has not been assumed by another Partner or third party) to the amount of the Capital Contributions (which have not been acquired by another Partner or third party) made by such Defaulting Partner (net of distributions pursuant to Section 3.1(d)), and the aggregate Commitments of the Partnership and the Aggregate Commitments shall be commensurately reduced; provided that, in the General Partner's sole discretion, such Defaulting Partner's Commitment (and corresponding uncalled Commitment) shall not be deemed reduced for purposes of Section 4.6.

(ix) Notwithstanding anything contained herein to the contrary (but for the avoidance of doubt, subject to the principles of Section 3.4), from and after the date on which a Limited Partner has become a Defaulting Partner (or such later date as is determined by the General Partner), the General Partner in its sole discretion may make effective one or more of the following provisions: (A) such Defaulting Partner will have no right to receive any distributions, except for distributions made upon the Partnership's liquidation, (B) upon the Partnership's liquidation the aggregate distributions that such Defaulting Partner shall be entitled to receive from the Partnership shall not exceed an amount equal to the excess, if any, of (1) the balance of such Defaulting Partner's Capital Account on the date on which the Defaulting Partner became a Defaulting Partner (adjusted to the extent determined by the General Partner in its sole discretion, as necessary, to exclude any unrealized appreciation with respect to any Investment and to include all unrealized depreciation with respect to each Investment, as determined by the General Partner in its sole discretion) (which balance has not been acquired by another Partner or third party) over (2) such Defaulting Partner's share of Partnership Expenses (including the Management Fee) and other items of Partnership loss and expense for all periods after the date on which the Defaulting Partner became a Defaulting Partner, determined as if there had been no reduction in such Defaulting Partner's Commitment pursuant to Section 7.9(a)(viii), and such Defaulting Partner's Capital Account shall continue to be debited for (and, to the extent the Defaulting Partner does not return distributions pursuant to Section 4.6, the foregoing amount shall be reduced by) any Liability under Section 4.6 as if there had been no reduction in such Defaulting Partner's Commitment, (C) until the amount described in clause (B) is reduced to zero, the Management Fee payable by the Partnership shall be calculated and allocated among the Partners as if there had been no reduction in such Defaulting Partner's Commitment hereunder, and (D) once the amount described in clause (B) is reduced to zero, (1) such Defaulting Partner's Commitment shall be reduced to zero for all purposes of this Agreement (provided that, in the General Partner's sole discretion, such Defaulting Partner's Commitment (and corresponding uncalled Commitment) shall be deemed not reduced for purposes of Section 4.6), including the calculation of the Partnership's aggregate Commitments and determination of the Management Fee and (2) such Defaulting Partner shall be liable each period to the Management Company for an amount equal to its portion of the Management Fee,

determined as described in Section 7.7(h), as if there had been no reduction in such Defaulting Partner's Commitment hereunder.

(b) No consent of any Limited Partner shall be required as a condition precedent to any Transfer of a Defaulting Partner's interest, or the admission of a transferee as a substitute Limited Partner with respect to such interest, pursuant to this Section 7.9. Notwithstanding the foregoing, no Defaulting Partner's interest shall be transferred, and no Person shall become a substitute Limited Partner, in contravention of Section 7.3.

(c) The General Partner shall handle the procedures of making the offers set forth in this Section 7.9 and shall in its discretion set time limits for acceptance. In connection with any purchase of a Partnership interest pursuant to this Section 7.9, upon the General Partner's request, the Defaulting Partner shall make customary representations and warranties to each purchaser and will execute a customary transfer agreement.

(d) Notwithstanding anything in Article VIII to the contrary, the General Partner shall have the right to remove an Advisory Board member at any time after the Limited Partner that such member represents becomes a Defaulting Partner.

(e) The failure of any Limited Partner to fulfill an obligation hereunder shall not relieve any other Limited Partner of any of its obligations under this Agreement.

(f) Notwithstanding the notice requirements of Section 3.1(a), additional Capital Contributions may be called by the General Partner on five (5) days' notice following a Limited Partner failing to fund any amount due pursuant to a Capital Call Notice or a Parallel Fund Limited Partner failing to fund any amount due pursuant to a capital call notice made by the Parallel Fund General Partner. In addition, the General Partner is authorized to apply amounts that would otherwise be distributed to a Partner to satisfy such Partner's obligation to make a Capital Contribution pursuant to Section 3.1(a) or any other payment required under this Agreement. Such amounts applied shall be deemed distributed to such Partner by the Partnership and then contributed by such Partner to the Partnership as Capital Contributions or paid by such Partner to the Partnership, as applicable.

(g) Notwithstanding anything in this Agreement to the contrary and unless otherwise determined by the General Partner in its sole discretion, during any period of time that a Limited Partner is a Defaulting Partner, such Defaulting Partner shall not be entitled to receive any of the reports, or information contained therein, provided for in Section 11.3 or any other information regarding the Partnership or any Portfolio Company, other than (i) a statement of such Defaulting Partner's closing Capital Account balance as and when provided by the General Partner to the other Limited Partners in accordance with Section 11.3(b), (ii) the Defaulting Partner's Schedule K-1s, as and when provided by the General Partner to the other Limited

Partners in accordance with Section 11.3(c), and (iii) any additional reports and information that are required by applicable law.

(h) Each Partner hereby acknowledges that certain provisions of this Agreement (including this Section 7.9) provide for specific consequences in the event of a breach of this Agreement by a Partner. Each Partner hereby agrees that the default provisions of this Agreement are fair and reasonable and, in light of the difficulty of determining actual damages, represent a prior agreement among the Partners as to specified consequences under the Partnership Act. Without limiting the general effect of the preceding sentence, the Partners hereby specifically acknowledge and agree that the enforceability of this Section 7.9 is essential to the stability of the Partnership as an organization and to the ability of the Partnership to effectively serve its purpose and conduct its business operations.

(i) Each Limited Partner hereby specifically agrees that, to the fullest extent permitted by law, in the event such Limited Partner becomes a Defaulting Partner, regardless of the reason therefor, such Limited Partner shall not be entitled to claim that the Partnership or any of the other Partners are precluded, on the basis of any fiduciary or other duty arising in respect of such Limited Partner's status as such or other equitable claim or theory, from seeking any of the penalties or other remedies permitted under this Agreement or applicable law.

(j) The General Partner agrees that in the event any Defaulting Partner fails to make any Capital Contributions for the payment of Management Fees, (i) the General Partner shall not satisfy such Management Fees out of Investment Proceeds otherwise distributable to the other Limited Partners, other than any such Investment Proceeds that are attributable to any such Limited Partners' acquisition of, or such Defaulting Partner's forfeiture of, any portion of such Defaulting Partner's interest in the Partnership (in each case, as determined by the General Partner), (ii) the other Limited Partners shall not, as a result of such Payment Default, be required to make additional Capital Contributions in order to provide funds for the payment of Management Fees in an aggregate amount that exceeds the lesser of (A) such Defaulting Partner's share of the Management Fee for a one-year period and (B) 20% of the non-Defaulting Partners' share of the Management Fee for such one-year period, except to the extent that, without duplication of amounts considered in clause (i) above, any such Limited Partners acquire, or benefit from such Defaulting Partner's forfeiture of, a portion of such Defaulting Partner's interest in the Partnership of at least an equivalent value, and (iii) following the making of any Capital Contributions described in clause (ii) above, any amounts otherwise distributable in respect of such Defaulting Partner's interest, and any Capital Contributions for the payment of Management Fees that are made in respect of such Defaulting Partner's interest (whether made by such Defaulting Partner or by any acquirers of any portion of such interest), shall, before being distributed to such Defaulting Partner (or to any acquirers of any portion of such interest) or used for any other purpose, be used to return such Capital Contributions described in clause (ii) above to the Limited Partners making such Capital Contributions, pro rata according to the amount of such Capital Contributions made by each such Limited Partner. All Capital Contributions returned

pursuant to clause (iii) of the preceding sentence shall be treated for all purposes of this Agreement as not having been called and funded (i.e., so that following the return of such Capital Contributions such amounts shall be deemed to no longer represent Capital Contributions and may be called again by the General Partner according to the provisions of Section 3.1).

7.10 Co-Investments. The General Partner may, in its sole discretion, permit one or more of the Limited Partners and/or Parallel Fund Limited Partners (but not necessarily all Limited Partners and/or Parallel Fund Limited Partners) and/or other Persons to co-invest alongside the Partnership in one or more Portfolio Companies. Subject to Sections 6.14 and 6.15, the General Partner, in its sole discretion, shall allocate the available investment among the Partnership and the Persons, if any, who are co-investing. The General Partner's agreement to permit one or more Limited Partners and/or other Persons to invest in one or more Portfolio Companies shall not be a side letter or other similar agreement for purposes of Section 13.8. Notwithstanding anything contained in this Agreement to the contrary, to the extent that the General Partner allows Persons (including Persons who are not Partners, but not including the Parallel Fund or the Executive Fund) to co-invest, the Conflict Parties may charge a management fee and obtain a "carried interest" in respect of such co-investment.

7.11 Purchase of Limited Partnership Interests. If a Limited Partner requests the General Partner to assist it in finding a purchaser for all or any portion of its interest in the Partnership, the General Partner and/or its designees, in the General Partner's sole discretion and without in any way limiting the provisions of Section 7.3, may elect to (a) purchase all or a portion of such interest and/or (b) offer and sell all or a portion of such interest on behalf of the selling Limited Partner to one or more of the Limited Partners (but not necessarily all Limited Partners) and/or to one or more third parties who are not Limited Partners. Subject to Section 2.2, to the extent that the General Partner acquires the interest of a Defaulting Partner or any other Limited Partner or otherwise acquires a Limited Partner interest, the General Partner shall be deemed to be a Limited Partner with respect to such interest for all purposes of this Agreement; provided that the General Partner may elect in its sole discretion at any time to convert all or any portion of such interest into a general partner interest in the Partnership. The General Partner also may elect in its sole discretion to convert any general partner interest held by it to a limited partner interest with substantially identical rights to those of the other limited partners. No consent of any Limited Partner shall be required as a condition precedent to any such Transfer or any conversion from a limited partner interest to a general partner interest contemplated by this Section 7.11.

7.12 Partnership Media or Common Carrier Company.

(a) For so long as the Partnership has an investment in any Media or Common Carrier Company (such Person in which the Partnership has such an investment referred to herein as a "Partnership Media or Common Carrier Company"), then the following provisions shall apply (but only to the minimum extent necessary to insulate the Limited Partners from any deemed "attributable interest" in a Partnership Media or Common Carrier Company under the attribution rules and policies of the Communications Laws):

(i) (A) No Limited Partner (other than an Excluded Limited Partner), (B) no Person that is a director, officer, member, partner or 5% or greater shareholder of a Limited Partner other than an Excluded Limited Partner and (C) no entity controlling or under common control with a Limited Partner other than an Excluded Limited Partner (each of the Persons described in clauses (B) and (C), other than an Excluded Limited Partner, a "Limited Partner Affiliate"), may be an employee of the Partnership if the employment function of such Limited Partner or Limited Partner Affiliate directly or indirectly relates to any Partnership Media or Common Carrier Company.

(ii) No Limited Partner (other than an Excluded Limited Partner) or Limited Partner Affiliate may serve, in any material capacity, as an independent contractor or agent of the Partnership with respect to any Partnership Media or Common Carrier Company.

(iii) No Limited Partner (other than an Excluded Limited Partner) or Limited Partner Affiliate may communicate with the General Partner or with any officer, director, partner, agent, representative or employee of any Partnership Media or Common Carrier Company on matters pertaining to the day-to-day operations of the Partnership Media or Common Carrier Company.

(iv) No Limited Partner (other than an Excluded Limited Partner) or Limited Partner Affiliate may perform any services for the Partnership where such services materially relate to a Partnership Media or Common Carrier Company, except that a Limited Partner or Limited Partner Affiliate may make loans to or act as a surety for a Partnership Media or Common Carrier Company to the extent not prohibited by the "equity/debt plus" provisions of the Communications Laws.

(v) No Limited Partner (other than an Excluded Limited Partner) or Limited Partner Affiliate may become actively involved in the management or operation of any Partnership Media or Common Carrier Company.

(vi) No Limited Partner (other than an Excluded Limited Partner) may serve as a member or otherwise participate in the activities of the Advisory Board if such membership or participation would cause any Limited Partner to lose its insulated status under the Communications Laws.

(vii) No Limited Partner (other than an Excluded Limited Partner) or Limited Partner Affiliate may vote (A) for the removal of the General Partner except pursuant to the provisions of Section 9.5(a) or (B) in connection with any such removal, for the admission of new or additional general partners to the Partnership unless such admission may be rejected by the General Partner, in its sole discretion.

(viii) No Limited Partner shall take any action that such Limited Partner knows would cause a violation by the Partnership of the Communications Laws.

(ix) Each Limited Partner that becomes, or will or may become, a Non-U.S. Partner as a result of a change in control or reorganization of such Limited Partner shall provide notice of such event at least 30 days prior to the effective time of such change of control or reorganization.

(b) Any of the provisions of Section 7.12(a) may be waived as they otherwise would apply to any Limited Partner (or its Limited Partner Affiliate) upon the written consent of such Limited Partner and the General Partner, and the Limited Partner who makes any such waiver shall be treated as an Excluded Limited Partner with respect to the Partnership Media or Common Carrier Company covered by such waiver.

(c) If a Limited Partner provides the General Partner with an Opinion of Limited Partner's Counsel to the effect that as a result of any existing or potential relationship between such Limited Partner, or any of its Limited Partner Affiliates, and a Media or Common Carrier Company, it would be more likely than not that such Limited Partner would not be able to comply with the requirements of the provisions of Section 7.12(a), or if the General Partner and the Limited Partner otherwise agree in writing (which agreement shall not be a side letter or similar agreement for purposes of Section 13.8), then such Limited Partner, at its own expense, and with the General Partner's prior written consent, may Transfer its entire interest in the Partnership to an irrevocable trust (the "Trust") (i) the terms and structure of which shall, in accordance with any then applicable rules and policies of the FCC, insulate such Limited Partner from having an attributable interest in any Media or Common Carrier Company, (ii) which is established by such Limited Partner at its own expense for the sole purpose of holding in trust its interest in the Partnership and subsequently transferring such interest to a purchaser pursuant to Section 7.3, (iii) of which such Limited Partner is and shall remain the sole beneficiary and (iv) with a trustee that satisfies the provisions of Section 7.12(a); provided, however, that (x) the General Partner shall not be required to effect or permit a Transfer of such Limited Partner's interest pursuant to this Section 7.12(c) unless the transferor has demonstrated to the reasonable satisfaction of the General Partner that the provisions set forth in Section 7.3 have been satisfied, and (y) the terms of the governing documents of the Trust shall provide that such Limited Partner, as the beneficiary, shall remain liable to make payments to the Trust to enable the Trust to satisfy any of its obligations to make payments to the Partnership. The General Partner shall consent to such Transfer to the Trust upon the satisfaction of the conditions set forth in clauses (x) and (y) of the preceding sentence; provided that the Trust may be admitted as a substitute Limited Partner in the Partnership only with the consent of the General Partner, which consent may be given or withheld in its sole discretion. Notwithstanding anything contained in this Agreement to the contrary, upon any Transfer by a Limited Partner of its Partnership interest to a Trust pursuant to this Section 7.12(c), such Limited Partner shall no longer be a Limited Partner of the Partnership, but it shall remain liable to make payments to the Partnership to satisfy any unfulfilled obligations of the Trust to make payments to the Partnership.

(d) Any Investment proposed to be made in a Media or Common Carrier Company only shall be made through one or more Alternative Investment Vehicles, each of which only holds investments in Media or Common Carrier Companies.

7.13 Confidential Information.

(a) Notwithstanding anything contained herein to the contrary (other than as expressly required by Sections 11.3(a), 11.3(b)(i) and 11.3(c)), to the fullest extent permitted by law, the General Partner has the right (in its sole discretion) not to disclose any Confidential Information or other information or materials to any Limited Partner or to the Limited Partner's Disclosure Recipients if the General

Partner determines that such disclosure is not in the best interests of the Partnership, any Partner and/or any Portfolio Company; provided that the General Partner shall not exercise such rights for the purpose of barring discovery or similar disclosure of Confidential Information or other information or materials in connection with an action against the General Partner brought on behalf of the Partnership by Limited Partners and Parallel Fund Limited Partners representing a majority of the Aggregate Commitments. Each Limited Partner shall keep confidential and shall not disclose, or permit any of its Disclosure Recipients to disclose, any information or materials regarding the Partnership Entities or the other Partners (whether or not such information or materials have been designated by the General Partner as Confidential Information), except (and then only) to the extent that (i) the disclosure of such information or materials is expressly required by applicable law, (ii) the information or materials were previously known to such Limited Partner other than as disclosed by any Partnership Entity, (iii) the information or materials become publicly known other than through the actions or inactions of such Limited Partner or its Disclosure Recipients or (iv) the disclosure of such information and materials by such Limited Partner is to its Disclosure Recipients (provided that, in each case, such Persons agree in writing to keep such information and materials confidential to the same extent as if they were Limited Partners of the Partnership or are otherwise required under applicable law to keep such information confidential and such Limited Partner shall be responsible for the failure of any such Person to so comply). Without limiting the foregoing, in the event that any Limited Partner or any of its Disclosure Recipients is required by any applicable law, statute, governmental rule or regulation or judicial or governmental order, judgment or decree to disclose any Confidential Information, unless otherwise agreed to by the General Partner, prior to such disclosure such Person shall promptly notify the General Partner (to the extent not prohibited by applicable law from giving notice) in writing of such anticipated disclosure, which notification shall include the nature of the legal requirement and the extent of the required disclosure and, except where such disclosure is required to be made to an agency or similar body that regulates such Person or any of its activities, shall be accompanied by an Opinion of Limited Partner's Counsel that such disclosure is required by applicable law, and such Person shall cooperate with the General Partner to preserve the confidentiality of such information consistent with applicable law (including withholding disclosure of such Confidential Information until such time as it has been finally determined that such disclosure is required under applicable law). No Limited Partner may use, and each Limited Partner shall cause any Disclosure Recipient to which it directly or indirectly discloses any Confidential Information to hold such information confidential to the same extent as would be required if such Person were a Limited Partner and not to use, any Confidential Information it receives for any purpose other than monitoring and evaluating such Limited Partner's investment in the Partnership. Any information provided to a Person at a Limited Partner's direction shall be treated instead as having been provided to such Person by such Limited Partner, and such disclosure by the Limited Partner shall be subject to the requirements of this Section 7.13.

(b) Without limiting the foregoing, each Limited Partner agrees that the following items are included within Confidential Information of, and are of

independent, proprietary, economic value to, the General Partner, the Partnership and, with respect to information obtained from the Parallel Fund or a Portfolio Company, such Parallel Fund or Portfolio Company, the disclosure of which would cause substantial, irreparable harm to the General Partner, the Partnership, the Parallel Fund and/or the applicable Portfolio Companies: (i) all information regarding the historical or projected pricing, cost, sales and profitability of each product or service offered by any Portfolio Company; (ii) all information pertaining to the valuation ascribed to a Portfolio Company, any subsidiary thereof or to any interests in any of the foregoing by such Portfolio Company's management, the Partnership, the General Partner, or any other Person; and (iii) all financial statements or other information concerning the historical or projected financial condition, results of operations or cash flows of any Portfolio Company.

(c) The General Partner may agree (i) to limit the applicability of any portion of this Section 7.13 to a particular Limited Partner and/or (ii) to limit disclosure or use of the name of, or any other information regarding, a particular Limited Partner and, in each such case, any such agreement shall not be a side letter or similar agreement for purposes of Section 13.8.

(d) Notwithstanding anything else contained in this Agreement (including the other provisions of this Section 7.13), each Limited Partner may disclose, without limitation, the tax treatment and tax structure (as such terms are used in Code §6011 and the Treasury Regulations promulgated thereunder) of its investment in the Partnership and of any transactions entered into by the Partnership; provided that this authorization to disclose such tax treatment and tax structure is not intended to permit disclosure of any other information.

7.14 Excuse/Exclusion.

(a) No Limited Partner shall be required to make any Investment Contribution or Bridge Financing Contribution for the purpose of making any portion of an Investment that, with respect to such Limited Partner, constitutes a General Excused Investment. To the extent that, on account of this Section 7.14 or the default provisions of Section 7.9, a Partner's otherwise required Investment Contribution or Bridge Financing Contribution with respect to an Investment would result in such Partner's aggregate Investment Contributions and Bridge Financing Contributions with respect to such Investment exceeding 25% of such Partner's Commitment (measured as of the date such Investment Contribution or Bridge Financing Contribution, as applicable, is required to be paid to the Partnership, and treating the aggregate Investment Contributions and Bridge Financing Contributions made by such Partner as being reduced, but not below zero, by the aggregate amount of all proceeds received by the Partnership with respect to such Portfolio Company and its subsidiaries that are allocable to such Partner's interest in such Investment), then such Investment shall be treated as a General Excused Investment with respect to such Partner.

(b) A Limited Partner shall not be permitted to make all or any portion of any Investment Contribution or Bridge Financing Contribution otherwise required to be made to the Partnership in respect of a particular Investment if the General Partner notifies such Limited Partner in writing that the General Partner has, in its reasonable discretion, determined not to permit the making of all or any portion of such Investment Contribution or Bridge Financing Contribution because it has determined that such Investment Contribution or Bridge Financing Contribution could reasonably be expected to have an Adverse Effect.

(c) The General Partner may discontinue any Limited Partner's participation in an Investment (through such Limited Partner's Sharing Percentage for such Investment) if the General Partner (i) determines that it is reasonably likely that the continuation of such Limited Partner's participation therein could reasonably be expected to have an Adverse Effect and (ii) gives five (5) business days' advance written notice to any such Limited Partner of such determination. The General Partner may thereafter take commercially reasonable steps to discontinue such Limited Partner's participation in such Investment, including by causing a portion of such Investment equal to such Limited Partner's Sharing Percentage thereof promptly to be sold by the Partnership at a cash price equal to its fair market value, as determined, consistent with the provisions of Article X, by an independent appraiser chosen by the General Partner and approved by such Limited Partner (which approval shall not be unreasonably withheld), with all of the proceeds of such sale being applied (as among the Partnership, such Limited Partner, and the General Partner) in accordance with the other provisions of this Agreement, it being understood that such Limited Partner's Sharing Percentage for such Investment shall, after the application of such sale proceeds, be reduced to zero and the other Partners' Sharing Percentages therein shall be adjusted accordingly. All reasonable costs and expenses in respect of the determinations and other matters referred to in this Section 7.14(c) shall be borne by the Partnership.

(d) The excuse or exclusion of any Limited Partner from a prospective Investment pursuant to this Section 7.14, and/or the discontinuation of a Limited Partner from participation in an Investment, shall not affect (i) such Person's Commitment or (ii) the aggregate Management Fee computed pursuant to Section 5.2(a).

(e) It is the intent of the Partners that (i) any Partnership Expense or Liability that is incurred in direct connection with the making, maintaining or disposing of an Investment be borne pro rata by the Partners based on their Sharing Percentages with respect to such Investment, (ii) Management Fees be borne by the Partners (other than Affiliated Partners) pro rata based on their respective Management Fee Percentages, (iii) the benefit under Section 5.2(c) of a reduction in or rebate of the Management Fee resulting from a Transaction Fee or Monitoring Fee attributable to a particular Investment, as determined by the General Partner in its sole discretion, be attributed to the Partners (other than Affiliated Partners) pro rata based on their Sharing Percentages with respect to such Investment, (iv) Placement Fees and Excess Organizational Expenses be borne by the Partners (other than Affiliated Partners) pro

rata based on their respective Commitments, (v) all other Partnership Expenses be borne by the Partners pro rata based on their respective Commitments and (vi) at the General Partner's election, Partners participate in follow-on investments in any existing Portfolio Company pro rata based on their respective Sharing Percentages with respect to the existing Investment (or weighted average Sharing Percentages if there has been more than one prior unrealized Investment) in such Portfolio Company; provided that, except as otherwise specifically provided in this Agreement, this Section 7.14(e) shall not obligate any Limited Partner to make aggregate Capital Contributions in excess of its Commitment. For the avoidance of doubt, nothing in this Section 7.14(e) shall affect how Investment Proceeds that are apportioned preliminarily among the Partners shall be distributed between the General Partner and each such Partner, in each case in accordance with Section 4.3. Subject to Section 7.1, the General Partner may alter the obligations of the Partners pursuant to Section 3.1(a) so as to facilitate effecting such intent. In addition, to the extent that any assets otherwise distributable to a Partner (as determined by the General Partner) are used to satisfy an obligation that the General Partner determines based on the foregoing intent is properly attributable to another Partner, such use shall be treated as an interest free advance by the Partner whose assets are so used, repayable to such Partner as a priority distribution from any amounts otherwise distributable to the Partner deemed to receive such advance. Any contributions or distributions made as a result of this Section 7.14(e) shall be treated as having been made pursuant to such Section(s) of this Agreement and for such purposes as the General Partner shall determine to be appropriate in order to effect the foregoing.

(f) Notwithstanding the notice requirements of Section 3.1(a), additional Capital Contributions may be called by the General Partner following a Limited Partner or Parallel Fund Limited Partner being excused or excluded from any Capital Contribution or capital contribution under the Parallel Fund Agreement on five (5) days' notice.

(g) If any Limited Partner is excused or excluded from making any Investment Contribution pursuant to Section 7.14(a) or (b) or if any Parallel Fund Limited Partner is excused or excluded from making any Investment Contribution (as defined in the Parallel Fund Agreement) pursuant to Section 7.14(a) or (b) (or similar provision) of the Parallel Fund Agreement, then the Partnership and the Parallel Fund shall (subject to Section 6.15(b)) invest in such Portfolio Company and bear expenses relating to such Portfolio Company pro rata based upon the Parallel Fund's aggregate capital commitments available for investment (excluding the aggregate capital commitments not available for such investment from any Parallel Fund Limited Partner(s) due to excuse or exclusion from such investment pursuant to Section 7.14(a) or (b) (or similar provision) of the Parallel Fund Agreement) and the Partnership's aggregate Commitments available for investment (excluding the aggregate Commitments not available for such investment from any Limited Partner(s) due to excuse or exclusion from making such investment pursuant to Section 7.14(a) or (b)).

ARTICLE VIII

ADVISORY BOARD

8.1 Advisory Board.

(a) A board (an "Advisory Board") shall be appointed by the General Partner, all the members of which shall be selected by the General Partner from among the Limited Partners and Parallel Fund Limited Partners (or their respective representatives) who are not Affiliates of the General Partner. The General Partner may appoint new members, including to fill any vacancies on the Advisory Board arising from time to time, so long as such appointments are in compliance with this Section 8.1; provided that, except with respect to appointments that are committed to as of the Final Closing Date and replacing former Advisory Board members, the General Partner shall not increase the overall number of voting members of the Advisory Board by more than two (2) members following the Final Closing Date. The General Partner shall have the right to remove any Advisory Board member at any time (i) after the Limited Partner or Parallel Fund Limited Partner that such member represents, together with its Affiliates, ceases to have a Commitment and/or Parallel Fund Commitment equal in the aggregate to at least 50% of the Aggregate Commitments of such Persons as of their admission to the Partnership or the Parallel Fund, as applicable, as increased following such admission pursuant to Section 7.6 or any similar provision of the Parallel Fund Agreement or otherwise, (ii) for cause, (iii) after such member ceases to be an employee of the Limited Partner or Parallel Fund Limited Partner he or she initially represents (or an employee of such Limited Partner's or Parallel Fund Limited Partner's Affiliate or advisor), (iv) for any reason with the approval of a majority of the other Advisory Board members or (v) pursuant to Section 7.9(d).

(b) The Advisory Board shall perform the duties expressly contemplated in this Agreement, shall periodically review the valuations of the Partnership's assets made by the General Partner and shall provide such other advice and counsel as is requested by the General Partner in connection with the Partnership's investments, potential conflicts of interest and other Partnership matters; provided that the General Partner shall retain ultimate responsibility for asset valuations (subject to the provisions of Article X) and for making all decisions relating to the operation and management of the Partnership or relating to the conduct of its business, including making all investment decisions. All Advisory Board approvals, disapprovals, votes, determinations and other actions shall be authorized by a majority of the Advisory Board members pursuant to a meeting or written consent of a majority of the Advisory Board members.

(c) Meetings of the Advisory Board members may be conducted in person, telephonically or through the use of other communications equipment by means of which all Persons participating in the meeting can communicate with each other. The General Partner shall be entitled to have representatives attend and participate in all Advisory Board meetings as non-voting members (including having

one such representative serve as non-voting chairman) and also may permit non-voting observers to attend such meetings. The Partnership shall reimburse each Advisory Board member, representative of the General Partner, and permitted observer for his or her reasonable out-of-pocket expenses incurred in connection with the proceedings of the Advisory Board. Except as contemplated in this Section 8.1 and as otherwise set forth elsewhere in this Agreement, all decisions regarding the operations and investments of the Partnership shall be made by the General Partner.

(d) The General Partner may, in its sole discretion, seek Advisory Board approval in connection with (i) approvals required under the Investment Advisers Act including any approvals required under Section 206(3) thereof or (ii) any consent to a transaction that would result in the "assignment" (within the meaning of the Investment Advisers Act) of the General Partner's interest in the Partnership, and Advisory Board approval shall constitute consent of the Limited Partners for purposes of the Investment Advisers Act. Each Limited Partner agrees that with respect to any approval sought under this Agreement, the approval of the Advisory Board shall be binding upon the Partnership and each Partner. Each Limited Partner further agrees that any such approval alternatively may be granted by Limited Partners and Parallel Fund Limited Partners holding a majority of the Aggregate Commitments held by such Persons. Notwithstanding anything to the contrary in this Agreement, but subject to Section 6.9, if the Advisory Board waives any conflict of interest or the General Partner acts in a manner, or pursuant to the standards and procedures, approved by the Advisory Board with respect to a conflict of interest, then the General Partner and its Affiliates shall not have any liability to the Partnership or the Limited Partners for such actions taken in good faith by them.

(e) Reasonably promptly following the purchase or sale by the Partnership of any portion of an investment from or to the Executive Fund or the Parallel Fund pursuant to Section 6.14(b) or 6.15(b), the General Partner shall provide to the Advisory Board a report summarizing such transaction, including the price at which the applicable interest was purchased or sold, as applicable.

ARTICLE IX

DURATION AND DISSOLUTION

9.1 Duration. Subject to Section 9.3, the Partnership shall be dissolved on the tenth anniversary of the Final Closing Date, or such earlier time as determined by the General Partner with the approval of Limited Partners and Parallel Fund Limited Partners holding a majority of the Aggregate Commitments held by such Persons; provided that, unless the Partnership is earlier dissolved, the term of the Partnership may be extended beyond the tenth anniversary by the General Partner (a) in its discretion for one (1) additional one-year period and (b) with the approval of the Advisory Board for up to two (2) further one-year periods, in each case to allow for an orderly dissolution and liquidation of the Partnership's investments. Notwithstanding any other provision of this Agreement, in the event that the General Partner determines that there has been an "assignment" of this Agreement within the meaning of the Investment Advisers Act and the requisite consent of the Partnership has not been obtained, then

the General Partner may (but is not obligated to) dissolve the Partnership by delivering written notice to such effect to the Limited Partners.

9.2 Early Termination of the Investment Period.

(a) The General Partner shall give the Limited Partners and the Parallel Fund Limited Partners written notice promptly after there ceases to be at least one Approved Executive Officer active in the Partnership's affairs on the basis contemplated by Section 6.13 for any reason (a "Cessation Event"). Thereafter, the Partnership shall not deliver a Capital Call Notice to fund any Investments, except for follow-on Investments, Investments in process and Investments pursuant to then existing commitments, provided that such commitments are evidenced by a term sheet, letter of intent or similar agreement in principle (all such Investments in this clause, collectively, "Pending Investments"), without the approval of Limited Partners and Parallel Fund Limited Partners holding a majority of the Aggregate Commitments held by such Persons (such approval, "Continuing Investment Approval").

(b) At any time after the first anniversary of the Effective Date, Limited Partners and Parallel Fund Limited Partners holding at least 75% of the Aggregate Commitments may deliver to the General Partner a written notice of their desire to limit new Investments as described in Section 9.2(a), the effect of which shall be equivalent to the effect of a Cessation Event as set forth in Section 9.2(a).

9.3 Early Dissolution of the Partnership.

(a) Limited Partners and Parallel Fund Limited Partners holding at least two-thirds of the Aggregate Commitments may elect to dissolve the Partnership by delivering a written notice to the General Partner to such effect at any time after the occurrence of, and within 90 days after receiving notice of the occurrence of, any of the following events: (i) the General Partner, the Management Company or any Approved Executive Officer has been convicted of fraud, embezzlement or a similar felony involving misappropriation of funds in connection with the business of the Partnership or any Portfolio Company and, in the case of an Approved Executive Officer, such Person's involvement in the affairs of the Partnership has not been terminated within 30 days after such conviction; (ii) the General Partner (A) has filed a voluntary petition in bankruptcy, (B) has been involuntarily dissolved and commenced its winding up, or (C) has consented to or acquiesced to the appointment of a trustee, receiver or liquidator of the General Partner; (iii) there has been entered against the General Partner an order for relief in a federal bankruptcy proceeding which order is not stayed, vacated or dismissed within 90 days; (iv) a court of competent jurisdiction has found in a judgment on the merits that the General Partner, the Management Company or any Approved Executive Officer has (A) committed a willful violation of law having a material adverse effect on the Partnership or (B) committed willful malfeasance or gross negligence with respect to the Partnership, and, in the case of an Approved Executive Officer, such Person's involvement in the affairs of the Partnership has not been terminated within 30 days after such judgment; or (v) a court of competent jurisdiction has found in a judgment on the merits that the General

Partner has willfully and materially breached any of its material obligations under this Agreement in a manner that materially and adversely affects the Limited Partners, and such breach has not been substantially cured.

(b) At any time after the first anniversary of the Effective Date, Limited Partners and Parallel Fund Limited Partners holding at least 75% of the Aggregate Commitments may dissolve the Partnership and the Parallel Fund for any reason by delivering a written notice to such effect to the General Partner. Thereafter, the Partnership shall not deliver a Capital Call Notice to fund any Investments, except for Investments pursuant to then existing written commitments, without the approval of the Advisory Board.

(c) The Partnership shall be dissolved at any time there are no limited partners of the Partnership, unless the business of the Partnership is continued in accordance with the Partnership Act.

(d) The Partnership shall be dissolved at any time upon the entry of a decree of judicial dissolution of the Partnership under Section 17-802 of the Partnership Act.

(e) The Partnership shall be dissolved upon any event that results in the sole remaining general partner ceasing to be a general partner of the Partnership under the Partnership Act (other than an event of withdrawal set forth in clause (ii) or (iii) of Section 9.3(a)), unless the business of the Partnership is continued in accordance with the Partnership Act.

9.4 Liquidation of the Partnership.

(a) Liquidation. Upon dissolution, the affairs of the Partnership shall be wound up in an orderly manner in accordance with the provisions of this Agreement and the Partnership Act. The General Partner shall be the liquidator to wind up the affairs of the Partnership pursuant to this Agreement or, if the General Partner is not able to act as the liquidator, or if the Partnership has been dissolved by the Limited Partners and Parallel Fund Limited Partners pursuant to Section 9.3(a), a liquidating trustee shall be appointed by the Limited Partners and Parallel Fund Limited Partners holding a majority of the Aggregate Commitments held by such Persons.

(b) Final Allocation and Distribution. Following dissolution of the Partnership (whether pursuant to Section 9.1, 9.3 or otherwise) and upon liquidation and winding up of the Partnership, the General Partner or a liquidating trustee appointed pursuant to Section 9.4(a) shall make a final allocation of all items of income, gain, loss and expense in accordance with Article III hereof, and the Partnership's liabilities and obligations to its creditors shall be satisfied to the extent required by the Partnership Act (whether by payment or the making of reasonable provision for payment) prior to any distributions to the Partners. After such payment or reasonable provision for payment of all liabilities and obligations of the Partnership,

the remaining assets, if any, shall be distributed among the Partners pursuant to Article IV.

(c) General Partner Give Back. No later than 90 days after the final distribution of the assets of the Partnership among the Partners as provided in this Section 9.4 and Article IV, with respect to each Partner (other than any Affiliated Partner and any Defaulting Partner), the General Partner shall contribute to the Partnership, and the Partnership shall, promptly following receipt, distribute to such Partner, an amount equal to the greater of the amounts described in the following clauses (i) and (ii):

(i) the amount by which such Partner's aggregate Capital Contributions plus its Preferred Return exceeds the aggregate amount, if any, of distributions (other than distributions of amounts paid pursuant to Section 7.6(d)) received by such Partner and not returned by it pursuant to Section 4.6; and

(ii) the amount (if positive) by which the aggregate distributions that the General Partner received and has not otherwise returned to the Partnership with respect to such Partner in respect of the Carried Interest exceeds 20% of the Net Benefit over the life of the Partnership with respect to such Partner;

provided that the General Partner shall not be obligated to make capital contributions with respect to any Partner pursuant to this Section 9.4(c) in excess of 100% of the amount of Carried Interest distributions made to the General Partner with respect to such Partner during the life of the Partnership and not otherwise returned to the Partnership or such Partner by the General Partner (or its beneficial owners), minus aggregate Tax Amounts attributable to the Carried Interest with respect to such Partner. The General Partner shall be obligated to restore its negative Capital Account, if any, only to the extent set forth in this Section 9.4(c) and Section 9.4(f). In the event that any loans to the General Partner pursuant to Section 4.5 of amounts otherwise distributable in respect of the Carried Interest have not been repaid to the Partnership prior to the liquidation of the Partnership, such loans shall be treated as Carried Interest distributions for purposes of this Section 9.4. The calculation of the amount that the General Partner shall contribute to the Partnership pursuant to this Section 9.4(c) with respect to each Partner shall be made after giving effect to any return of distributions made to the Partnership pursuant to Section 4.6(a). To the extent the Partners return distributions to the Partnership pursuant to Section 4.6(a) after the final distribution of the assets of the Partnership, the General Partner's obligations under this Section 9.4(c) shall be recalculated as if such return of distributions by the Partners had occurred prior to the final distribution of the assets of the Partnership.

(d) Funding of Give Back Obligations. Within 90 days following the Effective Date, each partner of the General Partner entitled to receive Carried Interest distributions shall have entered into an undertaking in favor of the Partnership for the benefit of the Partners that provides that, to the extent the General Partner does not fully contribute to the Partnership the amount, if any, that it is required to contribute pursuant to Sections 9.4(c) and 9.4(f), such partner shall be obligated severally, but not jointly, to contribute directly to the Partnership such Person's pro

rata share of such deficiency up to, but in no event more than, the aggregate amount of Carried Interest distributions received from the Partnership and not otherwise returned to the Partnership or the Partners by such Person (including through the General Partner), minus such Person's share of the aggregate Tax Amounts attributable to the Carried Interest; provided that in no event shall the Partnership be entitled to receive pursuant to Sections 9.4(c) and 9.4(f) and this Section 9.4(d) an aggregate amount in excess of the aggregate amount of contributions required to be made to the Partnership by the General Partner pursuant to Sections 9.4(c) and 9.4(f). Any contributions made to the Partnership pursuant to this Section 9.4(d) shall be distributed to the Partners pursuant to Section 9.4(c) or 9.4(f), as applicable.

(e) Cancellation. Following completion of the winding up of Partnership affairs as contemplated by this Article IX, the Partnership shall terminate upon the filing of a Certificate of Cancellation of the Certificate in accordance with the applicable provisions of the Partnership Act.

(f) Interim General Partner Give Back. If on the six-year anniversary of the Final Closing Date or the ten-year anniversary of the Final Closing Date (each such date, an "Interim Give Back Determination Date"), the General Partner has received any Carried Interest distributions, it shall calculate the amount (if any) by which the aggregate Carried Interest distributions received and not otherwise returned by the General Partner with respect to any Partner would exceed 20% of the Net Benefit over the life of the Partnership with respect to such Partner if the Partnership had made a hypothetical final distribution of its assets on such Interim Give Back Determination Date in accordance with Section 9.4(b) (as adjusted in the following sentence) (such excess (if any) with respect to such Partner, an "Interim Give Back Amount"). For purposes of any such calculation made with respect to the initial Interim Give Back Determination Date, any Cost Contributions made by any Partner after the date of the most recent disposition of an Investment shall be disregarded. The value of the Partnership's assets deemed to be distributed in any hypothetical final distribution pursuant to this Section 9.4(f) shall be determined in accordance with GAAP, including the Financial Accounting Standards Board's codification topic referenced in Section 10.4. If the General Partner determines that an Interim Give Back Amount exists with respect to any Partner at such time, it shall make a capital contribution to the Partnership, within 20 business days after such Interim Give Back Determination Date, in an amount equal to the Interim Give Back Amount with respect to such Partner; provided that the General Partner shall not be obligated, with respect to any Interim Give Back Determination Date, to make capital contributions with respect to any Partner pursuant to this Section 9.4(f) in excess of 100% of the amount of Carried Interest distributions made to the General Partner with respect to such Partner on or prior to such Interim Give Back Determination Date and not otherwise returned to the Partnership or such Partner by the General Partner (or its beneficial owners), minus aggregate Tax Amounts attributable to the Carried Interest with respect to such Partner. If the General Partner has determined that there is an Estimated Future Give Back Amount with respect to any Partner, the General Partner may elect to reduce the Management Fee that otherwise would be borne by such Partner (the amount of any each such reduction with respect to a Partner, a "Giveback

Reduction Amount"), which reduction shall be treated for all purposes of this Agreement as a return of Carried Interest distributions with respect to such Partner. Notwithstanding anything to the contrary in this Agreement, any Giveback Reduction Amounts shall be apportioned among the Partners in proportion to the related potential giveback obligations with respect to such Partners, as determined by the General Partner as of the date of any such Management Fee reduction. Any contributions made to the Partnership with respect to any Partner pursuant to this Section 9.4(f) shall be distributed to such Partner no later than 90 days thereafter, and such distributions, together with any Giveback Reduction Amounts with respect to such Partner, shall be treated as advances of distributions to such Partner, and shall be taken into account in determining the amount of future distributions to such Partner pursuant to Sections 4.3 and 9.4(b) as determined by the General Partner; provided that if the General Partner so desires, in its sole discretion, it may condition such treatment with respect to any or all Giveback Reduction Amounts on the existence of future gross or net Partnership income or gains.

9.5 Removal of the General Partner.

(a) Limited Partners and Parallel Fund Limited Partners holding at least two-thirds of the Aggregate Commitments may remove the General Partner as general partner of the Partnership and general partner of the Parallel Fund by delivering a written notice to the General Partner (the "GP Removal Notice") to such effect at any time after the occurrence of, and within 90 days after receiving notice of the occurrence of, any event set forth in clause (i), (iv) or (v) of Section 9.3(a); provided that such right to remove the General Partner shall be limited to the extent necessary to remain in compliance with the insulation requirements and policies of the Communications Laws and to prevent the Limited Partners from having an attributed interest in a Partnership Media or Common Carrier Company.

(b) On the date of the General Partner's removal pursuant to this Section 9.5 (the "GP Removal Date"), (i) the interest of such removed General Partner in the Partnership shall be converted (the "Conversion") into a Limited Partner interest and after such Conversion such removed General Partner shall be a "Special Limited Partner," and (ii) neither the Special Limited Partner nor any Limited Partner that is, or that is owned by, controlled by or established primarily for the benefit of one or more Persons each of which is, a direct or indirect owner of the removed General Partner or any of such owner's respective family members shall be required to make any additional Capital Contributions or other payments to the Partnership or to participate in any Investments after the GP Removal Date unless such Person affirmatively elects not later than 30 days after the GP Removal Date to continue funding its Commitment for all purposes of this Agreement. If any such Person does not make such election to continue funding its Commitment, it shall no longer be allocated any additional Partnership Expenses and shall no longer participate in the profits, losses or otherwise, in each case with respect to any Investments (including follow-on Investments) the Partnership makes after the GP Removal Date. Notwithstanding anything to the contrary contained in this Agreement, but subject to this Section 9.5, the Special Limited Partner shall assume the rights and responsibilities of a Limited Partner under

this Agreement, except that the Special Limited Partner shall be entitled to receive 80% of all Carried Interest distributions that otherwise would have been made to it pursuant to Article IV if it had not been removed as the general partner of the Partnership with respect to Investments made on or prior to the GP Removal Date and without regard to Investments made, or fees, expenses and liabilities incurred, thereafter, except for fees, expenses and liabilities that are incurred in direct connection with the Investments to which the Special Limited Partner is entitled to Carried Interest distributions; provided that, for the avoidance of doubt, such fees, expenses and liabilities shall not include Management Fees or any other indirect fees, expenses or liabilities incurred after the GP Removal Date that may be attributed or apportioned to such Investments.

(c) Effective upon the GP Removal Date, such removed General Partner (i) shall remain liable only for obligations with respect to any liability, loss, cost or expense (mature or unmatured, contingent or otherwise) solely arising out of, relating to, incidental to, or by virtue of any act, transaction or event in connection with the operation of the Partnership's business prior to the GP Removal Date and (ii) shall not be liable with respect to any liability, loss, cost or expense (mature or unmatured, contingent or otherwise) arising out of, relating to, incidental to, or by virtue of any act, transaction or event in connection with the operation of the Partnership's business on or after the GP Removal Date. Notwithstanding the foregoing, the obligations of the removed General Partner under Sections 9.4(c) and 9.4(f) shall be applied to the removed General Partner (and all calculations thereunder shall be made) in a manner consistent with Section 9.5(b). The parties to the undertaking described in Section 9.4(d) shall have their obligations adjusted to support only the obligations of the removed General Partner pursuant to Sections 9.4(c) and 9.4(f) as revised by this Section 9.5(c). The removed General Partner, the Ultimate General Partner, the Management Company and their respective members, managers, shareholders, partners, directors, officers, employees, agents, advisors, assigns, representatives and affiliates (and their respective members, managers, shareholders, partners, directors, officers, employees, agents, advisors, assigns, representatives and affiliates) (collectively, "GP Indemnitees") shall continue to be entitled to exculpation in accordance with Section 6.9 and indemnification in accordance with Section 6.10 (as if such removed General Partner had not been removed as General Partner). Notwithstanding anything to the contrary in this Agreement, the GP Indemnitees shall be deemed third-party beneficiaries of Sections 6.9 and 6.10 from and after the GP Removal Date and no amendment to this Section 9.5 or Section 6.9 or 6.10 shall be made without the prior written consent of the removed General Partner if such amendment adversely affects the removed General Partner or any of the other GP Indemnitees.

(d) No removal of the General Partner under Section 9.5(a) shall be effective unless each of the following conditions is satisfied within 120 days after the date the GP Removal Notice is delivered to the removed General Partner: (i) a new general partner of the Partnership (which may be an individual or an entity) shall have been selected by Limited Partners and Parallel Fund Limited Partners holding a majority of the Aggregate Commitments, and, subject to Section 9.5(c), such new

general partner shall have assumed all obligations of the removed General Partner under this Agreement arising on or after the date on which such new general partner is admitted to the Partnership; (ii) an amendment to the Certificate shall have been filed with the Secretary of State of Delaware that reflects: (A) the admission of the new general partner as the general partner of the Partnership and (B) the removal of the withdrawing General Partner as the general partner of the Partnership; (iii) the admission of the new general partner shall not have caused the Partnership to cease to be treated as a partnership for United States federal or state income tax purposes; and (iv) all of the requirements of Section 9.5(e) (or similar provision) of the Parallel Fund Agreement have been satisfied.

(e) The Partners hereby agree to make such amendments to this Agreement as are necessary or advisable to implement the admission of a new general partner, the removal of the withdrawing General Partner and the changes in the economic relationships among the Partners that are described in this Section 9.5 in a fair and equitable manner consistent with the principles set forth in this Section 9.5, and in all events to interpret and apply this Agreement (whether or not formal amendments are executed) in a manner consistent with such principles. No amendment (i) to this Agreement that would adversely affect the Special Limited Partner's rights or obligations under this Section 9.5 or (ii) to this Section 9.5 shall be made without the prior written consent of the Special Limited Partner or, prior to the Conversion, the General Partner.

ARTICLE X

VALUATION OF PARTNERSHIP ASSETS

10.1 Normal Valuation. For purposes of this Agreement, the value of any investment as of any date (or in the event such date is a holiday or other day that is not a business day, as of the immediately preceding business day) shall be determined as follows:

(a) an investment that is (i) listed or quoted on a recognized securities exchange or quoted on any national automated inter-dealer quotation system or (ii) traded over-the-counter, shall be valued at the average of its last "trade" price on each trading day during the ten (10)-day trading period ending immediately prior to the time of determination, or if no sales occurred on any such day, the mean between the closing "bid" and "asked" prices on such day; and

(b) all other investments shall be valued as of such date by the General Partner at fair market value in such manner as it may reasonably determine.

Notwithstanding the foregoing, for all purposes of the reports furnished to the Limited Partners pursuant to Section 11.3, all investments described in Section 10.1(a) above and valued as of the end of any fiscal quarter or year shall be valued as of the last trading day of such period.

10.2 Restrictions on Transfer or Blockage. Any investment that is held under a representation that it has been acquired for investment and not with a view to public sale or

distribution, or which is held subject to any other restriction on transfer, or where the size of the Partnership's holdings compared to the trading volume would adversely affect its marketability, shall be valued at such discount from the value determined under Section 10.1 as the General Partner deems reasonably necessary to reflect the marketability and value of such investment.

10.3 Objection to Valuation. If a majority of the Advisory Board members object to the valuation of any investment at the time of such investment's distribution in kind or at the time of any withdrawal of a Limited Partner pursuant to the terms of this Agreement, the Advisory Board and the General Partner shall attempt to mutually agree on the valuation of such investment within 15 days after such objection. If the Advisory Board and the General Partner are unable to reach an agreement within such 15-day period, the General Partner shall (at the Partnership's expense) cause a nationally recognized valuation or investment banking firm mutually acceptable to the General Partner and a majority of the Advisory Board members to review such valuation consistent with the terms of Sections 10.1 and 10.2, and such expert's determination shall be binding on all parties.

10.4 Adjustments Required by GAAP Accounting. With respect to reports furnished to Limited Partners pursuant to Section 11.3 that are prepared, in whole or in part, in accordance with GAAP, the valuation rules set forth in this Article X shall be adjusted to the extent necessary to comply with GAAP, including the Financial Accounting Standards Board Accounting Standards Codification Topic 820: Fair Value Measurements and Disclosures, effective as of September 15, 2009 (as such codification topic may be amended or modified thereafter), as promulgated by the Financial Accounting Standards Board.

ARTICLE XI

BOOKS OF ACCOUNTS; MEETINGS

11.1 Books. The Partnership shall maintain complete and accurate books of account of the Partnership's affairs at the General Partner's or the Management Company's principal office, which books shall be open to inspection by any Limited Partner (or its authorized representative) for any purpose reasonably related to such Limited Partner's interest in the Partnership at any time during ordinary business hours upon at least ten (10) business days' prior notice, subject in each case to any portion of the books that, to the maximum extent not prohibited by applicable law, may otherwise be kept confidential with respect to any Limited Partner as provided in this Agreement. The Partnership hereby agrees to preserve all financial and accounting records pertaining to this Agreement during the term of this Agreement and for a period of seven years thereafter. The Partnership shall have the right to preserve all such records in original form or in any form of electronic storage media or by any similar process.

11.2 Fiscal Year. The fiscal year of the Partnership shall be the calendar year, unless otherwise determined by the General Partner.

11.3 Reports. The General Partner shall furnish to each Limited Partner:

(a) within 60 days after the end of each of the first three (3) fiscal quarters of each fiscal year and commencing with the first fiscal quarter in which the

Partnership delivers a Capital Call Notice, an unaudited quarterly financial statement for the Partnership for such quarter showing such Partner's closing capital account balance as of the end of such quarter;

(b) within 90 days after the end of each fiscal year commencing with the first year in which the Partnership is either in operation for a full fiscal year or makes an Investment, (i) financial statements for the Partnership for such year (audited by a firm of independent certified public accountants of recognized national standing selected by the General Partner and prepared in accordance with GAAP, but without consolidating Portfolio Company financial information with the Partnership), and (ii) valuations of the Partnership's Investments as of the end of such year (including a statement of such Partner's closing capital account balance as of the end of such year and, commencing with the fiscal year during which the third anniversary of the Final Closing Date occurs, an estimate of the amount, if any, that such Partner would be due pursuant to Section 9.4(f) if such fiscal year-end were an Interim Give Back Determination Date (as to each Partner, such Partner's "Estimated Future Give Back Amount")) and a narrative summary of the status of each Portfolio Company held by the Partnership as of the end of such year; and

(c) within 120 days after the end of each fiscal year, such Partner's Schedule K-1 for such fiscal year.

In connection with the delivery of financial statements for the Partnership for any fiscal year, the General Partner shall report to the Advisory Board the amount of Breakup Fees, Directors' Fees, Monitoring Fees and Transaction Fees received by Windjammer Persons in the aggregate during such fiscal year. Reasonably promptly following the later of the Final Closing Date and the Final Closing Date (as defined in the Parallel Fund Agreement), the General Partner shall provide to the Advisory Board a report summarizing the aggregate Organizational Expenses.

The financial reports and schedules described in this Section 11.3 are dependent upon information to be provided to the General Partner by Portfolio Companies. Therefore, notwithstanding the foregoing time periods, the General Partner may furnish such reports and schedules to the Limited Partners after the expiration of such time periods, but as soon as reasonably practical, following receipt of all financial and other information from each of the Portfolio Companies necessary or desirable to prepare such documents. In addition to the documents described in this Section 11.3, at the Partnership's or requesting Limited Partner's expense, in each case as determined by the General Partner in its sole discretion, the General Partner shall furnish to a Limited Partner as promptly as practicable such additional information concerning the Partnership, distributions by the Partnership, and valuations of Partnership assets and Investments as such Limited Partner may reasonably request from time to time, subject in each case to any such information that may otherwise be kept confidential with respect to any Partner as provided in this Agreement. Notwithstanding any provision in this Section 11.3 to the contrary, and subject to Section 7.13, the information and materials described in this paragraph and the reports (other than quarterly and annual balance sheets and income statements for the Partnership, statements of the applicable Partner's Capital Account and the applicable Partner's Schedule K-1), summaries and valuations of the Investments described in this Section 11.3 and any Portfolio Company financial, business or valuation information contained in information

required to be provided pursuant to this Agreement shall be required to be furnished only to Limited Partners who have provided such representations, warranties and assurances, as the General Partner may request in its sole discretion, that such documents (and any contents thereof) are not required by any law to be disclosed to any other Person and that such Limited Partner (and its Disclosure Recipients) will not use such documents (or any contents thereof) for a purpose other than monitoring and evaluating such Limited Partner's investment in the Partnership or disclose such documents (or any contents thereof) to any other Person who may be required by law to disclose such documents (or any contents thereof), in each case other than disclosure permitted by Section 7.13(a)(ii) or 7.13(a)(iii) or to a Person to whom such disclosure is permitted by Section 7.13(a)(iv) and such Person will not be required by law to disclose such documents (or any contents thereof).

The General Partner may, in its sole discretion, choose to furnish certain or all of such financial reports, statements, schedules, narrative summaries and other information described in this Section 11.3 to the Limited Partners electronically via email, the Internet and/or another electronic reporting medium in lieu of providing the Limited Partners with paper copies of such documents; provided that the General Partner may agree in writing (which agreement shall not be a side letter or similar agreement for purposes of Section 13.8) in its sole discretion and at the request of any Limited Partner to limit the applicability of any portion of this sentence to such Limited Partner.

11.4 Annual Meeting. The General Partner shall hold a general informational meeting for the Limited Partners, which may be telephonic, each year of the Partnership's term, commencing with the first year in which the Partnership is in operation for a full fiscal year and continuing until the Partnership no longer holds Investments with Investment Contributions exceeding 15% of the aggregate Commitments. Thereafter, the General Partner shall hold telephonic general informational meetings for the Limited Partners on an annual basis if so requested by the Advisory Board.

11.5 Tax Allocations.

(a) All income, gains, losses and deductions of the Partnership shall be allocated, for U.S. federal, state and local income tax purposes, among the Partners in accordance with the allocation of such income, gains, losses and deductions among the Partners for computing their Capital Accounts, except that if any such allocation for tax purposes is not permitted by the Code or other applicable law, the Partnership's subsequent income, gains, losses and deductions shall be allocated among the Partners for tax purposes so as to reflect as nearly as possible the allocation set forth herein in computing their Capital Accounts. For the avoidance of doubt, items of expense or deduction in respect of Management Fees, Placement Fees and Excess Organizational Expenses shall be allocated among the Partners in accordance with the relative amounts contributed by such Partners with respect thereto as provided in Section 3.1(a).

(b) If any Partner is treated for income tax purposes as realizing ordinary income because of receipt of its Partnership interest (whether under Code §83 or any similar provisions of any law, rule or regulation or any other applicable law,

rule, regulation or doctrine) and the Partnership is entitled to any offsetting deduction, the Partnership's deduction shall be allocated among the Partners in such manner as to, as nearly as possible, offset such ordinary income realized by such Partner.

(c) Notwithstanding any other provision of this Agreement, if a Partner unexpectedly receives an adjustment, allocation or distribution described in U.S. Department of Treasury Reg. §1.704-1(b)(2)(ii)(d)(4), (5) or (6) that gives rise to a negative capital account (or that would give rise to a negative capital account when added to expected adjustments, allocations or distributions of the same type) that exceeds the amount such Partner is required to restore, such Partner shall be allocated items of income and gain in an amount and manner sufficient to eliminate such deficit balance as quickly as possible; provided that the Partnership's subsequent income, gains, losses and deductions shall be allocated among the Partners so as to achieve as nearly as possible the results that would have been achieved if this Section 11.5(c) had not been in this Agreement, except that no such allocation shall be made that would violate the provisions or purposes of U.S. Department of Treasury Reg. §1.704-1(b).

11.6 Tax Matters Partner. The General Partner is designated the "Tax Matters Partner" (as defined in Code §6231).

11.7 Code §83 Safe Harbor Election.

(a) By executing this Agreement, each Partner authorizes and directs the Partnership to elect to have the "Safe Harbor" described in the proposed Revenue Procedure set forth in Internal Revenue Service Notice 2005-43 (the "IRS Notice") apply to any interest in the Partnership transferred to a service provider by the Partnership on or after the effective date of such Revenue Procedure in connection with services provided to the Partnership. For purposes of making such Safe Harbor election, the General Partner is hereby designated as the "partner who has responsibility for federal income tax reporting" by the Partnership and, accordingly, execution of such Safe Harbor election by the General Partner constitutes execution of a "Safe Harbor Election" in accordance with Section 3.03(1) of the IRS Notice. The Partnership and each Partner hereby agree to comply with all requirements of the Safe Harbor described in the IRS Notice, including the requirement that each Partner shall prepare and file any U.S. federal income tax returns that such Partner is required to file reporting the income tax effects of each "Safe Harbor Partnership Interest" issued by the Partnership in a manner consistent with the requirements of the IRS Notice. A Partner's obligations to comply with the requirements of this Section 11.7 shall survive such Partner's ceasing to be a Partner of the Partnership and/or the dissolution, liquidation, winding up and termination of the Partnership, and, for purposes of this Section 11.7, to the fullest extent permitted by law, the Partnership shall be treated as continuing in existence.

(b) Each Partner authorizes the General Partner to amend this Section 11.7 to the extent necessary to achieve substantially the same tax treatment with respect to any interest in the Partnership transferred to a service provider by the Partnership in connection with services provided to the Partnership as set forth in

Section 4 of the IRS Notice (e.g., to reflect changes from the rules set forth in the IRS Notice in subsequent Internal Revenue Service guidance); provided that such amendment is not materially adverse to such Partner (as compared with the after-tax consequences that would result if the provisions of the IRS Notice applied to all interests in the Partnership transferred to a service provider by the Partnership in connection with services provided to the Partnership).

ARTICLE XII

CERTIFICATE OF LIMITED PARTNERSHIP

12.1 Certificate of Limited Partnership. The General Partner has previously caused the Certificate to be filed and recorded in the office of the Secretary of State of the State of Delaware and to the extent required by applicable law, the General Partner shall cause the Certificate to be filed in the appropriate place in each state in which the Partnership may hereafter establish a place of business, but the Partnership shall not be obligated to provide the Limited Partners with a copy of any amendment to or restatement of the Certificate. The General Partner shall also cause to be filed, recorded and published, such statements, notices, certificates or other instruments required by any provision of any applicable law that governs the formation of the Partnership or the conduct of its business from time to time.

12.2 Limited Powers of Attorney.

(a) Each Limited Partner to the fullest extent not prohibited by applicable law does hereby constitute, appoint and grant to the General Partner, and each Person who is or hereafter becomes a general partner of the General Partner, full power to act without others, as its true and lawful representative, agent and attorney-in-fact, in its name, place and stead, to make, execute or sign, acknowledge and deliver or file (in each case (other than the General Partner), only for so long as such Person continues to be a general partner of the General Partner): (i) the Certificate, (ii) any amendment to, modification to, restatement of, or cancellation of the Certificate, (iii) any duly enacted amendment, restatement, waiver or other modification of this Agreement made with the requisite consent of the Partners, and all instruments and documents that may be necessary or desirable to effectuate an amendment, restatement, waiver or other modification so approved, (iv) all instruments, deeds, agreements, documents and certificates that may from time to time be necessary or advisable to effectuate, implement and continue the valid and subsisting existence of the Partnership or any Alternative Investment Vehicle, (v) all instruments, deeds, agreements, documents and certificates that may be necessary or advisable to effectuate the dissolution, liquidation, winding-up and termination of the Partnership or any Alternative Investment Vehicle or to admit any additional partners or members thereto, except where such action requires the express approval of the Limited Partners hereunder, (vi) all instruments, deeds, agreements, documents and certificates that may be necessary or advisable in the sole discretion of the General Partner to effectuate the provisions of Section 3.4 and/or Section 7.14, (vii) in the case of a Regulated Partner (including a Partner treated as a Regulated Partner hereunder) or Defaulting Partner, any bills of sale or other appropriate transfer documents

necessary or advisable to effectuate Transfers of such Person's interest pursuant to Section 7.7 or Section 7.9, respectively, or of a similar interest pursuant to the comparable provisions of the governing documents for any Alternative Investment Vehicle, and (viii) such other documents, deeds, agreements or instruments as may be required under the laws of any state, the United States or any other jurisdiction. Each Limited Partner hereby empowers each agent and attorney-in-fact acting pursuant hereto to determine in its sole discretion the time when, purpose for and manner in which any power herein conferred upon it shall be exercised, and the conditions, provisions and covenants of any instruments or documents that may be executed by it pursuant hereto. The agency and powers of attorney granted herein shall be deemed to be coupled with an interest, shall be irrevocable and shall survive the death, incompetency, disability or dissolution of a Limited Partner. Without limiting the foregoing, the agency and powers of attorney granted herein shall not be deemed to constitute a written consent of any Limited Partner for purposes of Section 13.1.

(b) Each Limited Partner agrees to execute such other documents as the General Partner may reasonably request in order to effect the intention and purposes of the agency and power of attorney contemplated by this Section 12.2.

ARTICLE XIII

MISCELLANEOUS

13.1 Amendments. This Agreement may be amended, waived or otherwise modified only by the written consent of the General Partner and, except as otherwise provided in this Agreement, (i) Limited Partners representing a majority of the Commitments held by such Persons or (ii) Limited Partners and Parallel Fund Limited Partners, voting as a single group, representing a majority of the Aggregate Commitments held by such Persons; provided that, subject to Section 2.2(a):

(a) no amendment will be valid as to any Limited Partner that alters or modifies Section 7.1 (to the extent that such amendment adversely affects the limited liability of such Limited Partner), Section 12.2, this Section 13.1(a), or that decreases such Limited Partner's Commitment, other than on a pro rata basis according to Commitments with all other Limited Partners, or increases such Limited Partner's Commitment, without the written consent of such Limited Partner;

(b) no amendment that would alter the provisions of this Section 13.1(b), or would alter the provisions of Section 3.1(b) or 6.6 and would materially and adversely affect any ERISA Partner's interest, shall be valid without the consent of ERISA Partners representing a majority of the Commitments held by ERISA Partners;

(c) no amendment that would alter the provisions of this Section 13.1(c) shall be valid as to the ERISA Partners or the Governmental Plan Partners without the consent of Limited Partners representing a majority of the Commitments held by the ERISA Partners or Governmental Plan Partners,

respectively, and no amendment that would alter the provisions of Section 7.7 and would materially and adversely affect (i) only Governmental Plan Partners' interests, (ii) only ERISA Partners' interests or (iii) both Governmental Plan Partners' and ERISA Partners' interests, shall be valid without the consent of Limited Partners representing a majority of the Commitments held by, in the case of clause (i), Governmental Plan Partners, in the case of clause (ii), ERISA Partners, and in the case of clause (iii), Governmental Plan Partners and ERISA Partners, collectively as a single group;

(d) no amendment that would alter the definitions of "BHCA," "BHCA Interest," "BHCA Limited Partner" or that would alter the provisions of this Section 13.1(d), or would alter the provisions of Section 2.2(a) and would materially and adversely affect any BHCA Limited Partner's interest in a manner that does not similarly materially and adversely affect the other Limited Partners generally, shall be valid without the consent of BHCA Limited Partners representing a majority of the Commitments held by BHCA Limited Partners; and

(e) no amendment that would alter the definition of "Non-U.S. Partner" or that would alter the provisions of this Section 13.1(e), or would alter the provisions of Section 6.5 and would materially and adversely affect any Non-U.S. Partner's interest in a manner that does not similarly materially and adversely affect the other Limited Partners generally, shall be valid without the consent of Non-U.S. Partners representing a majority of the Commitments held by Non-U.S. Partners.

Upon obtaining such required approvals or consents, if any, of the Limited Partners or Limited Partners and Parallel Fund Limited Partners, voting as a single group, holding the requisite percentage of Commitments or Aggregate Commitments, as applicable, and without any further action or execution by any other Person, including any Limited Partner or Parallel Fund Limited Partner, the General Partner (x) may implement and reflect any amendment, restatement, waiver or other modification of this Agreement in a writing executed solely by the General Partner, including by restating this Agreement to incorporate any such amendments, restatements, waivers or other modifications into a single, integrated document, and (y) shall be authorized and empowered by each Limited Partner, with full power of substitution, to execute, acknowledge, make, swear to, verify, deliver, record, file and/or publish all instruments and documents that may be necessary or desirable to effectuate any amendment, restatement, waiver or other modification of this Agreement. Each Limited Partner and any other party to this Agreement shall be deemed a party to and bound by any such writing executed or action taken by the General Partner reflecting such amendment, restatement, waiver or other modification of this Agreement.

Notwithstanding anything in this Agreement to the contrary, this Agreement may be amended by the General Partner without the consent of any Limited Partner (i) in order to cure any ambiguity or error, make an inconsequential revision, provide clarity or to correct or supplement any provision herein that may be defective or inconsistent with any other provisions herein, provided that no amendment pursuant to this clause (i) shall be effective if, within 10 days following notification thereof (which shall be provided at least 10 days prior to the effectiveness of any such amendment), the Advisory Board notifies the General Partner of its reasonable

determination that such amendment adversely affects any Limited Partner, including a summary of its conclusion, (ii) to effectuate the provisions of Section 3.4 and/or Section 7.14, (iii) to add any obligation, representation or warranty of the General Partner or surrender any right or power granted to the General Partner, (iv) to satisfy any general or specific requirements, comments, conditions, guidelines or opinions contained in any opinion, directive, examination, order, ruling or regulation of the Securities and Exchange Commission, the Internal Revenue Service or any other U.S. federal or state or non-U.S. governmental agency, or in any U.S. federal or state or non-U.S. statute, compliance with which the General Partner deems to be in the best interest of the Partnership, or (v) following any change in U.S. federal income tax law that would have the effect of characterizing as ordinary income to the General Partner returns that under the law in effect as of the Initial Closing Date would be characterized as capital gain or qualified dividend income, in such manner as is determined by the General Partner in good faith to provide for (A) a change in the terms applicable to the allocations or distributions of Partnership profits and losses to the General Partner to preserve the capital nature of such allocations or distributions under the law in effect as of the Initial Closing Date or otherwise to reduce the adverse impact of such change in law on the General Partner and its direct and indirect owners, and (B) any other amendments reasonably related thereto or reasonably required in connection therewith; provided that any amendment made by the General Partner pursuant to this clause (v) shall not (x) reduce the aggregate amount or materially delay the timing of distributions to which the Limited Partners are otherwise entitled under this Agreement or (y) without the consent of (1) Limited Partners representing a majority of the Commitments held by such Persons or (2) Limited Partners and Parallel Fund Limited Partners, voting as a single group, representing a majority of the Aggregate Commitments held by such Persons, have any other adverse effect on the Limited Partners as a whole; and provided further that the General Partner or the Management Company shall pay or reimburse the Partnership for any expenses incurred by the Partnership in direct connection with any amendment made by the General Partner pursuant to this clause (v). For purposes of obtaining consent to a proposed amendment, the General Partner may require a response within a specified reasonable time period (which shall not be less than 25 days), and failure by a Limited Partner to respond within such time period shall constitute a vote in favor of and consent to the proposed amendment. The General Partner shall provide the Limited Partners with written notice and a copy, to the extent not previously provided, of any amendment to this Agreement reasonably promptly following the effective date thereof. The General Partner may, in its sole discretion, choose to deliver any proposed or effective amendment described in this Section 13.1 via email and/or another electronic reporting medium in lieu of providing the Limited Partners with paper copies of such amendment; provided that the General Partner may agree in writing (which agreement shall not be a side letter or similar agreement for purposes of Section 13.8) in its sole discretion and at the request of any Limited Partner to limit the applicability of any portion of this sentence to such Limited Partner.

13.2 Successors. Except as otherwise provided herein, this Agreement shall inure to the benefit of and be binding upon the Partners and their legal representatives, heirs, successors and assigns.

13.3 Governing Law; Severability. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to the conflict of law rules thereof, and, to the maximum extent possible, in such manner as to comply with all the terms and conditions of the Partnership Act. If it is determined by a court of competent

jurisdiction that any provision of this Agreement is invalid under applicable law, such provision shall be ineffective only in such jurisdiction and only to the extent of such prohibition or invalidity, without invalidating the remainder of this Agreement.

13.4 Notices. All notices, demands and other communications to be given and delivered under or by reason of provisions under this Agreement shall be in writing and shall be deemed to have been given on the date when personally delivered, three (3) business days after being mailed by first class mail (postage prepaid and return receipt requested), when sent by facsimile or transmitted by email (if sent before 5 p.m. Newport Beach, California time on a business day (and otherwise on the next business day)), or on the date after being sent by reputable overnight courier service (charges prepaid), in each case to the recipient at the address, facsimile number or email address set forth in Schedule I or to such other address, facsimile number or email address or to the attention of such other Person as has been indicated to the General Partner in accordance with the provisions of this Section 13.4. The General Partner may agree to limit or condition the use of any particular manner of notice described herein as it relates to one or more Limited Partners at such Person's request (which agreement shall not be a side letter or similar agreement for purposes of Section 13.8).

13.5 Legal Counsel. Each Partner hereby agrees and acknowledges that:

(a) The General Partner has retained legal counsel in connection with the formation of the Partnership and expects to retain legal counsel (collectively, "Law Firms") in connection with the operation of the Partnership, including making, holding and disposing of investments.

(b) Except as otherwise agreed to by the General Partner in writing in its sole discretion, the Law Firms are not representing and will not represent the Limited Partners in connection with the formation of the Partnership, the offering of Limited Partner interests, the management and operation of the Partnership, or any dispute that may arise between the Limited Partners on one hand and the General Partner and/or the Partnership on the other (the "Partnership Legal Matters"). Except as otherwise agreed to by the General Partner in writing in its sole discretion, each Limited Partner will, if it wishes counsel on a Partnership Legal Matter, retain its own independent counsel with respect thereto and will pay all fees and expenses of such independent counsel.

13.6 Miscellaneous.

(a) Entire Agreement. This Agreement, together with each Limited Partner's subscription agreement subscribing for an interest in the Partnership, contains the entire agreement among the respective parties with respect to the subject matter hereof and supersedes all prior arrangements or understandings with respect thereto; except that, notwithstanding Section 13.1 or any other provision of this Agreement or any subscription agreement, the Partnership and/or the General Partner may enter into, perform, amend, modify, waive or terminate side letters and similar written agreements to or with any Limited Partner(s) that have the effect of adding to or modifying the respective rights and obligations with respect to the subject matter

hereof and/or the terms of this Agreement or any subscription agreement as among the parties thereto without the consent of any other Limited Partner, and no Limited Partner not a party to any particular side letter or similar agreement is intended to be a third-party beneficiary thereof. Any rights or obligations (including rights or obligations under this Agreement or any subscription agreement) established or modified in such a side letter or similar agreement shall govern solely with respect to such Limited Partners(s) (but not any such Limited Partner's assignees or transferees unless so specified in such side letter or similar agreement) notwithstanding any other provision of this Agreement or any subscription agreement.

(b) Counterparts; Delivery of Original Forms. This Agreement, the agreements referred to herein, and each other agreement or instrument entered into in connection herewith or therewith or contemplated hereby or thereby, and any amendments hereto or thereto, may be executed in any number of counterparts, any one of which need not contain the signatures of more than one party, but all of such counterparts together shall constitute one agreement, and to the extent such agreement or instrument is signed and delivered by means of a facsimile machine or other electronic transmission, it will be treated in all manner and respects as an original agreement or instrument and will be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of any party hereto or to any such agreement or instrument, each party hereto or thereto will reexecute original forms thereof and deliver them to the requesting party. No party hereto or to any such agreement or instrument will raise the use of a facsimile machine or other electronic transmission to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine or other electronic transmission as a defense to the formation or enforceability of a contract and each such party forever waives any such defense.

(c) Descriptive Headings. Descriptive headings are for convenience only and shall not control or affect the meaning or construction of any provision of this Agreement.

(d) Construction. Unless the context otherwise requires: (i) a term has the meaning assigned to it; (ii) "or" is not exclusive; (iii) words in the singular include the plural, and words in the plural include the singular; (iv) provisions apply to successive events and transactions; (v) the words "herein," "hereof" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision; (vi) all references herein to Articles, Sections, Exhibits, Schedules, paragraphs, subparagraphs and clauses shall be deemed to be references to Articles, Sections, paragraphs, subparagraphs and clauses of, and Exhibits and Schedules to, this Agreement unless the context shall otherwise require; (vii) any pronoun used in this Agreement shall include the corresponding masculine, feminine or neuter forms; (viii) the words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation"; (ix) the word "extent" in the phrase "to the extent" shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply "if"; (x) references to "$" or "dollars"

shall mean United States dollars; (xi) unless otherwise expressly provided herein, any agreement, instrument or statute defined or referred to herein or in any agreement, instrument or statute that is referred to herein means such agreement, instrument or statute as from time to time amended, modified or supplemented, including (A) in the case of agreements or instruments, by waiver or consent, and (B) in the case of statutes, by succession of comparable successor statutes, and references to all attachments thereto and instruments incorporated therein; and (xii) all references to any Partner shall mean and include such Partner and any Person duly admitted as a partner in the Partnership in substitution therefor in accordance with this Agreement, unless the context otherwise requires. Notwithstanding any other provision of this Agreement or otherwise applicable provision of law or equity, whenever in this Agreement the General Partner or any other person or entity is permitted or required to make a decision in "good faith" or under another expressed standard, such person or entity shall act under such express standard and shall not be subject to any other or different standards. Each Limited Partner acknowledges that it participated in, or had the meaningful opportunity to participate in, the negotiations and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed to be the product of meaningful individualized negotiations between the General Partner and each Limited Partner and, to the fullest extent permitted by law, no presumption or burden of proof shall arise favoring or disfavoring any Partner by virtue of the authorship of any of the provisions of this Agreement.

(e) Further Assurances. Each Limited Partner hereby covenants and agrees on behalf of itself and its successors and assigns, without further consideration, to prepare, execute, acknowledge, file, record, publish and deliver such other information, instruments, documents, tax forms and statements (including any information requested by the General Partner in relation to Code §§1471-1474) and to take such other actions as may be necessary or appropriate for the General Partner to effectively carry out the purposes of the Partnership and this Agreement.

13.7 No Third Party Beneficiaries. No Person (including creditors of the Partnership) that is not a party hereto shall have any rights or obligations pursuant to this Agreement. The provisions of this Agreement are intended to benefit the Partners and, to the fullest extent permitted by law, shall not be construed as conferring any benefit upon any creditor of the Partnership. To the fullest extent permitted by law, neither the Limited Partners nor the General Partner shall have any duty or obligation to any creditor of the Partnership to make any contribution to the Partnership or issue any Capital Call Notice or recall any distribution, except as specifically provided in this Agreement. In no event shall any provision of this Agreement be enforceable for the benefit of any Person other than the Limited Partners, the General Partner and their respective successors and assigns.

13.8 Side Letters. None of the Partnership, the Parallel Fund, the General Partner, or the Parallel Fund General Partner has entered into any side letter or similar agreement as of the Partnership Initial Closing Date with any Limited Partner or Parallel Fund Limited Partner in connection with its admission to the Partnership or the Parallel Fund, except those that only contain provisions that have been previously disclosed to the Partners. At any time after the

Partnership Initial Closing Date, should any Limited Partner or Parallel Fund Limited Partner receive any side letter or similar agreement from the Partnership, the General Partner, the Parallel Fund or the Parallel Fund General Partner that has not been previously disclosed to the Partners that contains a material economic provision materially different than the provisions contained in the previously disclosed side letters or similar agreements of the Partnership or the Parallel Fund, then each Limited Partner will be given a copy of any such side letter or similar agreement. Subject to Section 13.6(a), each Limited Partner that, together with its affiliated (including, to the extent determined by the General Partner, commonly advised) Limited Partners and Parallel Fund Limited Partners, holds Aggregate Commitments of at least $20 million shall be entitled to receive substantially the same material economic rights granted by the Partnership, the General Partner, the Parallel Fund or the Parallel Fund General Partner in any side letter or similar agreement that (a) is entered into after the initial closing date with respect to such Limited Partner's initial investment in the Partnership with another Limited Partner or Parallel Fund Limited Partner that, together with such Person's affiliated (including to the extent determined by the General Partner, commonly advised) Limited Partners and Parallel Fund Limited Partners, holds Aggregate Commitments of the same or a lesser amount as such Limited Partner and its affiliated (including to the extent determined by the General Partner, commonly advised) Limited Partners and Parallel Fund Limited Partners and (b) is not of the nature or type of a side letter or similar agreement provision previously disclosed to such Limited Partner on or prior to the date thereof; provided that (x) such Limited Partner notifies the Partnership in writing within 45 days of the date it receives a copy of such side letter or similar agreement of such desire and (y) the circumstances particular to the recipient of such new side letter or similar agreement provision which led to the rights granted in such new side letter or similar agreement provision are generally applicable to such Limited Partner. Notwithstanding the foregoing, this Section 13.8 shall not apply to any side letter or similar agreement provision that grants a Limited Partner or Parallel Fund Limited Partner the right to designate an Advisory Board (or advisory board of the Parallel Fund or any Alternative Investment Vehicle) member or observer (or grants such member or observer the right to enforce its indemnification rights pursuant to Section 6.10 or any corresponding Parallel Fund or Alternative Investment Vehicle provision) or to any expansion or other modification of the rights provided in this Section 13.8 as applicable to one or more Limited Partners. For the avoidance of doubt, if a Limited Partner Transfers all or a portion of its Limited Partner interests to a Person other than to an Affiliate of such Limited Partner, such assignee and its affiliates shall not obtain the benefits of the provisions of any side letter or similar agreement, if any, entered into by the Partnership or the General Partner with such Limited Partner or any other Person, unless otherwise agreed to by the General Partner in its sole discretion.

* * * * *

IN WITNESS WHEREOF, this Agreement has been executed and delivered by the General Partner and the Initial Limited Partner effective as of the date first above written and by each other party hereto effective as of the date that such party first acquired a Commitment.

GENERAL PARTNER:

WINDJAMMER CAPITAL INVESTORS IV, L.P.

By: Windjammer Capital Partners, LLC
Its: General Partner

By: Robert Bartholomew
Name: Robert Bartholomew
Title: Managing Principal

INITIAL LIMITED PARTNER:

Solely with respect to Section 1.1(b)

WINDJAMMER CAPITAL PARTNERS, LLC

By: Robert Bartholomew
Name: Robert Bartholomew
Title: Managing Principal

WINDJAMMER SENIOR EQUITY FUND IV, L.P.

SIGNATURE PAGE TO AGREEMENT OF LIMITED PARTNERSHIP

Limited Partner:

Commonwealth of Pennsylvania
Public School Employees'
Retirement System

By: Alan H. Van Noord, CFA
Title: Chief Investment Officer

By: Jeffrey B. Clay
Title: Executive Director

Approved for form and legality:

Deputy General Counsel
Office of General Counsel

Chief Deputy Attorney General
Office of Attorney General

Michele M. Ferencz, Chief Counsel
Public School Employees' Retirement System

WINDJAMMER SENIOR EQUITY FUND IV, L.P.

SIGNATURE PAGE TO AGREEMENT OF LIMITED PARTNERSHIP

Limited Partner:

Commonwealth of Pennsylvania
Public School Employees'
Retirement System

By: Alan H. Van Noord, CFA
Title: Chief Investment Officer

By: Jeffrey B. Clay
Title: Executive Director

Approved for form and legality:

3/15/12

Deputy General Counsel
Office of General Counsel

Chief Deputy Attorney General
Office of Attorney General

Michele M. Ferencz, Chief Counsel
Public School Employees' Retirement System

SCHEDULE I[2]

Names, Addresses and Facsimile Numbers	Commitments
General Partner: Windjammer Capital Investors IV, L.P. 610 Newport Center Drive, Suite 1100 Newport Beach, California 92660 Facsimile No.: (949) 720-4222	
Limited Partners:	
[To be inserted]	

[2] Form attached for reference purposes. Actual Schedule I to be maintained with the books and records of the Partnership at the General Partner's principal office.

2012-07

K&E Draft 2/8/12

Windjammer Capital Investors IV, L.P.
610 Newport Center Drive
Suite 1100
Newport Beach, CA 92660

[_____], 2012

Commonwealth of Pennsylvania
Public School Employees' Retirement System
Five North Fifth Street
Harrisburg, PA 17101

Re: Windjammer Senior Equity Fund IV, L.P.

Ladies and Gentlemen:

This letter is written in connection with the investment by Commonwealth of Pennsylvania Public School Employees' Retirement System ("PSERS") in Windjammer Senior Equity Fund IV, L.P., a Delaware limited partnership (the "Partnership"), pursuant to the Agreement of Limited Partnership of the Partnership, dated as of [_____], 2012 (the "Agreement") and PSERS' subscription agreement for Partnership interests (the "Subscription Agreement"). Capitalized terms used herein and not otherwise defined shall have the meanings given to them in the Agreement.

1. Immunity. The General Partner understands that PSERS reserves all immunities, defenses, rights or actions arising out of its status as a sovereign entity, including those under the Eleventh Amendment to the United States Constitution. No provision of the Agreement or the Subscription Agreement shall be construed as a waiver or limitation of such immunities, defenses, rights or actions. Nothing in this paragraph 1, however, shall relieve PSERS of any obligation it may otherwise have under the Agreement or the Subscription Agreement to make Capital Contributions or other payments to the Partnership, including, without limitation, to pay Partnership expenses, costs, losses or liabilities, or to return certain distributions to the Partnership, in each case when, as and under the terms and conditions provided in the Agreement.

2. Jurisdiction – Board of Claims. By virtue of provisions of Pennsylvania law applicable to PSERS as an agency of the Commonwealth of Pennsylvania, the General Partner hereby agrees and acknowledges that any legal proceeding involving any contract claim asserted by it or the Partnership against PSERS arising out of the Agreement or the Subscription Agreement may only be brought before and subject to the exclusive jurisdiction of the Board of Claims of the Commonwealth of Pennsylvania pursuant to 62 Pa. C.S. §§1721-1726, and that such proceeding shall be governed by the procedural rules and laws of the Commonwealth of Pennsylvania, without regard to the principles of conflicts of law.

3. Indemnification. The General Partner hereby confirms that notwithstanding anything to the contrary in the Agreement, including without limitation Section 6.10 of the

Agreement, the Agreement shall not be applied or construed to require PSERS to provide indemnification directly to any person or entity thereunder. PSERS, however, acknowledges that it is obligated as a Limited Partner to make Capital Contributions and when appropriate to return certain distributions to the Partnership pursuant to the terms of the Agreement.

4. Enabling Legislation. To the extent required by PSERS' enabling legislation set forth in 24 Pa. C.S.§8521(i) and Pennsylvania law, the liability of PSERS shall be limited to the amount of its Commitment. Notwithstanding the foregoing, nothing in the preceding sentence shall limit PSERS' obligation to make Capital Contributions and return distributions pursuant to the Agreement.

5. Distributions in Kind. If upon the liquidation of the Partnership there shall be any securities that are non-marketable, then in lieu of distributing to PSERS its share of such securities, the General Partner shall use its reasonable best efforts to dispose of such securities. In the event the General Partner is unable to dispose of such securities within a reasonable period of time, PSERS elects to decline the receipt of the proposed in-kind distribution, and the General Partner or liquidating trustee, as the case may be, shall hold such securities for the benefit of PSERS until such securities are liquidated. The General Partner shall liquidate such securities at the same time and on the same terms as the General Partner's liquidation of its own holdings of such securities. PSERS shall bear only its pro rata share of the out-of-pocket expenses incurred in connection with the holding and liquidation of such securities. The General Partner shall not allocate any non-publicly traded securities to PSERS relating to an investment from which PSERS was excused or excluded under the terms of the Agreement. PSERS acknowledges that (i) liquidations of non-cash assets under certain circumstances may result in a reduction of the amount of cash proceeds distributed to PSERS and (ii) the amount of such net proceeds received in any such sale shall not affect the value of such property for purposes of any calculation under Article IV or IX of the Agreement, and PSERS will be treated for all purposes of the Agreement as if it had received a distribution of such assets in kind in accordance with Section 3.3(a) of the Agreement contemporaneously with the other Partners rather than the net proceeds from their ultimate disposition.

6. Preservation of Records. The General Partner hereby agrees to preserve all financial and accounting records pertaining to the Agreement during the term of the Agreement and for four years thereafter, and during such period, PSERS or any other department or representatives of the Commonwealth of Pennsylvania, upon reasonable notice, shall have the right to audit such records in regard thereto to the fullest extent permitted by law. The General Partner shall have the right to preserve all records and accounts in original form or on microfilm, magnetic tape, or any similar process.

7. Auditor's Report. The General Partner agrees that it shall not knowingly and willfully take or fail to take any action that would cause the auditor's report on the annual financial statements provided by the General Partner pursuant to Section 11.3 of the Agreement to include any qualification due to scope limitation, lack of sufficient competent evidential matter, or, unless otherwise determined by the General Partner with the consent of the Advisory Board, a departure from GAAP.

8. Political Contributions. The General Partner (i) understands and acknowledges that it is subject to the reporting requirements set forth in 25 P.S. § 3260a, and (ii) if required to submit a report, confirms that it has submitted to PSERS' Executive Director a copy of its current report to the Secretary of the Commonwealth of Pennsylvania and (iii) hereby agrees to submit a copy of each required successive report to PSERS' Executive Director by February 15 of each year during the term of this letter agreement.

9. Insurance. The General Partner agrees that it will not obtain, at the expense of the Partnership, insurance that would provide for indemnification of an indemnified party for any liability with respect to which an indemnified party would not be entitled to indemnification pursuant to the Agreement and that the costs of such insurance shall be specifically apportioned to and paid by the General Partner without reimbursement by the Partnership.

10. Notice of Indemnity Claims. The General Partner hereby agrees to notify the Advisory Board in advance of any settlement of litigation that would result in an indemnification claim under the Agreement by the General Partner, the Management Company or any of their respective affiliates and shall, if so requested by any Advisory Board member, call an Advisory Board meeting to discuss such settlement.

11. Advisory Board Consultants. The Advisory Board, upon the approval of at least a majority of its members, may retain independent legal counsel, accountants and such other advisors and consultants as it deems necessary in order to adequately perform its duties under the Agreement. Without limiting the foregoing, the Advisory Board may retain any such advisors and consultants in connection with the removal of the General Partner pursuant to Section 9.5 of the Agreement. The reasonable expenses and fees of such legal counsel, accountants, advisors and consultants shall be paid by the Partnership.

12. Legal Opinions. The General Partner agrees that it will apply the definition of "Opinion of Limited Partner's Counsel" in the Agreement with respect to PSERS as if the phrase "or office of the general counsel" preceded the phrase "of the state sponsoring such Limited Partner" therein.

13. Withholding Taxes. PSERS represents to the General Partner that PSERS is a tax-exempt entity pursuant to U.S. federal, state and local laws, and has never been subject to, and is unlikely to be subject to, any tax withholding requirements under U.S. federal, state or local laws. Based solely on the foregoing representation, the General Partner will (i) not withhold taxes unless required by law (as determined by the General Partner in its reasonable discretion) and (ii) to the extent reasonably feasible and subject to any applicable requirements of law (a) provide PSERS as promptly as practical, before withholding and prior to the Partnership paying over to any U.S. federal, state or local taxing authority, or any non-U.S. taxing authority solely with respect to taxes that are determined based on the tax domicile or other characteristics of the Limited Partners rather than the Partnership or any Alternative Investment Vehicle, any amount purportedly representing a tax liability of PSERS, with a written notice of the amount proposed to be withheld by the Partnership from PSERS and (b) use reasonable efforts to provide an opportunity for PSERS to establish (at PSERS' sole expense and to the satisfaction of the General Partner in its sole discretion) the basis for a full or partial exemption from such withholding requirement; provided that in no way shall PSERS' opportunity to establish such

basis for an exemption restrict the Partnership from making any such withholding or payment; and provided further, that any such failure of or delay in payment does not subject the Partnership or the General Partner or its partners to any potential liability to such taxing authority for any claimed withholding and payment, and would not otherwise, in the reasonable judgment of the General Partner, result in adverse consequences to the Partnership or any of its Partners.

14. Placement Agents. PSERS hereby represents to the General Partner that the provisions of this paragraph 14 are required by PSERS' written formal investment policy:

(a) The General Partner hereby confirms that it has disclosed to PSERS in writing whether or not the General Partner has used a Placement Agent in connection with PSERS' investment in the Partnership. A "Placement Agent" under this paragraph 14 is any person (excluding regular, full-time employees of the General Partner and/or its affiliates) or entity hired, engaged, or retained by or acting on behalf of the General Partner or on behalf of another Placement Agent as a finder, solicitor, marketer, consultant, broker, lobbyist, or other intermediary to raise money or investments from or to obtain access to PSERS directly or indirectly. In the event that the General Partner has used a Placement Agent in connection with PSERS' investment in the Partnership, the General Partner also confirms that it has provided full and accurate written disclosure to PSERS of the following:

- resumes for each officer, partner, or principal of the Placement Agent, with a section that specifically notes whether such person is a current or former member of the Public School Employees' Retirement Board or PSERS' staff, or a member of the immediate family of such person;
- description of the arrangement with the Placement Agent, including any compensation or other considerations;
- description of the services performed or to be performed;
- whether or not the Placement Agent was utilized for all prospective clients or only a subset of clients;
- copy of all agreements with the Placement Agent;
- names of any parties related to PSERS who suggested the retention of the Placement Agent (including, without limitation, current and former members of the Public School Employees' Retirement Board or PSERS' staff, and investment consultants);
- statement of whether the Placement Agent is registered with the U.S. Securities and Exchange Commission or is a member of the Financial Industry Regulatory Authority and, if not, why;
- statement of whether the Placement Agent is registered as a lobbyist with any state; and
- any other information deemed pertinent and requested by PSERS.

The General Partner acknowledges and agrees that it shall not cause PSERS to bear directly or indirectly any Placement Agent fee or expense, finder's fee, or any similar fee or expense regardless of whether a Placement Agent was used in connection with either an investment in the Partnership by PSERS or with an investment in the Partnership by any other investor (it being understood that acting as contemplated in the immediately succeeding sentence shall not be a breach of this sentence). In the event that the General Partner passes on any such fee or expense

to PSERS, the General Partner shall immediately provide a dollar-for-dollar offset against future management fees or other form of remuneration that the General Partner charges to PSERS until the full amount of such fee is offset (it being understood that treating PSERS on a *pari passu* basis with other Limited Partners with respect to such fees and offsets shall not be a breach of this sentence).

(b) The General Partner shall provide an update within five business days of any changes to the representations or information previously provided to PSERS, in each case pursuant to this paragraph 14.

(c) The General Partner further acknowledges and agrees that any material omission or inaccuracy in information submitted by the General Partner under this section shall result in the following:

(i) Reimbursement or payment of the greater of the prior two years of management fees paid with respect to PSERS' Commitment or an amount equal to the amounts paid or promised to be paid to the Placement Agent by the General Partner with respect to the PSERS' Commitment; and

(ii) PSERS shall have the discretion to cease making further Capital Contributions for new Investments (and paying fees on its uncalled Commitment).

15. Annual Auditor Confirmation. The General Partner shall use its commercially reasonable efforts to cause the Partnership's auditor to confirm annually that, based upon such inquiries and procedures as such auditor reasonably considers appropriate, the allocations and distributions made to the Investor by the Partnership during the preceding fiscal year, and the Investor's Capital Account balance as of the end of the preceding fiscal year, have been calculated in a manner consistent with the Agreement.

This letter agreement constitutes a valid and binding obligation of PSERS and the Partnership, enforceable against each of them in accordance with law. This letter agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to principles of conflict of laws. In the event of a conflict between the provisions of this letter agreement and the Agreement, the provisions of this letter agreement shall control. This letter agreement may be executed in multiple counterparts which, taken together, shall constitute one and the same agreement.

* * * * *

If the above correctly reflects our understanding and agreement with respect to the foregoing matters, please so confirm by signing the enclosed copy of this letter agreement.

WINDJAMMER CAPITAL INVESTORS IV, L.P.

By: Windjammer Capital Partners, LLC
Its: General Partner

By: _____
Name: Jeffrey L. Cunningham
Title: CFO

WINDJAMMER SENIOR EQUITY FUND IV, L.P.

SIGNATURE PAGE TO SIDE LETTER

Limited Partner:

Commonwealth of Pennsylvania
Public School Employees'
Retirement System

By: Alan H. Van Noord, CFA
Title: Chief Investment Officer

By: Jeffrey B. Clay
Title: Executive Director

Approved for form and legality:

3/15/12
Deputy General Counsel
Office of General Counsel

Chief Deputy Attorney General
Office of Attorney General

Michele M. Ferencz, Chief Counsel
Public School Employees' Retirement System

WINDJAMMER SENIOR EQUITY FUND IV, L.P.

SIGNATURE PAGE TO SIDE LETTER

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Public School Employees'
Retirement System

By: Alan H. Van Noord, CFA
Title: Chief Investment Officer

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Title: Executive Director

Approved for form and legality:

Deputy General Counsel
Office of General Counsel

Chief Deputy Attorney General
Office of Attorney General

Michele M. Ferencz, Chief Counsel
Public School Employees' Retirement System

Windjammer Capital Investors IV, L.P.
610 Newport Center Drive
Suite 1100
Newport Beach, CA 92660

[_____], 2012

Commonwealth of Pennsylvania
Public School Employees' Retirement System
Five North Fifth Street
Harrisburg, PA 17101

Re: Windjammer Senior Equity Fund IV, L.P.

Ladies and Gentlemen:

This letter is written in connection with the investment by Commonwealth of Pennsylvania Public School Employees' Retirement System ("PSERS") in Windjammer Senior Equity Fund IV, L.P., a Delaware limited partnership (the "Partnership"), pursuant to the Agreement of Limited Partnership of the Partnership, dated as of [____], 2012 (the "Agreement") and PSERS' subscription agreement for Partnership interests (the "Subscription Agreement"). Capitalized terms used herein and not otherwise defined shall have the meanings given to them in the Agreement.

1. Advisory Board. The General Partner agrees to appoint one representative designated by PSERS to serve on the Advisory Board and to accept a successor appointee designated by PSERS in the event such representative is removed or is no longer able to serve. The General Partner acknowledges that pursuant to Section 8.1(c) of the Agreement, the Partnership is obligated to reimburse PSERS' representative serving on the Advisory Board for his or her reasonable out-of-pocket expenses incurred in connection with attending Advisory Board meetings, including any such meetings that are held in conjunction with a general meeting of the Limited Partners. PSERS shall cause its representative serving on the Advisory Board to maintain the confidentiality of information received in connection therewith to the same extent as PSERS is required to do so pursuant to the Agreement.

2. Most Favored Nation. The General Partner agrees that for purposes of determining PSERS' rights pursuant to Section 13.8 of the Agreement, such Section shall be applied as if the second sentence thereof did not contain the words "material" and "materially".

3. Confidentiality. The General Partner acknowledges that PSERS is an administrative agency of the Commonwealth of Pennsylvania and may be required by law, including 24 Pa.C.S. §8502(e) and 65 P.S. §§67.101-67.3104 (Right-to-Know Law), to disclose to the public certain information that may be considered confidential under the Agreement ("Disclosure Obligations"). Therefore, notwithstanding anything to the contrary in the Agreement or in the Subscription Agreement, the General Partner hereby agrees that PSERS, without prior notice to or approval of the General Partner, may disclose its Disclosure

Obligations to the public and exclude sensitive investment or financial information from public disclosure to the extent permitted in 24 Pa.C.S. §8502(e). The General Partner further acknowledges that PSERS may be required by law to disclose other information to the public. PSERS will not, without the prior written consent of the General Partner, disclose any information regarding other Limited Partners, the identity, performance, or value of any Portfolio Company, proprietary business information relating to the services or products of any Portfolio Company, or the Partnership's pending acquisition or pending disposition of a Portfolio Company or proposed investment in a Portfolio Company. In the event PSERS discloses any information relating to the financial performance of the Partnership, PSERS shall not indicate, suggest or otherwise imply that such information has been prepared by the Partnership, the General Partner or any of their affiliates. None of the General Partner, the Partnership or any of their affiliates will have any responsibility or liability to PSERS in connection with any disclosures made by PSERS pursuant to this paragraph 3.

4. Advisory Board Disclosure. The General Partner shall provide to each Advisory Board member or observer (to the extent not previously provided to such member or observer), no later than 60 days following the Final Closing Date, copies of all provisions that would be "side letters" or "similar agreements" for purposes of Section 13.8 of the Agreement but for their express exclusion from such treatment pursuant to the provisions of the Agreement.

5. Acknowledgment. The General Partner acknowledges (i) that it has fiduciary duties to the Partnership and the Partners and (ii) that, consistent with Delaware law, any modification or reduction of Delaware common law fiduciary duties by the terms of the Agreement are effected by the clear and unambiguous language of Sections 6.9, 6.10, 6.11, 6.12, 6.14, 7.10, 7.11 and 8.1(d); provided that any conflict of interest that may arise under said sections shall be subject to full disclosure to the Advisory Board to the extent provided in the Agreement.

This letter agreement constitutes a valid and binding obligation of PSERS and the Partnership, enforceable against each of them in accordance with law. This letter agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to principles of conflict of laws. In the event of a conflict between the provisions of this letter agreement and the Agreement, the provisions of this letter agreement shall control. This letter agreement may be executed in multiple counterparts which, taken together, shall constitute one and the same agreement.

* * * * *

If the above correctly reflects our understanding and agreement with respect to the foregoing matters, please so confirm by signing the enclosed copy of this letter agreement.

WINDJAMMER CAPITAL INVESTORS IV, L.P.

By: Windjammer Capital Partners, LLC
Its: General Partner

By: _____
Name: Jeffrey J. Dunnigan
Title: VP CFO

WINDJAMMER SENIOR EQUITY FUND IV, L.P.

SIGNATURE PAGE TO SIDE LETTER

Limited Partner:

Commonwealth of Pennsylvania
Public School Employees'
Retirement System

By: Alan H. Van Noord, CFA
Title: Chief Investment Officer

By: Jeffrey B. Clay
Title: Executive Director

Approved for form and legality:

3/15/12

Deputy General Counsel
Office of General Counsel

Chief Deputy Attorney General
Office of Attorney General

Michele M. Ferencz, Chief Counsel
Public School Employees' Retirement System

WINDJAMMER SENIOR EQUITY FUND IV, L.P.

SIGNATURE PAGE TO SIDE LETTER

Limited Partner:

Commonwealth of Pennsylvania
Public School Employees'
Retirement System

By: Alan H. Van Noord, CFA
Title: Chief Investment Officer

By: Jeffrey B. Clay
Title: Executive Director

Approved for form and legality:

Deputy General Counsel
Office of General Counsel

Chief Deputy Attorney General
Office of Attorney General

Michele M. Ferencz, Chief Counsel
Public School Employees' Retirement System

2012-07

WINDJAMMER SENIOR EQUITY FUND IV, L.P.

Private Placement of
Limited Partner Interests

SUBSCRIPTION BOOKLET

WINDJAMMER SENIOR EQUITY FUND IV, L.P.

INSTRUCTIONS FOR SUBSCRIBERS

This Subscription Booklet contains:

(i) a Subscription Agreement (the "Subscription Agreement"),

(ii) a Power of Attorney (the "Power of Attorney"),

(iii) two forms of an Investor Qualification Statement (the "IQS"), and

(iv) a Form W-9 of the Internal Revenue Service and the various Forms W-8.

Please print and return in its entirety each of the documents referenced in Items (i) through (iv). *Each* of the above-mentioned documents must be completed and properly executed (including suitable notarization of the Power of Attorney), by or on behalf of the person or entity making the investment (the "Subscriber") before a subscription will be accepted; provided that the Form W-9 is only required for United States persons (and the Form W-8 is only required for non-United States persons) (See "Taxpayer Identification Number and Certification" instructions below). In addition, a Privacy Notice (the "Privacy Notice") is included at the end of this Subscription Booklet.

Please direct any questions regarding the terms and provisions of this offering or regarding the subscription procedure to Jeff Dunnigan (949/720-4211 or jeff@windjammercapital.com) of Windjammer Capital Investors IV, L.P. or Justin W. Solomon (312/862-7125 or justin.solomon@kirkland.com) of Kirkland & Ellis LLP.

General Instructions

1. **Subscription Agreement.** On the signature page to the Subscription Agreement fill in: (a) the date the Subscription Agreement was signed by or on behalf of the Subscriber, (b) the total amount of the Subscriber's desired commitment, (c) the Subscriber's contact information, (d) the Subscriber's printed name, (e) the Subscriber's signature (or in the case of an authorized representative signing on behalf of an entity, such person's signature and title as an authorized representative), and (f) the Subscriber's social security number or tax identification number, as applicable. The Subscription Agreement signature page does *not* need to be notarized.

2. **Power of Attorney.** On the Power of Attorney signature page fill in: (a) the date the Power of Attorney was signed by (or on behalf of) the Subscriber, (b) the Subscriber's printed name, (c) the Subscriber's signature (or, in the case of an authorized representative signing on behalf of an entity, such person's signature and title as an authorized representative), and (d) the Subscriber's social security number or tax identification number, as applicable. *The Power of Attorney must be duly executed by or on behalf of the Subscriber and must be notarized.*

3. **Investor Qualification Statement (IQS).** Two forms of the IQS are included in this Subscription Booklet.

(a) IQS for Individuals. The IQS for Individuals must be completed by any Subscriber that is a natural person (*i.e.,* an individual) or a natural person investing through a *revocable* grantor trust, an individual retirement account or a self-directed employee benefit plan. In the event the Subscriber consists of more than one natural person subscribing as joint tenants or tenants in common (other than a husband and wife subscribing as joint tenants), each should complete a separate IQS. If you are a husband and wife subscribing as joint tenants, only one IQS for Individuals is required.

(b) IQS for Entities. The IQS for Entities must be completed by any Subscriber that is a corporation, partnership, limited liability company, trust, retirement system or similar entity, and, as applicable, such Subscriber must comply with the additional requirements set forth in the footnotes to the IQS, which may require that an IQS also be prepared for one or more additional persons or entities.

(c) IQS Signature Page. On each applicable signature page fill in: (i) the date the IQS was signed by (or on behalf of) the Subscriber, (ii) the Subscriber's printed name and (iii) the Subscriber's signature (or, in the case of an authorized representative signing on behalf of a Subscriber that is not an individual, such representative's signature and title as an authorized representative). This signature page does *not* need to be notarized or witnessed.

4. **Instruction for Attorneys-In-Fact Signing on behalf of a Subscriber.** If any of the subscription documents included or referenced in this Subscription Booklet are executed for a Subscriber by its attorney-in-fact, a copy of the applicable power of attorney must be provided to Kirkland & Ellis LLP together with the executed subscription documents. In addition, the signatory must clearly disclose any principal/agent relationship by indicating in the signature block that such party is signing as an agent (*e.g.*, "(name of agent) as agent for (name of principal)").

5. **Taxpayer Identification Number and Certification.** For purposes of this paragraph 5, "United States person" means (i) a United States citizen or resident, (ii) a partnership, corporation or limited liability company organized under United States law, (iii) a United States estate (or any other estate whose income from sources outside of the United States is subject to United States federal income tax regardless of the source) or (iv) a trust (A) if a court within the United States is able to exercise primary supervision over the trust's administration and one or more United States persons have the authority to control all of its substantial decisions or (B) if a valid election to be treated as a United States person is in effect with respect to such trust.

(a) United States Persons: Each Subscriber that is a "United States person" (as well as each beneficial owner of any amounts expected to be paid or allocated for United States federal income tax purposes to a Foreign Flow-Through Subscriber (a "Beneficial Owner") if such Beneficial Owner is a United States person) must complete a Form W-9. For purposes of this paragraph 5, "Foreign Flow-Through Subscriber" means any Subscriber organized as a flow-through entity (as defined in Section 3(l) of the enclosed Subscription Agreement) that is not a "United States person." These forms are necessary for the Partnership to comply with its tax filing obligations and to establish that the Subscriber or Beneficial Owner, as the case may be, is not subject to certain withholding tax obligations applicable to non-United States persons. The completed forms should be returned with the Subscriber's Subscription Agreement. ***Do not send them to the IRS.***

(b) Non-United States Persons: Subscribers and Beneficial Owners (as defined above) that are not "United States persons" are required to provide information about their status for withholding tax purposes on Form W-8BEN (for non-United States Beneficial Owners), Form W-8IMY (for non-United States intermediaries, flow-through entities, and certain United States branches), Form W-8EXP (for non-United States governments, non-United States central banks of issue, non-United States tax-exempt organizations, non-United States private foundations, and governments of certain United States possessions), or Form W-8ECI (for non-"United States persons" receiving income that is effectively connected with the conduct of a trade or business in the United States), as more specifically described in the instructions accompanying those forms. Any Subscriber or Beneficial Owner that is not a "United States person" must also provide a United States taxpayer identification number on the applicable Form

W-8. The various Forms W-8 are attached. Subscribers may also access the IRS website (www.irs.gov) to obtain the appropriate Form W-8 and its instructions. The completed forms should be returned with the Subscriber's Subscription Agreement. ***Do not send them to the IRS.***

6. **Privacy Notice (only for natural persons and certain entities that are "alter egos" of natural persons)** The Privacy Notice, which is provided to the Subscriber as a result of the privacy notice and disclosure regulations promulgated under applicable U.S. federal law, explains the manner in which the Partnership collects, utilizes and maintains nonpublic personal information about each Subscriber. The Privacy Notice applies only to Subscribers who are natural persons and to certain entities that are essentially "alter egos" of natural persons (e.g., revocable grantor trusts, individual retirement accounts or certain estate planning vehicles).

Returning Subscription Materials for the Closing

The initial closing of this subscription is presently anticipated to take place as soon as is practical. All subscription documents (including suitable notarization of the Power of Attorney) are to be executed and returned to Seth Fishman of Kirkland & Ellis LLP at the following address:

Kirkland & Ellis LLP
300 North LaSalle
Chicago, IL 60654
Attn.: Seth Fishman
Fax: (312) 862-2200
Email: seth.fishman@kirkland.com

Please print and return in its entirety each of the documents referenced in Items (i) through (iv) of the Instructions for Subscribers.

Windjammer Capital Investors IV, L.P. reserves the right at any time to accept or reject all or any portion of any subscription in its sole discretion. If a subscription is rejected in its entirety, all subscription documents will be returned to the Subscriber. If a subscription is accepted, the Subscriber will receive (i) a copy of the accepted Subscription Agreement, including the General Partner Acceptance Page, (ii) a copy of the executed Agreement of Limited Partnership of Windjammer Senior Equity Fund IV, L.P., and (iii) a copy of the Kirkland & Ellis LLP opinion.

Public Schoool Employees' Retirement System

Name of Subscriber
(Please Print or Type)

WINDJAMMER SENIOR EQUITY FUND IV, L.P.

SUBSCRIPTION AGREEMENT

1. Agreement of Subscriber to Become a Limited Partner. The undersigned subscriber (the "Subscriber") hereby agrees (i) to become a limited partner in Windjammer Senior Equity Fund IV, L.P., a limited partnership formed under the laws of the State of Delaware (the "Partnership") on the terms of the Agreement of Limited Partnership under which the Partnership is constituted, as the same may be amended, modified and/or restated from time to time in accordance with its terms (the "Partnership Agreement"), (ii) to adhere to, comply with and be bound by the terms of the Partnership Agreement, including the power of attorney granted therein, and (iii) to make aggregate cash contributions to the capital of the Partnership pursuant to a "Commitment" (as defined in the Partnership Agreement) in the aggregate commitment amount accepted by Windjammer Capital Investors IV, L.P., the general partner of the Partnership (the "General Partner"), which amount shall be set forth above the General Partner's signature on an acceptance (the "General Partner Acceptance Page") that references this subscription agreement (this "Subscription Agreement"), and which accepted commitment amount shall in no event be more than the requested commitment amount set forth above the Subscriber's signature on the signature page to this Subscription Agreement; provided if the commitment amount in the General Partner Acceptance Page is left blank, the requested commitment amount set forth above the Subscriber's signature on the signature page to this Subscription Agreement instead shall be the accepted commitment amount (the "Commitment" and, collectively with the amounts that the other partners in the Partnership have agreed to contribute to the capital of the Partnership, and in each case the General Partner has agreed to accept, the "Commitments"). The Subscriber agrees to fund its Commitment in such amounts, at such times and in such manner as called for by the General Partner in accordance with the Partnership Agreement. The General Partner's acceptance of this Subscription Agreement shall bind the Subscriber as a Limited Partner and a party to the Partnership Agreement and, following such acceptance, the Subscriber shall be admitted as a Limited Partner and shall have all the rights of, and shall comply with all the obligations of, a Limited Partner as set out in the Partnership Agreement. The General Partner may accept in its sole discretion all or any portion of the requested commitment amount set forth above the Subscriber's signature on the signature page to this Subscription Agreement and may accept all or any remaining portion of such requested commitment amount at one or more subsequent closings, in each case as reflected on the original General Partner Acceptance Page or an additional General Partner Acceptance Page with respect to such remaining portion then accepted, by execution and delivery to the Partnership of such General Partner Acceptance Page or notice to the Partnership of the execution thereof. Prompt notice of such acceptance also will be given to the Subscriber either by delivery of a copy of the applicable General Partner Acceptance Page signed by the General Partner or other notice of such execution. If so accepted, this Subscription Agreement may not be canceled, terminated or revoked by the Subscriber, except as explicitly provided for by law in

certain jurisdictions outside the United States. Unless otherwise defined herein, capitalized terms used in this Subscription Agreement will have the meanings given to such terms in the Partnership Agreement.

2. Investor Qualification Statement and Tax Forms. The Subscriber represents, warrants and agrees that all of the statements, answers and information in the Investor Qualification Statement that the Subscriber has completed (together with all similar and/or related statements and/or agreements required to be completed with respect to the Subscriber's Commitment (e.g., by certain direct or indirect owners or control persons or entities), the "Investor Qualification Statement") and each Form W-9, Form W-8BEN, Form W-8IMY, Form W-8EXP, and Form W-8ECI that the Subscriber has delivered to the General Partner (collectively, the "Tax Forms") are true and correct as of the date hereof, will be true and correct as of the date and/or dates of the acceptance of this subscription and, as of each such date, do not and will not omit to state any material fact necessary in order to make the statements contained therein not misleading.

3. Representations, Warranties and Covenants of the Subscriber. In connection with the Subscriber's agreement to subscribe for limited partner interests in the Partnership (the "Interests"), the Subscriber represents, warrants and covenants to the General Partner as of the date hereof and through and including each date that this Subscription Agreement is accepted in whole or in part by the General Partner as follows:

(a) Authorization.

(i) If the Subscriber is a natural person or if beneficial ownership of the Subscriber is held by an individual through a revocable grantor trust or an individual retirement account, the Subscriber or the Subscriber's beneficial owner is at least twenty-one (21) years old and it is within the Subscriber's right, power and capacity to execute this Subscription Agreement, the Power of Attorney and the Investor Qualification Statement, to invest in the Partnership and to fund its Commitment as contemplated by this Subscription Agreement and the Partnership Agreement. If the Subscriber lives in a community property state in the United States, either (1) the source of the Subscriber's Commitment will be the Subscriber's separate property and the Subscriber will hold the Interests as separate property, or (2) the Subscriber has the authority alone to bind the community with respect to this Subscription Agreement, the Power of Attorney and all agreements contemplated hereby.

(ii) If the Subscriber is a corporation, limited liability company, partnership, trust, retirement system or other entity, the Subscriber is duly organized, formed or incorporated, as the case may be, and the Subscriber is authorized, empowered and qualified to execute this Subscription Agreement and the Investor Qualification Statement, to invest in the Partnership and to fund its Commitment as contemplated by this Subscription Agreement and the

Partnership Agreement. The individual signing this Subscription Agreement, the Power of Attorney and the Investor Qualification Statement and all agreements contemplated hereby on the Subscriber's behalf has been duly authorized to do so.

(b) Execution; Binding Obligation. The Partnership Agreement shall become binding upon the Subscriber on the later of (i) the date of the Partnership Agreement and (ii) the date, if any, that the General Partner accepts this subscription in whole or in part. Each of this Subscription Agreement, the Partnership Agreement (including Section 12.2 thereof), the Investor Qualification Statement and the Power of Attorney is a valid and binding agreement or instrument, as applicable, enforceable against the Subscriber in accordance with its terms. The Subscriber understands that, upon acceptance by the General Partner and except as explicitly provided for by law in certain jurisdictions outside the United States, the Subscriber is not entitled to cancel, terminate or revoke this Subscription Agreement or any of the powers conferred herein. The Subscriber represents and warrants that the Power of Attorney granted by the Subscriber in connection with this Subscription Agreement has been executed by it in compliance with the laws of the state or jurisdiction in which this Subscription Agreement was executed and to which the Subscriber is subject. The Subscriber hereby covenants and agrees on behalf of itself and its successors and assigns, without further consideration, to prepare, execute, acknowledge, file, record, publish and deliver such other instruments, documents and statements and to take such other actions as the General Partner may determine to be necessary or appropriate to effectuate and carry out the purposes of this Subscription Agreement, the Investor Qualification Statement and the Partnership Agreement.

(c) No Conflict. The execution and delivery of and/or adherence to, as applicable, this Subscription Agreement, the Investor Qualification Statement, the Power of Attorney and the Partnership Agreement by or on behalf of the Subscriber, the consummation of the transactions contemplated hereby and the performance of the Subscriber's obligations under this Subscription Agreement, the Power of Attorney and the Partnership Agreement will not conflict with, or result in any violation of or default under, any provision of any governing instrument applicable to the Subscriber, or any agreement or other instrument to which the Subscriber is a party or by which the Subscriber or any of its properties are bound, or any United States or non-United States permit, franchise, judgment, decree, statute, order, rule or regulation applicable to the Subscriber or the Subscriber's business or properties.

(d) Offering Materials and Other Information. The Subscriber has received and read a copy of the confidential Private Placement Memorandum of the Partnership, dated as of October 2011 (as amended and supplemented on or prior to the initial acceptance date for this subscription, the "Private Placement Memorandum"), this Subscription Agreement and the copy of the Partnership Agreement provided to the Subscriber before the General Partner's initial acceptance of any of the Subscriber's requested commitment amount (collectively, the "Offering

Materials") as well as Form ADV Part II for Windjammer Management Partners, L.P., and the Subscriber has relied on nothing other than the Offering Materials in deciding whether to make an investment in the Partnership. In addition, the Subscriber acknowledges that the Subscriber has been given the opportunity to (i) ask questions and receive satisfactory answers concerning the terms and conditions of the offering, (ii) perform its own independent investigations and (iii) obtain additional information in order to evaluate the merits and risks of an investment in the Partnership and to verify the accuracy of the information contained in the Offering Materials. No statement, printed material or other information that is contrary to the information contained in the Offering Materials has been given or made by or on behalf of the General Partner and/or the Partnership to the Subscriber. The Subscriber has consulted to the extent deemed appropriate by the Subscriber with the Subscriber's own advisers as to the financial, tax, legal, accounting, regulatory and related matters concerning an investment in the Interests and on that basis understands the financial, tax, legal, accounting, regulatory and related consequences of an investment in the Interests, and believes that an investment in the Interests is suitable and appropriate for the Subscriber.

(e) No Registration of Interests. The Subscriber understands that the Interests have not been, and will not be, registered under the United States Securities Act of 1933, as amended (the "Securities Act"), or any state or non-United States securities laws, and are being offered and sold in reliance upon United States federal, state and applicable non-United States exemptions from registration requirements for transactions not involving a public offering. The Subscriber recognizes that reliance upon such exemptions is based in part upon the representations of the Subscriber contained in this Subscription Agreement, the Investor Qualification Statement and the Tax Forms. The Subscriber represents and warrants that the Interests will be acquired by the Subscriber solely for the account of the Subscriber, for investment purposes only and not with a view to the distribution thereof. The Subscriber represents and warrants that the Subscriber (i) is a sophisticated investor with the knowledge and experience in business and financial matters to enable the Subscriber to evaluate the merits and risks of an investment in the Partnership, (ii) is able to bear the economic risk and lack of liquidity of an investment in the Partnership and (iii) is able to bear the risk of loss of its entire investment in the Partnership. The Subscriber's Commitment, together with the Subscriber's other investments that are not readily marketable, is not disproportionate to the Subscriber's net worth.

(f) Regulation D under the Securities Act. The Subscriber is an "accredited investor" as that term is defined in Regulation D promulgated under the Securities Act ("Regulation D").

(g) Investment Company Act Matters. The Subscriber understands that: (i) the Partnership does not intend to register as an investment company under the United States Investment Company Act of 1940, as amended, and the rules and regulations promulgated thereunder (the "Investment Company Act"), and (ii) the

Subscriber will not be afforded the protections provided to investors in registered investment companies under the Investment Company Act. Except as expressly indicated on the Investor Qualification Statement, the Subscriber was not formed or reformed (as interpreted under the Investment Company Act) for the specific purpose of making an investment in the Partnership, and, under the ownership attribution rules promulgated under Section 3(c)(1) of the Investment Company Act, no more than one person will be deemed a beneficial owner of the Subscriber's Partnership Interest. The Subscriber is a "qualified purchaser" as that term is defined under the Investment Company Act.

(h) Acknowledgement of Risks; Restrictions on Transfer. The Subscriber recognizes that: (i) an investment in the Partnership involves certain risks, (ii) the Interests will be subject to certain restrictions on transferability as described in the Partnership Agreement and (iii) as a result of the foregoing, the marketability of the Interests will be severely limited. The Subscriber agrees that it will not transfer, sell, assign, pledge, encumber, mortgage, divide, hypothecate or otherwise dispose of all or any portion of the Interests in any manner that would violate the Partnership Agreement, the Securities Act or any United States federal or state or non-United States securities laws or subject the Partnership or the General Partner or any of its affiliates to regulation under (or make materially more burdensome for such Person any regulatory requirement under) the Investment Company Act or the United States Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder (the "Investment Advisers Act"), the rules and regulations of the U.S. Securities and Exchange Commission or the laws and regulations of any United States federal, state or municipal authority or any non-United States governmental authority having jurisdiction thereover.

(i) Additional Investment Risks. The Subscriber is aware that: (i) the Partnership has no financial or operating history, (ii) investment returns set forth in the Private Placement Memorandum or in any supplemental letters or materials thereto are not necessarily comparable to or indicative of the returns, if any, that may be achieved on investments made by the Partnership, (iii) the General Partner or a person or entity selected by the General Partner (which may be a manager, member, shareholder, partner or affiliate thereof) will receive substantial compensation in connection with the management of the Partnership, and (iv) no United States federal, state or local or non-United States agency, governmental authority or other person has passed upon the Interests or made any finding or determination as to the fairness of this investment.

(j) No Public Solicitation of Subscriber. The Subscriber confirms that it is not subscribing for any Interest as a result of any form of general solicitation or general advertising, including (i) any advertisement, article, notice or other communications published in any newspaper, magazine or similar media (including any internet site that is not password protected) or broadcast over television or radio or (ii) any seminar or meeting whose attendees were invited by any general solicitation or general advertising.

(k) Investment Advisers Act Matters. The Subscriber, as well as any direct or indirect beneficial owner of the Subscriber that would be identified as a "client" under Rule 205-3 under the Investment Advisers Act, is a "qualified client" within the meaning of the Investment Advisers Act and the rules and regulations promulgated thereunder. The Subscriber agrees that the General Partner and the Partnership may provide in any electronic medium (including via email or website access) any disclosure or document that is required by applicable law to be provided to the Subscriber. In addition, the Subscriber hereby agrees that the board or committee designated in the Partnership Agreement to provide Investment Advisers Act approvals on behalf of the Subscriber is appointed and authorized to do so on behalf of the Subscriber, including, without limitation, any approvals required under Section 206(3) of the Investment Advisers Act and any consent to a transaction that would result in any "assignment" (within the meaning of the Investment Advisers Act) with respect to the General Partner.

(l) Tax Status of Flow-Through Subscriber. If the Subscriber is a partnership, a limited liability company treated as a partnership for United States federal income tax purposes, a grantor trust (within the meaning of Sections 671-679 of the United States Internal Revenue Code of 1986, as amended (the "Code")) or an S corporation (within the meaning of Code §1361) (each a "flow-through entity"), the Subscriber represents and warrants that either:

(i) no person or entity will own, directly or indirectly through one or more flow-through entities, an interest in the Subscriber such that more than 70% of the value of such person's or entity's interest in the Subscriber is attributable to the Subscriber's investment in the Partnership; or

(ii) if one or more persons or entities will own, directly or indirectly through one or more flow-through entities, an interest in the Subscriber such that more than 70% of the value of such person's or entity's interest in the Subscriber is attributable to the Subscriber's investment in the Partnership, neither the Subscriber nor any such person or entity has or had any intent or purpose to cause such person (or persons) or entity (or entities) to invest in the Partnership indirectly through the Subscriber in order to enable the Partnership to qualify for the 100-partner safe harbor under U.S. Department of Treasury Reg. §1.7704-1(h).

(m) Benefit Plan Investor Status of Subscriber. The Subscriber represents and warrants that, except as disclosed by the Subscriber to the General Partner in the Investor Qualification Statement, the Subscriber is not (i) an "employee benefit plan" that is subject to Title I of the United States Employee Retirement Income Security Act of 1974, as amended ("ERISA"), (ii) an individual retirement account or annuity or other "plan" that is subject to Code §4975, or (iii) a fund of funds, an insurance company separate account or an insurance company general account or another entity or account (such as a group trust), in each case whose

underlying assets are deemed under the U.S. Department of Labor regulation codified at 29 C.F.R. § 2510.3-101, as modified by Section 3(42) of ERISA (the "Plan Asset Regulation"), to include "plan assets" of any "employee benefit plan" subject to ERISA or "plan" subject to Code §4975 (each of (i) through (iii), a "Benefit Plan Investor"). If the Subscriber has indicated in the Investor Qualification Statement that it is not a Benefit Plan Investor, it represents, warrants and covenants that it shall not become a Benefit Plan Investor for so long as it holds Interests.

If the Subscriber is (x) a Benefit Plan Investor or (y) a governmental plan or other retirement arrangement (collectively with Benefit Plan Investors, "Plans"), the Subscriber makes the following representations, warranties and covenants:

(A) The Plan's decision to invest in the Partnership was made by duly authorized fiduciaries in accordance with the Plan's governing documents, which fiduciaries are independent of the Partnership, the General Partner, the Management Company, and their affiliates. No advice or recommendations of the Partnership, the General Partner, the Management Company, or any of their affiliates was relied upon by such fiduciaries in deciding to invest in the Partnership. Such fiduciaries have considered any fiduciary duties or other obligations arising under ERISA, Code §4975 and any other non-U.S., federal, state or local law substantially similar to ERISA or Code §4975 ("Similar Law"), including any regulations, rules and procedures issued thereunder and related judicial interpretations, in determining to invest in the Partnership, and such fiduciaries have determined that an investment in the Partnership is consistent with such fiduciary duties and other obligations.

(B) No discretionary authority or control was exercised by the Partnership, the General Partner, the Management Company, or any of their affiliates in connection with the Plan's investment in the Partnership. No individualized investment advice was provided to the Plan by the Partnership, the General Partner, the Management Company, or their affiliates based upon the Plan's investment policies or strategies, overall portfolio composition or diversification with respect to its investment in the Partnership.

(C) The Subscriber acknowledges and agrees that the Partnership does not intend to hold plan assets of the Plan and that none of the Partnership, the General Partner, the Management Company, or any of their affiliates will act as a fiduciary to the Plan under ERISA, the Code or any Similar Law with respect to the Subscriber's purchase or retention of an Interest in the Partnership or the management or operation of the Partnership.

(D) Assuming the assets of the Partnership are not "plan assets" within the meaning of Section 3(42) of ERISA, the Subscriber's acquisition and holding of Interests will not constitute or result in a non-exempt

"prohibited transaction" under ERISA or Code §4975 or a violation of any Similar Law.

(E) The information provided in Part IV of the Investor Qualification Statement, if the Subscriber is a natural person or alter-ego thereof, or Part V of the Investor Qualification Statement, if the Subscriber is an entity, is true and accurate as of the date hereof; such information will remain true and accurate for so long as the Subscriber holds Interests in the Partnership; and the Subscriber agrees to notify the Partnership immediately if it has any reason to believe that it is or may be in breach of the foregoing representation and covenant.

(n) Anti-Money Laundering and Anti-Boycott Matters. The Subscriber acknowledges that the Partnership seeks to comply with all applicable anti-money laundering and anti-boycott laws and regulations. In furtherance of these efforts, the Subscriber represents, warrants and agrees that: (i) no part of the funds used by the Subscriber to acquire the Interests or to satisfy its capital commitment obligations with respect thereto has been, or shall be, directly or indirectly derived from, or related to, any activity that may contravene United States federal or state or non-United States laws or regulations, including anti-money laundering laws and regulations, (ii) no capital commitment, contribution or payment to the Partnership by the Subscriber and no distribution to the Subscriber shall cause the Partnership or the General Partner to be in violation of any applicable anti-money laundering laws or regulations including, without limitation, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 and the U.S. Department of the Treasury Office of Foreign Assets Control regulations ("OFAC") and (iii) all capital contributions or payments to the Partnership by the Subscriber will be made through an account located in a jurisdiction that does not appear on the list of boycotting countries published by the U.S. Department of Treasury pursuant to Code §999(a)(3), in effect at the time of such contribution or payment. The Subscriber acknowledges and agrees that, notwithstanding anything to the contrary contained in the Partnership Agreement, any side letter or any other agreement, to the extent required by any anti-money laundering law or regulation or by OFAC, the Partnership and the General Partner may prohibit additional capital contributions, restrict distributions or take any other reasonably necessary or advisable action with respect to the Interests, and the Subscriber shall have no claim, and shall not pursue any claim, against the Partnership, the General Partner or any other Person in connection therewith.

(o) Privacy Notice. If a natural person (or an entity that is an "alter ego" of a natural person (e.g., a revocable grantor trust, an individual retirement account or an estate planning vehicle)), the Subscriber has received and read a copy of the initial privacy notice with respect to the General Partner's collection and maintenance of non-public personal information regarding the Subscriber, and the Subscriber hereby requests and agrees, to the extent permitted by applicable law, that the General Partner shall refrain from sending to the Subscriber (i) an annual privacy

notice, as contemplated by 16 CFR Part 313, §313.5 (the Federal Trade Commission's Final Rules regarding the Privacy of Consumer Financial Information (the "FTC's Final Privacy Rules")), provided that the General Partner keep an annual privacy notice with the books and records of the business and such annual privacy notice is available to the Subscriber upon its request, and (ii) any other information regarding the customer relationship, as contemplated by 16 CFR Part 313, §313.9(c)(2) of the FTC's Final Privacy Rules. The Subscriber understands that, at any time subsequent to the date hereof, it may elect to receive any information contemplated by clauses (i) and (ii) above, but only to the extent that the General Partner is required by applicable law to deliver such information, by providing reasonable prior written notice to the General Partner to such effect.

(p) Confidentiality. The Subscriber acknowledges and agrees that (i) it has received and may in the future receive Confidential Information regarding the Partnership, the Parallel Fund, the General Partner, the Parallel Fund General Partner, the Management Company, the Executive Fund, the Ultimate General Partner and each of their respective affiliates, each Alternative Investment Vehicle, each general partner, manager or other control Person of any of the foregoing Persons and each existing or prospective Portfolio Company and its subsidiaries (collectively, the "Partnership Entities") as well as the other Partners and the Parallel Fund Partners, (ii) such Confidential Information contains trade secrets and is proprietary, (iii) disclosure of such Confidential Information to third parties is not in the best interest of any of the Partnership Entities or the Partners or the Parallel Fund Partners and (iv) disclosure of such Confidential Information would cause substantial harm and damages to the Partnership Entities and the Partners and the Parallel Fund Partners. The Subscriber hereby represents and warrants that, except as previously disclosed to the General Partner in writing, (A) it is not subject to any law, statute, governmental rule or regulation or judicial or governmental order, judgment or decree requiring it to disclose any information or materials (whether or not Confidential Information) relating to any of the Partnership Entities or the other Partners or the Parallel Fund Partners to any Person(s) and (B) it is not required by any law, statute, governmental rule or regulation or judicial or governmental order, judgment or decree or any agreement or contract to obtain any consent or approval prior to agreeing to be bound by the confidentiality covenant set forth in the Partnership Agreement. The Subscriber hereby represents and warrants that except as previously disclosed in writing to the General Partner, it has taken all actions and obtained all consents necessary to enable it to comply with the provisions of Section 7.13 of the Partnership Agreement. The Subscriber hereby agrees that it will not use any Confidential Information it receives for any purpose other than monitoring and evaluating its investment in the Partnership. Any information provided to a Person at the direction or request of the Subscriber shall be treated for purposes hereof and for purposes of the Partnership Agreement as instead having been provided to such Person by the Subscriber, and such deemed disclosure by the Subscriber shall be subject to all of the limitations and other provisions in the Partnership Agreement relating to Confidential Information.

(q) VCOC Escrow. To the extent required under the Partnership Agreement, the Subscriber will deposit all capital contributions (other than those made pursuant to Section 5.4 of the Partnership Agreement) made by the Subscriber prior to the time the Partnership qualifies as a VCOC (as defined in the Partnership Agreement) in a directed trust account or an escrow fund established by the General Partner that is intended to comply with applicable Department of Labor regulations and rulings under ERISA, including U.S. Department of Labor Advisory Opinion 95-04A, and that will invest such capital contributions in money market instruments or other short-term investments pending (i) release of such funds to the Partnership for long-term investment of such capital contributions by the Partnership on or after the date the Partnership qualifies as a VCOC or (ii) return of such amounts (including earnings thereon) to the Subscriber pursuant to the Partnership Agreement and/or at the end of a mutually agreed upon period of time if no such long-term investment shall have been made during such period.

(r) Additional Representations for Non-U.S. Subscribers. If the Subscriber is not a United States Person, the Subscriber hereby makes those additional representations applicable to residents of the Subscriber's country of residence as specified in Appendix I to this Subscription Agreement.

4. Miscellaneous Provisions.

(a) Indemnification. To the maximum extent not prohibited by applicable law, the Subscriber covenants to the General Partner and agrees to indemnify and hold harmless the Partnership, the General Partner, the Management Company and each officer, director, shareholder, partner or member of the General Partner and/or the Management Company and each other Person that controls, is controlled by, or is under common control with, any of the foregoing within the meaning of Section 15 of the Securities Act (each, an "Indemnified Party"), from and against any and all losses, claims, damages, expenses and liabilities relating to or arising out of (i) any breach of any representation, warranty or certification, or any breach of or failure to comply with any covenant or undertaking, made by or on behalf of the Subscriber in this Subscription Agreement, the Investor Qualification Statement and/or the Tax Forms or in any other document furnished by or on behalf of the Subscriber to any Indemnified Party in connection with acquiring the Interests or (ii) any action instituted by or on behalf of the Subscriber against an Indemnified Party that is finally resolved by judgment against the Subscriber or in favor of an Indemnified Party. Each Indemnified Party is an intended third party beneficiary hereof. The remedies provided in this Section 4(a) shall be cumulative and shall not preclude the assertion by any Indemnified Party of any other rights or the seeking of any other remedies against the Subscriber.

(b) Representations and Warranties; Additional Information. The Subscriber represents and warrants that all of the answers, statements and information set forth in this Subscription Agreement, the Investor Qualification Statement and the

Tax Forms are true and correct on the date hereof and will be true and correct as of the date, if any, that the General Partner accepts this Subscription Agreement, in whole or in part. The Subscriber covenants and agrees to notify the General Partner promptly of any change that may cause any answer, statement or information set forth in this Subscription Agreement, the Investor Qualification Statement and/or the Tax Forms to become untrue or misleading in any material respect, and to provide such additional information that the General Partner requests from time to time and deems necessary to determine (i) the eligibility of the Subscriber to hold an Interest or participate in certain Partnership investments, (ii) the Partnership's or the General Partner's compliance with applicable regulatory (including tax and ERISA) requirements or (iii) the Partnership's tax status. The Subscriber also covenants and agrees to provide the Partnership all information that otherwise may be reasonably requested by the General Partner in connection with compliance with applicable law by the General Partner, the Partnership, its Portfolio Companies and their respective affiliates, including, without limitation, all applicable anti-money laundering and anti-boycott laws and regulations. The Subscriber further represents and warrants that, except for any alterations to this Subscription Agreement or the Investor Qualification Statement that have been clearly marked on or prior to the date of acceptance of this Subscription Agreement or otherwise have been specifically identified in writing and accepted by the General Partner on or prior to the date of acceptance of this Subscription Agreement, the Subscriber has not altered or otherwise revised this Subscription Agreement or the Investor Qualification Statement in any manner from the version initially received by the Subscriber. The Subscriber acknowledges that it participated in, or had the meaningful opportunity to participate in, the negotiations and drafting of this Subscription Agreement. In the event an ambiguity or question of intent or interpretation arises, this Subscription Agreement shall be construed to be the product of meaningful negotiations between the General Partner and the Subscriber and, to the fullest extent permitted by law, no presumption or burden of proof shall arise favoring or disfavoring either of them by virtue of the authorship of any of the provisions of this Subscription Agreement. The Subscriber acknowledges and agrees that the General Partner will rely on the Tax Forms (including any Tax Forms delivered by the Subscriber in the future) provided to the Partnership or the General Partner by or on behalf of the Subscriber.

(i) In addition to any information required to be provided pursuant to Section 4(b) above, the Subscriber covenants and agrees to provide promptly, and update periodically, at any times requested by the General Partner, any information (or verification thereof) the General Partner deems necessary to comply with any requirement imposed by Code §§1471 - 1474, and any U.S. Department of Treasury Regulations, forms, instructions or other guidance issued pursuant thereto in order to reduce or eliminate withholding taxes. The information required to be provided by the preceding sentence may include, but shall not be limited to, (A) information the General Partner deems necessary to determine whether the

Subscriber is a "foreign financial institution" as defined in Code §1471(d)(4) or a "non-financial foreign entity" as defined in Code §1472(d), (B) if the Subscriber is a foreign financial institution, any certification, statement or other information the General Partner deems necessary to determine whether the Subscriber meets the requirements of Code §1471(b) (including entering into an agreement with the U.S. Internal Revenue Service (the "IRS") pursuant to Code §1471(b) and complying with the terms thereof) or is otherwise exempt from withholding required under Code §1471, and (C) if the Subscriber is a non-financial foreign entity, any certification, statement or other information the General Partner deems necessary to determine whether the Subscriber meets the requirements of Code §1472(b) (which information may be given to the IRS pursuant to Code §1472(b)(3)) or is otherwise exempt from withholding required under Code §1472. The Subscriber acknowledges that if it fails to supply such information on a timely basis, it may be subject to a 30% U.S. withholding tax imposed on (1) U.S.-sourced dividends, interest and certain other income and (2) gross proceeds from the sale or other disposition of U.S. stocks, debt instruments and certain other assets.

(ii) In addition to any information required to be provided pursuant to Section 4(b) above, the Subscriber covenants and agrees to promptly provide, at any times requested by the General Partner, any information (or verification thereof) the General Partner deems necessary for any non-U.S. Alternative Investment Vehicle to enter into an agreement described in Code §1471(b), and any information required to comply with the terms of that agreement on an annual or more frequent basis. The Subscriber agrees to waive any provision of foreign law that would, absent a waiver, prevent compliance with such requests and acknowledges that, if it fails to provide such waiver, it may be required by the General Partner to withdraw from any non-U.S. Alternative Investment Vehicle if necessary to comply with Code §1471(b)(1)(F). In addition, the Subscriber acknowledges that if it fails to supply such information on a timely basis, it may be subject to a 30% U.S. withholding tax imposed on (A) U.S.-sourced dividends, interest and certain other income and (B) gross proceeds from the sale or other disposition of U.S. stocks, debt instruments and certain other assets. Furthermore, the Subscriber acknowledges that if its failure to comply with any requirement pursuant to this Section 4(b) results in any non-U.S. Alternative Investment Vehicle being unable to enter into or comply with an agreement described in Code §1471(b), the Subscriber will indemnify such non-U.S. Alternative Investment Vehicle and its direct and indirect owners for any losses resulting from such failure.

(iii) Check one:

✓ Subscriber is not a foreign entity.

__ Subscriber is a foreign financial institution within the meaning of Code §1471(d)(4) and has entered into an agreement with the Secretary of the Treasury or his designee described in Code §1471(b). A "foreign financial institution" is generally any non-United States entity that (A) accepts deposits in the ordinary course of business, (B) holds financial assets for the account of others as a substantial portion of its business, or (C) is engaged primarily in the business of investing or trading in securities or partnership interests.

__ Subscriber is a foreign financial institution within the meaning of Code §1471(d)(4) and has not entered into an agreement with the Secretary of the Treasury or his designee described in Code §1471(b).

__ Subscriber is a non-financial foreign entity within the meaning of Code §1472(d). A "non-financial foreign entity" is any non-United States entity other than a foreign financial institution.

(iv) The Subscriber covenants to promptly notify the General Partner in writing if (A) the IRS terminates any agreement entered into with the Subscriber under Code §1471(b) or (B) any information provided to the General Partner pursuant to subparagraphs (i), (ii) or (iii) above changes.

(c) Partnership Advisers. The attorneys, accountants and other experts who perform services for the General Partner may also perform services for the Partnership, the Parallel Fund and any other parallel fund, the Parallel Fund General Partner, the Management Company and/or their respective affiliates. It is contemplated that any such dual representation, if commenced, will continue. The General Partner may, without the consent of any Limited Partner, execute on behalf of the Partnership any consent to the representation of the Partnership that counsel may request pursuant to the rules of professional conduct in the applicable jurisdiction. The General Partner has retained Kirkland & Ellis LLP (together with its affiliate, Kirkland & Ellis International LLP, "Kirkland & Ellis") in connection with the formation of the Partnership and may retain Kirkland & Ellis as legal counsel in connection with the management and operation of the Partnership, including, without limitation, making, holding and disposing of investments. Kirkland & Ellis will not represent the Subscriber or any other Limited Partner or prospective limited partner of the Partnership, unless the General Partner and such Limited Partner or prospective limited partner otherwise agree, in connection with the formation of the Partnership, the offering of the Interests, the management and

operation of the Partnership or any dispute that may arise between any Limited Partner, on one hand, and the General Partner and/or the Partnership, on the other hand (the "Partnership Legal Matters"). The Subscriber will, if it wishes counsel on any Partnership Legal Matter, retain its own independent counsel with respect thereto and will pay all fees and expenses of such independent counsel. The Subscriber agrees that Kirkland & Ellis may represent the General Partner and/or the Partnership in connection with the formation of the Partnership and any and all other Partnership Legal Matters (including any dispute between the General Partner and the Subscriber or any other Partner). The Subscriber acknowledges and agrees that (i) Kirkland & Ellis' representation of the General Partner is limited to the specific matters with respect to which it has been retained and consulted by such Persons, (ii) there may exist other matters that could have a bearing on the Partnership, the Partnership's investments and portfolio companies, the General Partner and/or their affiliates as to which Kirkland & Ellis has been neither retained nor consulted, (iii) Kirkland & Ellis does not undertake to monitor the compliance of the General Partner and its affiliates with the investment program and other investment guidelines and procedures set forth in the Private Placement Memorandum, the Partnership Agreement and any other presentation or materials presented or provided to the Subscriber by or on behalf of the General Partner or other compliance matters, nor does Kirkland & Ellis monitor compliance by the Partnership, the General Partner and/or their affiliates with applicable laws, unless in each case Kirkland & Ellis has been specifically retained to do so, (iv) Kirkland & Ellis does not investigate or verify the accuracy and completeness of information set forth in the Offering Materials concerning the Partnership, the General Partner or any of their respective affiliates and personnel or investments or portfolio companies and (v) except for any opinions specifically set forth in a signed opinion letter issued by Kirkland & Ellis, Kirkland & Ellis is not providing any advice, opinion, representation, warranty or other assurance of any kind as to any matter to any Limited Partner.

(d) Partnership Agreement Administration. The Subscriber hereby irrevocably constitutes and appoints the General Partner as its true and lawful agent with full power to make, execute, deliver, sign, swear to, acknowledge and file all certificates and other instruments (including, without limitation, the Partnership Agreement and any other deeds) necessary to (i) amend and/or restate the Partnership Agreement in accordance with its terms, (ii) admit and accede the Subscriber or any other Person, including any transferee of any Limited Partner, as a Limited Partner of the Partnership, and (iii) complete any relevant details and schedules of and to the Partnership Agreement in respect of the Subscriber's or any other Person's subscription for, or other acquisition of, a Limited Partner interest and/or such Person's capital commitment to, and/or capital contributions in respect of, the Partnership.

(e) Successors and Assigns. This Subscription Agreement, to the extent accepted by the General Partner, will be binding upon the Subscriber's heirs, legal representatives, successors and permitted assigns.

(f) Governing Law. This Subscription Agreement will be governed by and construed in accordance with the laws of the State of Delaware (without giving effect to any choice of law or conflict of law rules or provisions that would cause the application of the laws of any jurisdiction other than the State of Delaware).

(g) Jurisdiction; Venue; Jury Trial. To the maximum extent not prohibited by applicable law, any action or proceeding brought by the Subscriber against the General Partner or the Management Company (or their respective direct or indirect owners, officers, directors, managers or employees in their capacity as such, or in any related capacity) or the Partnership, or relating in any way to this Subscription Agreement, the Investor Qualification Statement, the Partnership Agreement or other Offering Materials, shall be brought and enforced in the courts of the State of California or (to the fullest extent subject matter jurisdiction exists therefore) of the United States District Court for the Central District of California or in the state or federal courts in the State of Delaware, and, to the extent not prohibited by applicable law, the Subscriber irrevocably submits to the non-exclusive jurisdiction of such courts in respect of any action or proceeding between it and the General Partner or the Management Company (or their respective direct or indirect owners, officers, directors, managers or employees in their capacity as such, or in any related capacity) or the Partnership, or relating in any way to this Subscription Agreement, the Investor Qualification Statement, the Partnership Agreement or other Offering Materials. The Subscriber irrevocably waives, to the fullest extent permitted by applicable law, (i) any objection that it may now or hereafter have to the laying of venue of any such action or proceeding in the courts of the State of California or the United States District Court for the Central District of California or in the state or federal courts in the State of Delaware and (ii) any claim that any such action or proceeding brought in either court has been brought in an inconvenient forum. THE SUBSCRIBER AND THE GENERAL PARTNER, ON BEHALF OF ITSELF AND THE PARTNERSHIP, IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY ACTION OR PROCEEDING BY OR AGAINST THE GENERAL PARTNER OR THE MANAGEMENT COMPANY (OR THEIR RESPECTIVE DIRECT OR INDIRECT OWNERS, OFFICERS, DIRECTORS, MANAGERS OR EMPLOYEES IN THEIR CAPACITY AS SUCH, OR IN ANY RELATED CAPACITY) OR THE PARTNERSHIP, OR IN ANY WAY RELATING TO THIS SUBSCRIPTION AGREEMENT, THE INVESTOR QUALIFICATION STATEMENT, THE PARTNERSHIP AGREEMENT OR OTHER OFFERING MATERIALS.

(h) Severability. Each provision of this Subscription Agreement, each representation made in the Investor Qualification Statement and each provision of or grant of authority by or in the Power of Attorney, shall be considered severable. If it is determined by a court of competent jurisdiction that any provision of this Subscription Agreement or the Investor Qualification Statement is invalid under applicable law, such provision shall be ineffective only to the extent of such

prohibition or invalidity, without invalidating the remainder of this Subscription Agreement or the Investor Qualification Statement, as applicable.

(i) Survival. The representations and warranties of the Subscriber in, and the other provisions of, this Subscription Agreement and the Investor Qualification Statement shall survive the execution and delivery of this Subscription Agreement and the Investor Qualification Statement, and the admission of the Subscriber to the Partnership.

* * * * *

IN WITNESS WHEREOF, the Subscriber has executed this Subscription Agreement as of _____ __, 201__.

FOR COMPLETION BY ALL SUBSCRIBERS:

Subscriber's Commitment Amount: $ 100 million plus reasonable normal investment expenses

Subscriber's Formal Notice Information: (to be used for formal notice)		Subscriber's Other Contact Information if different than Formal Notice Information: (e.g., home, business or main office)	
Address:		Address:	
5 N. 5th St.			
Harrisburg, PA 17101			
Attention:	Charles Spiller	Attention:	
Phone No.:	717-720-4720	Phone No.:	
Fax No.:	717-772-5373	Fax No.:	
E-mail:	cspiller@pa.gov	E-mail:	

FOR COMPLETION BY SUBSCRIBERS WHO ARE NATURAL PERSONS:
(i.e., individuals)

Subscriber's Name: _____
(print or type)

Subscriber's Signature: _____
(signature)

Subscriber's Social Security No.: _____

Spouse's Signature: _____
(signature)
(only required if subscription is being made by a husband and wife as joint tenants)

FOR COMPLETION BY SUBSCRIBERS WHO ARE NOT NATURAL PERSONS:
(i.e., corporations, partnerships, limited liability companies, trusts or other entities)

Subscriber's Name: Commonwealth of Pennsylvania
Public School Employees' Retirement System
(print or type)

By: see next page
(signature of authorized representative)

Name: _____
(print or type name of authorized representative)

Title: _____
(print or type title of authorized representative)

Subscriber's Tax Identification No.: [redacted]

WINDJAMMER SENIOR EQUITY FUND IV, L.P.

SIGNATURE PAGE TO SUBSCRIPTION BOOKLET

Limited Partner:

Commonwealth of Pennsylvania
Public School Employees'
Retirement System

By: Alan H. Van Noord, CFA
Title: Chief Investment Officer

By: Jeffrey B. Clay
Title: Executive Director

Approved for form and legality:

3/15/12
Deputy General Counsel
Office of General Counsel

Chief Deputy Attorney General
Office of Attorney General

Michele M. Ferencz, Chief Counsel
Public School Employees' Retirement System

WINDJAMMER SENIOR EQUITY FUND IV, L.P.

SIGNATURE PAGE TO SUBSCRIPTION BOOKLET

Limited Partner:

Commonwealth of Pennsylvania
Public School Employees'
Retirement System

By: Alan H. Van Noord, CFA
Title: Chief Investment Officer

By: Jeffrey B. Clay
Title: Executive Director

Approved for form and legality:

Deputy General Counsel
Office of General Counsel

Chief Deputy Attorney General
Office of Attorney General

Michele M. Ferencz, Chief Counsel
Public School Employees' Retirement System

APPENDIX I
To Subscription Agreement

Additional Representations for Non-U.S. Persons

As used herein, the term "Interests" shall mean limited partner interests in the Partnership and the term "Subscriber" shall mean the person or entity executing the Subscription Agreement as the "Subscriber" to which this Appendix I is attached.

SUBSCRIBERS IN BAHRAIN

The Subscriber represents, warrants and acknowledges that the offering and sale of the Interests has been made outside of Bahrain.

SUBSCRIBERS IN CANADA

The Subscriber represents and warrants that (a) the Subscriber is an "accredited investor" as defined in Canadian National Instrument 45-106 Prospectus and Registration Exemptions, (b) the Subscriber has fully and truthfully completed the Supplemental Investor Qualification Statement for Canadian Subscribers attached hereto and (c) the Subscriber has not received any general advertising materials relating to the Interests.

SUBSCRIBERS IN THE CAYMAN ISLANDS

The Subscriber represents, warrants and acknowledges that it is not a member of the public in the Cayman Islands, as such phrase is defined in the Exempted Limited Partnership Law (2010 Revision), as amended from time to time.

SUBSCRIBERS IN FRANCE

The Subscriber represents, warrants and acknowledges that the Subscriber was not solicited by any person in relation to the Subscriber's investment in the Partnership and the purchase of the Interests, and the Subscriber requested the Offering Materials, the Investor Qualification Statement, the power of attorney and any other offering materials on the Subscriber's own initiative.

In France, the Interests are only being offered to qualified investors as such term is defined in Articles D. 411-1 to D. 411-3 of the French Monetary and Financial Code. The Subscriber hereby represents and warrants to the Partnership that the Subscriber is a qualified investor as such term is defined in Articles D. 411-1 to D. 411-3 of the French Monetary and Financial Code.

SUBSCRIBERS IN GREECE

The Subscriber acknowledges that (a) the Subscriber is participating in the offer and sale of the Interests as a result of the Subscriber's unsolicited request and not as a result of any publicity, advertisement, marketing or general announcement to the public, and (b) to the

best of the Subscriber's knowledge, no such publicity, advertisements, marketing or announcements have been made in the course of the offering and sale of the Interests.

SUBSCRIBERS IN HONG KONG

The Subscriber represents and warrants that it is a professional investor within the meaning of the Securities and Futures Ordinance (Cap. 571 of the Laws of Hong Kong).

SUBSCRIBERS IN ITALY

The Subscriber represents, warrants, acknowledges and agrees that either: (a) (i) the Partnership is not an "Undertaking for Collective Investment in Transferable Securities" in compliance with the requirements of E.U. Directive 85/611, as amended, and the Partnership has not been and will not be authorized by the Bank of Italy for distribution in Italy; (ii) the Subscriber has directly contacted the Partnership or the General Partner on the Subscriber's own initiative; (iii) the Offering Materials, the Investor Qualification Statement and any other offering materials have been sent to the Subscriber at the Subscriber's express request; and (iv) the Subscriber shall not transfer any Interests to any other Italian resident investor; or (b) (i) the Subscriber has been approached or solicited outside Italy and (ii) any acts for the consummation of the transaction (the execution of the Partnership Agreement, power of attorney, the Investor Qualification Statement and this Agreement and the payments in response to capital calls) are taking place and will continue to take place outside Italy.

SUBSCRIBERS IN JAPAN

The Subscriber represents, warrants, acknowledges and agrees that (a) in addition to all other restrictions on transfer, the Subscriber shall not transfer its Interests to more than one investor in Japan and (b) the Subscriber is in compliance with any applicable filing requirements under the Foreign Exchange and Foreign Trade Law and other applicable laws of Japan.

SUBSCRIBERS IN KUWAIT

The Subscriber acknowledges that the Partnership Agreement, the Investor Qualification Statement and this Agreement will be executed and this Agreement will be accepted on behalf of the Partnership outside Kuwait, and that the sale of the Interests will take place outside of Kuwait.

SUBSCRIBERS IN MEXICO

The Subscriber represents and acknowledges that (a) the Subscriber became aware of the offering of the Interests through personal communication with the General Partner and not through mass means of communication and (b) the Interests have neither been registered with the National Registry of Securities (Registro Nacional de Valores) maintained by the National Banking and Securities Commission of Mexico (Comisión Nacional Bancaria y de Valores) (the "CNBV") nor approved by the CNBV.

SUBSCRIBERS IN SINGAPORE

The Subscriber represents and warrants that it is an institutional investor within the meaning of Section 274 of the Securities and Futures Act, Chapter 289 of Singapore (the "SFA") or a person referred to in Section 275 of the SFA.

SUBSCRIBERS IN SWITZERLAND

The Subscriber represents and warrants that it is an institutional investor with professional treasury management within the meaning of the Circular Letter 03/1 (as amended) issued by the Swiss Banking Commission (Commission fédérale des banques).

SUBSCRIBERS IN TAIWAN (REPUBLIC OF CHINA)

The Subscriber represents and warrants that it is a qualified investor under the ruling issued by the Republic of China Securities and Futures Bureau, Financial Supervisory Commission under the Securities Investment Trust and Consulting Act and the Rules Governing Offshore Funds.

SUBSCRIBERS IN THE UNITED KINGDOM

The Subscriber represents and warrants that either: (a) the Subscriber is an "investment professional," as defined in article 19 of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (as amended) (the "Financial Promotion Order") (which category includes (i) persons authorized under the Financial Services and Markets Act 2000; (ii) persons exempt from the requirement to be so authorized; (iii) persons whose ordinary activities involve them in investing in such funds for the purposes of a business carried on by them or who it is reasonable to expect will do so for the purposes of a business carried on by them; and (iv) governments, local authorities and *international organizations*), (b) the Subscriber is a high net worth company, unincorporated association etc, as defined in article 49 of the Financial Promotion Order (which category includes (i) a body corporate which has called-up share capital or net assets of (x) where such body corporate has more than 20 members or is a subsidiary undertaking of a parent undertaking which has more than 20 members, not less than £500,000, and (y) in the case of any other body corporate, not less than £5 million; (ii) unincorporated associations and partnerships having net assets of not less than £5 million; and (iii) trustees of trusts where the aggregate value of the cash and investments which form part of the trust's assets (before deducting the amount of its liabilities) is £10 million or more, or has been £10 million or more at any time during the year immediately preceding the date on which the Partnership was first promoted to the trustee), or (c) the Subscriber is a person to whom the Partnership has otherwise lawfully been promoted in accordance with the relevant provisions of the Financial Promotion Order.

_____

Name of Subscriber
(Please Print or Type)

WINDJAMMER SENIOR EQUITY FUND IV, L.P.

SUBSCRIPTION AGREEMENT
GENERAL PARTNER ACCEPTANCE PAGE
(To Be Completed by the General Partner)

By its execution and delivery of this General Partner Acceptance Page, Windjammer Capital Investors IV, L.P., the general partner of Windjammer Senior Equity Fund IV, L.P., for itself and as agent and/or attorney-in-fact for each partner thereof, as applicable, hereby accepts the subscription submitted by the above named Subscriber (the "Subscription Agreement") on the terms set forth in the Subscription Agreement for an interest in Windjammer Senior Equity Fund IV, L.P., either for (a) the Commitment set forth below or (b) if the Commitment below is left blank, the Subscriber's requested Commitment amount set forth above the Subscriber's signature on its signature page to the Subscription Agreement, and by such acceptance admits the Subscriber as a Limited Partner, and binds the Subscriber to the terms of the Partnership Agreement and the Subscription Agreement. This General Partner Acceptance Page will be governed by and construed in accordance with the laws of the State of Delaware (without giving effect to any choice of law or conflict of law rules or provisions that would cause the application of the laws of any jurisdiction other than the State of Delaware). Capitalized terms used and not defined herein shall have the meanings set forth in the Subscription Agreement.

Commitment: $ _____

Date of Delivery: _____

WINDJAMMER CAPITAL INVESTORS IV, L.P.

By: Windjammer Capital Partners, LLC
Its: General Partner

By: _____
Name: _____
Title: _____

Public School Employees' Retirement System

Name of Subscriber
(Please Print or Type)

WINDJAMMER SENIOR EQUITY FUND IV, L.P.

POWER OF ATTORNEY

To the fullest extent not prohibited by applicable law, the undersigned hereby constitutes, appoints and grants each of (a) Windjammer Capital Investors IV, L.P., a Delaware limited partnership, and each other person or entity who is or hereafter becomes a general partner of Windjammer Senior Equity Fund IV, L.P., a Delaware limited partnership (the "Partnership") after the Partnership's initial closing date (collectively, the "General Partner"), and (b) each person or entity who is or hereafter becomes a general partner of the General Partner, with full power to act without others as its true and lawful representative, agent and attorney-in-fact, in its name, place and stead, to make, execute or sign, acknowledge, swear to, verify, deliver, record, file and/or publish (in each case (other than the General Partner) only for so long as such person or entity continues to be a general partner of the General Partner) the following:

1. any certificate of limited partnership or other form or filing required in connection with the formation or registration of the Partnership, a limited partnership in which the General Partner is the general partner and in which the undersigned is named as a limited partner, and any formation certificates or documents for any alternative investment vehicle (each, an "AIV") created pursuant to Section 3.4 of the Agreement (as defined below), including, without limitation, any partnership agreement, operating agreement, shareholders agreement or similar governing document;

2. the agreement of limited partnership of the Partnership (such agreement, as amended, modified and/or restated from time to time in accordance with its terms, the "Agreement");

3. any amendment, restatement or modification duly enacted pursuant to the terms of the Agreement, and all instruments and documents that may be necessary or desirable to effectuate an amendment, restatement or modification so approved;

4. any amendment to, modification to, restatement of, or cancellation of the certificate of limited partnership or AIV document described in clause 1 above;

5. all instruments, deeds, agreements, documents and certificates that may from time to time be necessary or advisable to effectuate, implement and continue the valid and subsisting existence of the Partnership or any AIV;

6. all instruments, deeds, agreements, documents and certificates that may be necessary or advisable to effectuate the dissolution, liquidation, winding-up and termination of the Partnership or any AIV or admit any additional partners or members thereto, except where such action requires the express approval of the Limited Partners under the Agreement;

7. all instruments, deeds, agreements, documents and certificates that may be necessary or advisable in the sole discretion of the General Partner to effectuate the provisions of Section 3.4 and/or Section 7.14 of the Agreement;

8. in the case of a Regulated Partner (including a Partner treated as a Regulated Partner under the Agreement) or a Defaulting Partner, any bills of sale or other appropriate transfer documents necessary or advisable to effectuate transfers of such Person's interest pursuant to Section 7.7 or Section 7.9, respectively, of the Agreement or of a similar interest pursuant to the comparable provisions of the governing documents for any AIV; and

9. such other documents, deeds, agreements or instruments as may be required under the laws of any state, the United States or any other jurisdiction.

The undersigned hereby empowers each agent and attorney-in-fact acting pursuant hereto to determine in its sole discretion the time when, purpose for and manner in which any power herein conferred upon it shall be exercised, and the conditions, provisions and covenants of any instruments or documents that may be executed by it pursuant hereto; provided that the agency and powers of attorney granted herein shall only be exercised in accordance with the Agreement and clauses 1 through 9 above. The agency and powers of attorney granted herein are coupled with an interest in favor of the General Partner and each general partner of the General Partner and as such (a) shall be irrevocable and continue in full force and effect notwithstanding the subsequent death, incompetency, incapacity, disability, insolvency or dissolution of the undersigned regardless of whether the Partnership, the General Partner or any general partner of the General Partner has notice thereof and (b) shall survive the delivery of an assignment by the undersigned of the whole or any portion of its interest in the Partnership, except that if the assignee thereof has been approved for admission to the Partnership as a substitute limited partner, this agency and Power of Attorney given by the assignor shall survive the delivery of the assignment for the sole purpose of enabling the General Partner to execute, acknowledge and file any instrument necessary to effect the substitution. The agency and powers of attorney granted herein shall not be deemed to constitute a written consent of the undersigned for purposes of Section 13.1 of the Agreement. Capitalized terms used but not defined herein shall have the respective meanings given to such terms in the Agreement.

This Power of Attorney shall be governed and construed in accordance with the laws of the State of Delaware.

* * * * *

IN WITNESS WHEREOF, the undersigned has executed and delivered this Power of Attorney on the date set forth below.

Dated March 5, 2012

FOR COMPLETION BY SUBSCRIBERS WHO ARE NATURAL PERSONS:
(i.e., individuals)

Subscriber's Name: _____
(print or type)

Subscriber's Signature: _____
(signature)

Subscriber's Social Security No.: _____

Spouse's Signature: _____
(signature)
(only required if subscription is being made by a husband and wife as joint tenants)

FOR COMPLETION BY SUBSCRIBERS WHO ARE NOT NATURAL PERSONS:
(i.e., corporations, partnerships, limited liability companies, trusts or other entities)

Subscriber's Name: Public School Employees' Retirement System
(print or type)

By: _____
(signature of authorized representative)

Name: Alan H. Van Noord, CFA
(print or type name of authorized representative)

Title: Chief Investment Officer
(print or type title of authorized representative)

Subscriber's Tax Identification No.: [redacted]

SUBSCRIBED AND SWORN to before me this 5th day of March, 2012.

Vesna Nelson
Notary Public

By: _____
Jeffrey B. Clay
Executive Director

My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Vesna Nelson, Notary Public
City of Harrisburg, Dauphin County
My Commission Expires Nov. 9, 2015
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

Name of Subscriber
(Please Print or Type)

INVESTOR QUALIFICATION STATEMENT FOR INDIVIDUALS[1]

Part I. Regulation D Matters.

If the undersigned subscriber (the "Subscriber") is a natural person (i.e., an individual), a revocable grantor trust (the sole settlor (i.e., grantor) of which is a natural person), an individual retirement account of a natural person or a self-directed employee benefit plan of a natural person, please indicate with an "X" the category or categories that accurately describe such natural person and qualify him or her as an "accredited investor" pursuant to Regulation D promulgated under the United States Securities Act of 1933, as amended and in effect as of the date hereof:

_____ (1) a natural person whose individual net worth[2] (or joint net worth with such person's spouse) exceeds $1,000,000;

_____ (2) a natural person who had an individual income[3] in excess of $200,000 in each of the two most recent years and who reasonably expects to have an individual income in excess of $200,000 in the current year, or who had joint income[4] in excess of $300,000 in each of the two most recent years

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1 For purposes hereof, the "Partnership" means Windjammer Senior Equity Fund IV, L.P., a Delaware limited partnership.

2 For purposes of this item, "net worth" means the excess of total assets at fair market value (excluding the value of the primary residence of such natural person) over total liabilities (excluding the amount of indebtedness secured by the primary residence of such natural person but only up to the primary residence's fair market value).

3 For purposes of this item, "individual income" means adjusted gross income as reported for U.S. federal income tax purposes, less any income attributable to a spouse or to property owned by a spouse, increased by the following amounts (but not including any amounts attributable to a spouse or to property owned by a spouse): (i) the amount of any interest income received which is tax-exempt under §103 of the United States Internal Revenue Code of 1986, as amended (the "Code"), (ii) the amount of losses claimed as a limited partner in a limited partnership (as reported on Schedule E of Form 1040), (iii) any deduction claimed for depletion under Code §611 *et seq.*, and (iv) any amount by which income from long-term capital gains has been reduced in arriving at adjusted gross income pursuant to the provisions of Code §1202 prior to its repeal by the Tax Reform Act of 1986.

4 For purposes of this item, "joint income" means adjusted gross income as reported for U.S. federal income tax purposes, including any income attributable to a spouse or to property owned by a spouse, increased by the following amounts (including any amounts attributable to a spouse or to property owned by a spouse): (i) the amount of any interest income received which is tax-exempt under Code §103, (ii) the amount of losses claimed as a limited partner in a limited partnership (as reported on Schedule E of Form 1040), (iii) any deduction claimed for depletion under Code §611 *et seq.*, and (iv) any amount by which income from long-term capital gains has been reduced in arriving at adjusted gross income pursuant to the provisions of Code §1202 prior to its repeal by the Tax Reform Act of 1986.

and who reasonably expects to have joint income in excess of $300,000 in the current year; or

_____ (3) a director, executive officer, or general partner of the issuer of the limited partner interests being offered or sold, or any director, executive officer, or general partner of a general partner of that issuer.

Part II. Investment Advisers Act Matters.

(Note that the ability to give a response of "True" to the question below qualifies the Subscriber as a "qualified client" under the United States Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder.)

The natural person described in Part I above:

(a) has a net worth (including assets held jointly with such person's spouse) in excess of $2,000,000, excluding the value of the primary residence of such person, calculated by subtracting from the estimated fair market value of the property the amount of debt secured by the property up to the estimated fair market value of the property;

_____ True _____ False

(b) is making a commitment to the Partnership of at least $1,000,000; or

_____ True _____ False

(c) is a "qualified purchaser" as defined in Section 2(a)(51)(A) of the United States Investment Company Act of 1940, as amended, and the rules and regulations promulgated thereunder.

_____ True _____ False

Part III. Qualified Purchaser Matters.

The natural person described in Part I above owns at least $5,000,000 of Investments as defined in Appendix A hereto.

_____ True _____ False

Part IV. Miscellaneous Matters.

(a) The Subscriber is an individual retirement account or annuity or other "plan" that is subject to Code §4975 or a self-directed account in an "employee benefit plan" within the meaning of Section 3(3) of the United States Employee Retirement Income Security Act of 1974, as amended

("ERISA"), and the rules and regulations promulgated thereunder, that is subject to Part 4 of Subtitle B of Title I of ERISA.

_____ True _____ False

(b) The Subscriber is a natural person **not** subject to ERISA or Code §4975.

_____ True _____ False

(c) Does the Subscriber, or any affiliate of the Subscriber, have discretionary authority or control with respect to the assets of the Partnership or provide investment advice for a fee (direct or indirect) with respect to such assets?

_____ Yes _____ No

For purposes of the foregoing, an "affiliate" of a person or entity includes any person or entity, directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with such person or entity. "Control," with respect to a person other than an individual, means the power to exercise a controlling influence over the management or policies of such person.

_____ (d) By marking the space to the left with an "X," the Subscriber hereby notifies the general partner of the Partnership (the "General Partner") and the Partnership that it is a "Non-U.S. Partner" (as defined in the Agreement of Limited Partnership of the Partnership).

(e) The Subscriber represents that it is (check one or, if none apply, explain):

_____ (1) an individual human being, or a joint tenancy (specify type: _____) comprised solely of individual human beings;

_____ (2) a revocable grantor trust, the sole settlor of which was:

_____;
(Individual's Name)

_____ (3) an individual retirement account for:

_____; or
(Individual's Name)

_____ (4) a self-directed retirement plan for:

_____.
(Individual's Name)

(f) The natural person described in Part I above is a citizen of the following country:

_____.

(g) The natural person described in Part I above is domiciled in _____ (specify state or non-U.S. jurisdiction, including the applicable city, province or other subdivision thereof).

(h) If the Subscriber is an entity, its jurisdiction of organization is _____ and it is domiciled in _____ (specify state or non-U.S. jurisdiction, including the applicable city, province or other subdivision thereof).

The Subscriber hereby represents and warrants that all of the answers, statements and information set forth in this Investor Qualification Statement are true and correct on the date hereof and will be true and correct as of each date, if any, that the subscription set forth in the Subscription Agreement to which this Investor Qualification Statement relates is accepted, in whole or in part, by the General Partner. The Subscriber hereby agrees to provide such additional information related to the foregoing as is requested by the General Partner and to notify the General Partner promptly of any change that may cause any answer, statement or information set forth in this Investor Qualification Statement to become untrue in any material respect.

* * * * *

IN WITNESS WHEREOF, the Subscriber has executed this Investor Qualification Statement on the date set forth below.

Dated _____ ___, ____

For Subscribers That Are Natural Persons:

Subscriber's Name: _____
(print or type)

Subscriber's Signature: _____
(signature)

Subscriber's Social Security No.: _____

Spouse's Signature: _____
(only required if subscription is being made by a husband and wife as joint tenants) (signature)

For Subscribers That Are Alter-Egos of Natural Persons (e.g., individual retirement accounts, self-directed retirement plans and certain revocable grantor trusts):

Subscriber's Name: _____
(print or type)

By: _____
(signature of authorized representative)

Name: _____
(print or type name of authorized representative)

Title: _____
(print or type title of authorized representative)

Subscriber's Tax Identification No.: _____

Subscriber's Wire Transfer Instructions (for either Natural Persons or Alter-Egos of Natural Persons):

Bank Name: _____
Bank Location: _____
ABA Routing Number (for U.S. Banks): _____
Swift Code (for non-U.S. Banks): _____
Account Name _____
Account Number: _____
Reference: _____

Public School Employees' Retirement System
Name of Subscriber
(Please Print or Type)

INVESTOR QUALIFICATION STATEMENT FOR ENTITIES[1]

Part I. Regulation D Matters.

(a) If the Subscriber is ***not*** a natural person, a revocable grantor trust (the sole settlor (i.e., grantor) of which is a natural person), an individual retirement account of a natural person or a self-directed employee benefit plan of a natural person (i.e., is, instead, a corporation, partnership, limited liability company, trust or other entity), please indicate with an "X" the category or categories that accurately describe the Subscriber and qualify it as an "accredited investor" pursuant to Regulation D promulgated under the United States Securities Act of 1933, as amended and in effect as of the date hereof (the "Securities Act"):

_____ (1) a bank as defined in Section 3(a)(2) of the Securities Act, or a savings and loan association or other institution as defined in Section 3(a)(5)(A) of the Securities Act, whether acting in its individual or fiduciary capacity;

_____ (2) a broker or dealer registered pursuant to Section 15 of the United States Securities Exchange Act of 1934, as amended;

_____ (3) an insurance company as defined in Section 2(13) of the Securities Act;

_____ (4) an investment company registered under the United States Investment Company Act of 1940, as amended, and the rules and regulations promulgated thereunder (the "Investment Company Act");

_____ (5) a business development company as defined in Section 2(a)(48) of the Investment Company Act;

_____ (6) a Small Business Investment Company licensed by the United States Small Business Administration under Section 301(c) or (d) of the United States Small Business Investment Act of 1958, as amended;

√ (7) a plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees, if such plan has total assets in excess of $5,000,000;

[1] For purposes hereof, the "Partnership" means Windjammer Senior Equity Fund IV, L.P., a Delaware limited partnership.

(8) an employee benefit plan within the meaning of Title I of the United States Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations promulgated thereunder ("ERISA"), and (check all subcategories that apply):

_____ (A) the investment decision is made by a plan fiduciary, as defined in Section 3(21) of ERISA, which is either a bank, savings and loan association, insurance company or registered investment adviser,

_✓_ (B) the employee benefit plan has total assets in excess of $5,000,000, or

_____* (C) such plan is a self-directed plan with investment decisions made solely by persons that are "accredited investors";

**See Section (b) below*

_____ (9) a private business development company as defined in Section 202(a)(22) of the United States Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder (the "Investment Advisers Act");

(10) one of the following entities which was not formed for the specific purpose of making an investment in the Partnership and which has total assets in excess of $5,000,000:

_____ (A) a corporation, limited liability company or partnership;

_____ (B) an organization described in §501(c)(3) of the United States Internal Revenue Code of 1986, as amended (the "Code"); or

_____ (C) a Massachusetts or similar business trust;

_____ (11) a trust, with total assets in excess of $5,000,000, not formed for the specific purpose of acquiring limited partner interests of the Partnership, whose purchase of the limited partner interests offered is directed by a person with such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of an investment in such limited partner interests; or

_____* (12) an entity in which all of the equity owners are "accredited investors."

**See Section (b) below*

(b) If the Subscriber is an accredited investor for the reason described in Part I(a)(8)(C) above, **a separate Investor Qualification Statement must be submitted for each person making investment decisions for the Subscriber**. If the Subscriber is an accredited investor for the reason described in Part I(a)(12) above, **a separate Investor Qualification Statement must be submitted for each stockholder, partner, member or other**

beneficial owner of the Subscriber. *In the event the Subscriber is an accredited investor for any of the reasons referenced in this paragraph, the Subscriber may be required to enter into a letter agreement with the Partnership restricting direct and indirect transfers of beneficial interests in the Subscriber to accredited investors.*

Part II. **Investment Company Act Matters.**

(a) The Subscriber is one of the following:

(1) an "investment company," as defined in Section 3 of the Investment Company Act, registered or required to be registered under the Investment Company Act; or

(2) a "business development company," as defined in Section 2(a)(48) of the Investment Company Act.

_____ True ✓ False

(b) The Subscriber would be an "investment company" as defined in Section 3(a) of the Investment Company Act if it were not exempt from such definition due to Section 3(c)(1) or Section 3(c)(7) of the Investment Company Act.

_____ True ✓ False

(c) If the answer to Part II(a) or (b) above is "True," the Subscriber's commitment to the Partnership is less than ten percent (10%) of the Partnership's committed capital committed by all of its limited partners (leave blank if the answers to both Part II(a) and (b) above are "False").

_____ True _____ False

(d) If the answer to Part II(c) above is "False," the number of direct or indirect beneficial owners of the Subscriber's securities as interpreted under the Investment Company Act (other than short-term paper, as such term is interpreted under the Investment Company Act) is _____ (leave blank if the answer to Part II(c) above is "True" or blank).

If at any time during the term of the Partnership any statement in Part II(a), (b), (c), or (d) shall no longer be accurate if made at such time, the Subscriber shall promptly notify the general partner of the Partnership (the "General Partner").

(e) The Subscriber was not formed or reformed (as interpreted under the Investment Company Act) for the purpose of acquiring limited partner interests of the Partnership.

✓ True _____ False

(f) The Subscriber's commitment to the Partnership is less than forty percent (40%) of the Subscriber's assets (including committed capital).

✓ True _____ False

(g) The Subscriber has made investments prior to the date hereof or intends to make investments in the near future and each beneficial owner of interests in the Subscriber has shared and will share in the same proportion in each such investment (e.g., no beneficial owner of the Subscriber may vary its interests in different investments made by or on behalf of the Subscriber).

✓ True _____ False

(h) The governing documents of the Subscriber require that each beneficial owner of the Subscriber including, but not limited to, shareholders, partners and beneficiaries, participate through his, her or its interest in the Subscriber in all of the Subscriber's investments and that the profits and losses from each such investment are shared among such beneficial owners in the same proportions as all other investments of the Subscriber. No such beneficial owner may vary his, her or its share of the profits and losses or the amount of his, her or its contribution for any investment made by the Subscriber.

✓ True _____ False

(i) The Subscriber is not managed as a device for facilitating individual investment decisions of its beneficial owners, but rather is managed as a collective investment vehicle (e.g., no beneficial owner of the Subscriber has the right to "opt out" of an investment or has individual discretion over the amount of his, her or its investment).

✓ True _____ False

Part III. **Investment Advisers Act Matters.**

(Note the ability to give a response of "True" to each of questions (b), (c) and (d) below that apply qualifies the Subscriber as a "qualified client" under the Investment Advisers Act.)

(a) The Subscriber is:

(1) an entity which is registered as an "investment company" under the Investment Company Act, or which would be an "investment company" as defined in Section 3(a) of the Investment Company Act if it were not exempt from such definition due to Section 3(c)(1) of the Investment Company Act;

_____ True _____✓_____ False

(2) a "business development company" as defined in Section 202(a)(22) of the Investment Advisers Act.

_____ True _____✓_____ False

(b) If the Subscriber answered "False" to each part of Part III(a) above, the Subscriber (i) has a net worth in excess of $2,000,000, (ii) is a "qualified purchaser" as defined in Section 2(a)(51)(A) of the Investment Company Act, or (iii) is making a commitment to the Partnership of at least $1,000,000.

_____✓_____ True _____ False

(c) If the Subscriber answered "True" to any part of Part III(a) above (a "Look-Through Entity"), each equity owner of the Subscriber (i) has a net worth (including, for natural persons, assets held jointly with such person's spouse) in excess of $2,000,000, excluding, for natural persons, the value of the primary residence of such person, calculated by subtracting from the estimated fair market value of the property the amount of debt secured by the property up to the estimated fair market value of the property, (ii) is a "qualified purchaser" as defined in Section 2(a)(51)(A) of the Investment Company Act, or (iii) is making a direct or indirect commitment to the Partnership of at least $1,000,000.

_____ True _____ False

(d) If the Subscriber is a Look-Through Entity and any direct or indirect equity owner of the Subscriber is also a Look-Through Entity, each equity owner of such direct or indirect equity owner (i) has a net worth (including, for natural persons, assets held jointly with such person's spouse) in excess of $2,000,000, excluding, for natural persons, the value of the primary residence of such person, calculated by subtracting from the

estimated fair market value of the property the amount of debt secured by the property up to the estimated fair market value of the property, (ii) is a "qualified purchaser" as defined in Section 2(a)(51)(A) of the Investment Company Act, or (iii) is making a direct or indirect commitment to the Partnership of at least $1,000,000.

_____ True _____ False

Part IV. Qualified Purchaser Matters.

(a) Please indicate with an "X" the category or categories, if any, that accurately describe the Subscriber and qualify it as a "qualified purchaser" as defined under the Investment Company Act:

✓ (1) an entity acting for its own account or the accounts of other qualified purchasers, that: (i) was not formed or reformed for the specific purpose of acquiring the securities offered by the Partnership; and (ii) which in the aggregate owns and invests on a discretionary basis not less than ~~$25,000,000 in Investments;~~[1]

_____* (2) a trust: (i) that was not formed or reformed for the specific purpose of acquiring the securities offered by the Partnership; and (ii) as to which the trustee or other person authorized to make decisions with respect to the trust, and each settlor or other person who has contributed assets to the trust, is a qualified purchaser as described in clause (a)(1) or (a)(3) or is a natural person who owns at least $5,000,000 of Investments;

**See Section (b) below*

_____* (3) a company as defined in Section 2(a)(8) of the Investment Company Act[2] that: (i) was not formed or reformed for the specific purpose of acquiring the securities offered by the Partnership; (ii) owns not less than $5,000,000 in Investments; and (iii) is owned, directly or indirectly, only by or for 2 or more natural persons who are related as siblings or spouses (including former spouses), or direct lineal descendants by birth or adoption, spouses of such persons, the estates of such persons, or foundations, charitable organizations, or trusts established by or for the benefit of such persons (a "Family Company");

**See Section (b) below*

_____* (4) a company in which each beneficial owner of such company's securities is a qualified purchaser;

**See Section (b) below*

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[1] See Appendix A to this Investor Qualification Statement for the definition of "Investments." In determining whether a company is a qualified purchaser pursuant to Part IV(a)(1) there may be included Investments owned by majority-owned subsidiaries of the company, Investments owned by a company (the "Parent Company") of which the company is a majority-owned subsidiary, or by a majority-owned subsidiary of the company and other majority-owned subsidiaries of the Parent Company.

[2] Section 2(a)(8) of the Investment Company Act defines a "company" as "a corporation, a partnership, an association, a joint-stock company, a trust, a fund, or any organized group of persons whether incorporated or not; or any receiver, trustee in a case under Title 11 of the United States Code or similar official or any liquidating agent for any of the foregoing, in his capacity as such."

✓ (5) a qualified institutional buyer as defined in paragraph (a) of Section 230.144A(a) under the Code of Federal Regulations (the "CFR"), acting for its own account, the account of another qualified institutional buyer or the account of a qualified purchaser provided: (i) a dealer described in paragraph (a)(1)(ii) of Section 230.144A of the CFR owns and invests on a discretionary basis at least $25 million in securities of issuers that are not affiliated persons of the dealer; and (ii) a plan referred to in paragraph (a)(1)(D) or (a)(1)(E) of Section 230.144A of the CFR or a trust fund referred to in paragraph (a)(1)(F) of Section 230.144A of the CFR that holds the assets of such a plan, will not be deemed to be acting for its own account if investment decisions with respect to the plan are made by the beneficiaries of the plan, except with respect to investment decisions made solely by the fiduciary, trustee or sponsor of such plan; or

_____ (6) the Subscriber is not a "qualified purchaser" as defined under the Investment Company Act.

(b) **If the Subscriber is a qualified purchaser for the reason described in Part IV(a)(2) above**, a separate Investor Qualification Statement must be submitted for each trustee, or other person authorized to make decisions with respect to the trust and each settlor or other person who has contributed assets to the trust. **If the Subscriber is a qualified purchaser for the reason described in Part IV(a)(3) above**, additional information regarding the direct and indirect owners of the Family Company may need to be provided to the General Partner. **If the Subscriber is a qualified purchaser for the reason described in Part IV(a)(4) above**, a separate Investor Qualification Statement must be submitted for each beneficial owner of the Subscriber's securities. *In the event the Subscriber is a qualified purchaser for the reasons referenced in Part IV(a)(3) or Part IV(a)(4), the Subscriber may be required to enter into a letter agreement with the Partnership restricting direct and indirect transfers of beneficial interests in the Subscriber to, in the case of Part IV(a)(3), qualified family members and, in the case of Part IV(a)(4), qualified purchasers.*

(c) If the Subscriber is a company formed on or before April 30, 1996 that relies on the exceptions provided for in Section 3(c)(1) or 3(c)(7) of the Investment Company Act to be exempt from registration as an investment company under the Investment Company Act (an "excepted investment company"), the Subscriber hereby represents and warrants that all consents required under the Investment Company Act to the Subscriber's treatment as a qualified purchaser have been obtained.[3]

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[3] The Investment Company Act and the rules and regulations thereunder require that (i) all "beneficial owners" of outstanding securities (other than "short-term paper") of such Subscriber that acquired their interests on or before April 30, 1996, and (ii) all "beneficial owners" of any other excepted investment company that is a "beneficial owner" of outstanding securities (other than "short-term paper") of such Subscriber that acquired their interests in such other excepted investment company on or before April 30, 1996, consent to such treatment. Terms in quotes in the preceding sentence refer to such terms as interpreted under the Investment Company Act. The unanimous consent of all trustees, directors or general partners of a beneficial owner which is a trust or company referred to in Part IV(a)(2) or Part IV(a)(3) shall constitute consent of a beneficial owner for purposes of this Part IV(c).

Part V. **Miscellaneous Matters.**

(a) Benefit Plan Matters. The Subscriber hereby notifies the General Partner and the Partnership that the following statements are true as indicated:

(1) The Subscriber is an "employee benefit plan" that is subject to Title I of ERISA.

_____ Yes ✓ No

(2) The Subscriber is an individual retirement account or annuity or other "plan" that is subject to Code §4975.

_____ Yes ✓ No

(3) The Subscriber is an insurance company general account.

_____ Yes ✓ No

If "Yes," do the underlying assets of the Subscriber include the "plan assets" of one or more "Benefit Plan Investors" (as defined in the Agreement of Limited Partnership of the Partnership (the "Partnership Agreement")) that are subject to ERISA or Code §4975?

_____ Yes _____ No

If "Yes," the maximum percentage of the Subscriber's assets that may be held by Benefit Plan Investors is _____% (specify maximum percentage). The Subscriber represents, warrants and covenants that this percentage shall not be exceeded for so long as it holds an Interest.

(4) The Subscriber is an entity described in 29 C.F.R. § 2510.3-101(h) of the "Plan Asset Regulation" (as defined in the Partnership Agreement), including a group trust which is exempt from taxation pursuant to the principles of Rev. Ruling 81-100; a common or collective trust fund of a bank; or an insurance company separate account (other than a separate account that is maintained solely in connection with fixed contractual obligations of the insurance company under which the amounts payable, or credited, to the plan and to any participant or beneficiary of the plan are not affected in any manner by the investment performance of the separate account).

✓ Yes _____ No

If "Yes," do the underlying assets of the Subscriber include the "plan assets" of one or more Benefit Plan Investors that are subject to ERISA or Code §4975?

_____ Yes _✓_ No

(5) The Subscriber is an entity, account or other pooled investment fund other than one described in items (3) or (4), above, such as a fund of funds, the underlying assets of which are deemed under the Plan Asset Regulation to include "plan assets" of any "employee benefit plan" subject to ERISA or "plan" subject to Code §4975.

_____ Yes _✓_ No

If "Yes," the maximum percentage of the Subscriber's assets that may be held by Benefit Plan Investors is _____% (specify maximum percentage). The Subscriber represents, warrants and covenants that this percentage shall not be exceeded for so long as it holds an Interest.

(6) The Subscriber is an entity, account or other pooled investment vehicle, such as a fund of funds, that **may now or in the future** have equity investors, partners, members, beneficiaries, or other beneficial owners that are "employee benefit plans" subject to ERISA or "plans" subject to Code §4975, but whose underlying assets are **not currently** deemed under the Plan Asset Regulation to include "plan assets" of any Benefit Plan Investors subject to ERISA or Code §4975 because investment by such Benefit Plan Investors is not "significant" (as defined by the Plan Asset Regulation) or the Subscriber complies with another applicable exception under the Plan Asset Regulation.

_____ Yes _✓_ No

If "Yes," the Subscriber represents and covenants that, for so long as it holds an Interest:

____ it limits and will continue to limit Benefit Plan Investor participation in the Subscriber so that such participation is not and will not be "significant" under the Plan Asset Regulation. The maximum percentage of the Subscriber's underlying assets that may be held by Benefit Plan Investors is _____% (specify maximum percentage).

____ it qualifies and will continue to qualify as a "venture capital operating company" (as defined by the Plan Asset Regulation).

____ it qualifies and will continue to qualify as a "real estate operating company" (as defined by the Plan Asset Regulation).

____ it qualifies and will continue to qualify for another applicable exception or exceptions under the Plan Asset Regulation. Please specify:

_____

(7) The Subscriber is a "governmental plan" within the meaning of Section 3(32) of ERISA.

__✓__ Yes _____ No

(8) The Subscriber is a "church plan" within the meaning of Section 3(33) of ERISA.

_____ Yes __✓__ No

If "Yes," has the Subscriber elected to be subject to ERISA?

_____ Yes _____ No

(9) The Subscriber is a plan established and maintained outside of the United States primarily for the benefit of individuals substantially all of whom are non-residents of the United States.

_____ Yes __✓__ No

(10) Does the Subscriber, or any affiliate of the Subscriber, have discretionary authority or control with respect to the assets of the Partnership or provide investment advice for a fee (direct or indirect) with respect to such assets?

_____ Yes __✓__ No

For purposes of the foregoing, an "affiliate" of a person or entity includes any person or entity, directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with such person or entity. "Control," with respect to a person other than an individual, means the power to exercise a controlling influence over the management or policies of such person.

(b) Notifications. The Subscriber hereby notifies the General Partner and the Partnership that it is (check any and all that apply):

_____ (1) a Limited Partner subject to the "BHCA" (as defined in the Partnership Agreement), but is investing under Section 4(k) of the BHCA and is thus not a "BHCA Limited Partner" (as defined in the Partnership Agreement);

_____ (2) a BHCA Limited Partner;

__✓__ (3) a "Governmental Plan Partner" (as defined in the Partnership Agreement);

__✓__ (4) a "Tax Exempt Partner" (as defined in the Partnership Agreement); and/or

_____ (5) a "Non-U.S. Partner" (as defined in the Partnership Agreement).

(c) Type of Entity. The Subscriber represents that it is:

_____ (1) a corporation;

_____ (2) a general partnership;

_____ (3) a limited partnership;

_____ (4) a limited liability partnership;

_____ (5) a limited liability company;

__✓__ (6) an unincorporated agency or instrumentality of the government of __PA, US__ (specify city, state, province, country and/or other jurisdiction);

_____ (7) a trust of the following type: _____ (e.g., charitable remainder trust, etc.); or

_____ (8) the following other form of entity:

_____.

(d) Tax Treatment.

(1) Is the Subscriber disregarded as a separate entity from its owner for U.S. federal income tax purposes?

_____ Yes __✓__ No

If "Yes," please describe the owner (e.g., individual human being):

_____

(2) Is the Subscriber exempt from U.S. federal income taxation?

__✓__ Yes _____ No

If "Yes," please provide the Code section(s) under which the Subscriber is exempt:

501(a)

(e) Jurisdiction of Organization. The Subscriber represents that its jurisdiction of organization is PA.

(f) Domicile. The Subscriber represents that it is domiciled in PA (specify state or non-U.S. jurisdiction, including the applicable city, province or other subdivision thereof).

(g) FCC Matters. The Subscriber represents and warrants that it is correctly and in all respects described by the category or categories set forth below and marked with an "X" by the Subscriber.

_____ (1) The Subscriber is a corporation organized in the United States, 100% of the stock of which (by vote and value) is held by U.S. persons or entities, or is a U.S.-based non-stock corporation controlled by (i.e., a majority of the trustees or directors are) U.S. citizens or entities.

_____ (2) The Subscriber is a partnership organized in the United States, all of the partners of which are U.S. citizens or U.S. entities described in clauses (1), (2) and/or (3).

_____ (3) The Subscriber is a limited liability company organized in the United States, all of the members of which are U.S. citizens or U.S. entities described in clauses (1), (2) and/or (3).

_____ (4) The Subscriber is an investment fund organized in the United States, all of the investors in which are U.S. citizens or U.S. entities described in clauses (1), (2) and/or (3) above.

_____ (5) The Subscriber is an entity (including a trust or sole proprietorship) organized in the United States not described in any of clauses (1) through (4) above, all of the beneficial interests in which are owned by U.S. citizens or U.S. entities described in clauses (1), (2) and/or (3) above and/or funds described in clause (4) above.

__✓__ (6) The Subscriber is a trust established pursuant to a plan adopted and maintained by a U.S. corporation or a U.S. federal, state or local governmental authority with respect to which either (a) all of the trustees are U.S. citizens, or (b) less than all of the trustees are U.S. citizens, but the Subscriber has attached to this Investor Qualification Statement a list

setting forth (i) the name of each trustee who is not a U.S. citizen, and (ii) the total number of trustees of such trust (including both those trustees who are U.S. citizens and those who are not).

_____ (7) The Subscriber is a U.S. corporation, partnership, limited liability company, investment fund or other entity, less than 100% of the ownership of which (by vote or value) is held by U.S. citizens or U.S. entities described in clauses (1) through (5) or (6)(a) above. If ownership of the Subscriber is widely-held (more than 50 owners), state the method of determination for the percentage of foreign ownership provided below.

a. Percent of vote held by non-U.S. persons or entities:_____
b. Percent of value held by non-U.S. persons or entities: _____
c. Method of determination (if widely-held): _____

__✓__ (8) The Subscriber is an instrumentality of the U.S. federal government or a U.S. state or local government.

_____ (9) The Subscriber is a U.S.-based organization described in Code §501(c)(3).

__✓__ (10) The Subscriber is a U.S.-based pension plan of an entity described in any of clauses (1) through (9) above (other than clause (6)).

_____ (11) The Subscriber is *not* described in any of clauses (1) through (10) above. (Please provide additional details on a separate sheet or in the space below.)

The Subscriber hereby represents and warrants that all of the answers, statements and information set forth in this Investor Qualification Statement are true and correct on the date hereof and will be true and correct as of each date, if any, that the subscription set forth in the Subscription Agreement to which this Investor Qualification Statement relates is accepted, in whole or in part, by the General Partner. The Subscriber hereby agrees to provide such additional information related to the foregoing as is requested by the General Partner and to notify the General Partner promptly of any change that may cause any answer, statement or information set forth in this Investor Qualification Statement to become untrue in any material respect.

* * * * *

IN WITNESS WHEREOF, the Subscriber has executed this Investor Qualification Statement on the date set forth below.

Dated _____ ___, ____

Subscriber's Name: Public School Employees' Retirement System
(print or type)

By: see next page
(signature of authorized representative)

Name: _____
(print or type name of authorized representative)

Title: _____
(print or type title of authorized representative)

Subscriber's Tax Identification No.: [redacted]

Subscriber's Wire Transfer Instructions:

Bank Name: see attached page

Bank Location: _____

ABA Routing Number (for U.S. Banks): _____

Swift Code (for non-U.S. Banks): _____

Account Name _____

Account Number: _____

Reference: _____

WINDJAMMER SENIOR EQUITY FUND IV, L.P.

SIGNATURE PAGE TO INVESTOR QUALIFICATION STATEMENT

Limited Partner:

Commonwealth of Pennsylvania
Public School Employees'
Retirement System

By: Alan H. Van Noord, CFA
Title: Chief Investment Officer

By: Jeffrey B. Clay
Title: Executive Director

Approved for form and legality:

3/15/12
Deputy General Counsel
Office of General Counsel

Chief Deputy Attorney General
Office of Attorney General

Michele M. Ferencz, Chief Counsel
Public School Employees' Retirement System

WINDJAMMER SENIOR EQUITY FUND IV, L.P.

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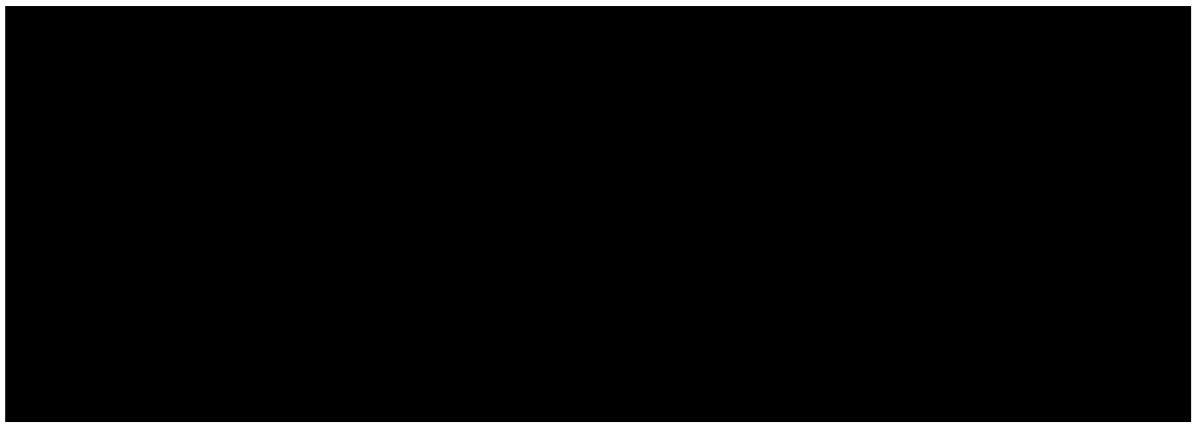
Chief Deputy Attorney General
Office of Attorney General

Michele M. Ferencz, Chief Counsel
Public School Employees' Retirement System



APPENDIX A
To Individual and Entity Investor Qualification Statements

Definition of "Investment" for purposes of the Investment Company Act

For purposes of determining whether the Subscriber qualifies as a "qualified purchaser" under the United States Investment Company Act of 1940, as amended (the Investment Company Act"), the term Investments[1] means:

(1) Securities (as defined by Section 2(a)(1) of the United States Securities Act of 1933, as amended (the "Securities Act")), other than securities of an issuer that controls, is controlled by, or is under common control with the Subscriber, unless the issuer of such securities is: (A) an investment company, a company that would be an investment company but for an exclusion provided by Sections 3(c)(1) through 3(c)(9) of the Investment Company Act or the exemptions provided by Section 270.3a-6 or 270.3a-7 of the CFR, or a commodity pool; (B) a company that files reports pursuant to Section 13 or 15(d) of the United States Securities Exchange Act of 1934, as amended, or has a class of securities that are listed on a "designated offshore securities market" as such term is defined by Regulation S under the Securities Act; or (C) a company with shareholders' equity of not less than $50 million (determined in accordance with generally accepted accounting principles) as reflected on the company's most recent financial statements, provided that such financial statements present the information as of a date within 16 months preceding the date on which the Subscriber will acquire the securities of the Partnership;

(2) Real estate held for investment purposes. Real estate shall not be considered to be held for investment purposes by the Subscriber if it is used by the Subscriber or a Related Person (A) for personal purposes or as a place of business, or (B) in connection with the conduct of the trade or business of the Subscriber or a Related Person, provided that real estate owned by the Subscriber if the Subscriber is engaged primarily in the business of investing, trading or developing real estate in connection with

[1] For purposes of determining whether the Subscriber is a qualified purchaser, the aggregate amount of Investments owned and invested on a discretionary basis by the Subscriber will be the Investments' fair market value on the most recent practicable date, or their cost; *provided* that: (i) in the case of Commodity Interests (as defined in paragraph 3 of this Appendix A), the amount of Investments will be the value of the initial margin or option premium deposited in connection with such Commodity Interests; and (ii) in each case, deduct from the amount of Investments owned by the Subscriber the following amounts, as applicable: (a) the amount of any outstanding indebtedness incurred to acquire or for the purpose of acquiring the Investments owned by the Subscriber (including, in the case of any joint Investments, any outstanding indebtedness incurred by the spouse to acquire or for the purpose of acquiring the Investments) and (b) in addition to the amount specified in clause (a) of this sentence with respect to a Family Company (described in Part IV(a)(3) of the Investor Qualification Statement for Entities), the amount of outstanding indebtedness incurred by an owner of the Family Company to acquire or for the purpose of acquiring such Investments.

such business may be deemed to be held for investment purposes. Residential real estate shall not be deemed to be used for personal purposes if deductions with respect to such real estate are not disallowed by Section 280A of the Internal Revenue Code, as amended. A "Related Person" means a person who is related to the Subscriber as a sibling, spouse or former spouse, or is a direct lineal descendant or ancestor by birth or adoption of the Subscriber or is a spouse of such descendant or ancestor; provided that, in the case of a Family Company, a Related Person includes any owner of the Family Company and any person who is a Related Person of such owner;

(3) Commodity Interests held for investment purposes. "Commodity Interests" means commodity futures contracts, options on commodity futures contracts, and options on physical commodities which are traded on or subject to the rules of any contract market designated for trading such transactions under the Commodity Exchange Act and the rules thereunder or any board of trade or exchange outside the United States, as contemplated in Part 30 of the rules under the Commodity Exchange Act. A Commodity Interest owned by the Subscriber who is engaged primarily in the business of investing, reinvesting, or trading in Commodity Interests in connection with such business may be deemed to be held for investment purposes;

(4) Physical Commodities held for investment purposes. "Physical Commodity" means any physical commodity with respect to which a Commodity Interest is traded on or subject to the rules of any contract market designated for trading such transactions under the Commodity Exchange Act and the rules thereunder or any board of trade or exchange outside the United States, as contemplated in Part 30 of the rules under the Commodity Exchange Act. A Physical Commodity owned by the Subscriber who is engaged primarily in the business of investing, reinvesting, or trading in Physical Commodities in connection with such business may be deemed to be held for investment purposes;

(5) To the extent not securities, financial contracts (as such term is defined in Section 3(c)(2)(B)(ii) of the Investment Company Act) entered into for investment purposes. A financial contract entered into by the Subscriber who is engaged primarily in the business of investing, reinvesting, or trading in financial contracts in connection with such business may be deemed to be held for investment purposes;

(6) If the Subscriber is a commodity pool or company that would be an investment company except that it is relying on an exception provided in Section 3(c)(1) or Section 3(c)(7) of the Investment Company Act, any amounts payable to the Subscriber pursuant to a firm agreement or similar binding commitment pursuant to which a person has agreed to acquire an

interest in, or make capital contributions to, the Subscriber upon the demand of the Subscriber; and

(7) Cash and cash equivalents (including in currencies other than the U.S. dollar) held for investment purposes, including: (A) bank deposits, certificates of deposit, bankers acceptances and similar bank instruments held for investment purposes; and (B) the net cash surrender value of an insurance policy.

Privacy Notice[1]

Windjammer Capital Investors IV, L.P.
Windjammer Senior Equity Fund IV, L.P.

Our Commitment to Your Privacy: We are sensitive to the privacy concerns of our individual limited partners. We have a policy of protecting the confidentiality and security of information we collect about you. We are providing you this notice to help you better understand why and how we collect certain personal information, the care with which we treat that information, and how we use that information.

Sources of Non-Public Information: In connection with forming and operating our private investment funds for our limited partners, we collect and maintain non-public personal information from the following sources:

- Information we receive from you in conversations over the telephone, in voicemails, through written correspondence, via e-mail, or on subscription agreements, investor questionnaires, applications or other forms,
- Information about your transactions with us or others, and
- Information captured on our website, including registration information and any information captured via "cookies."

Disclosure of Information: We do not disclose any non-public personal information about you to anyone, except as permitted by law or regulation and to service providers.

Former Limited Partners: We maintain non-public personal information of our former limited partners and apply the same policies that apply to current limited partners.

Information Security: We consider the protection of sensitive information to be a sound business practice, and to that end we employ physical, electronic and procedural safeguards to protect your non-public personal information in our possession or under our control.

Further Information: We reserve the right to change our privacy policies and this Privacy Notice at any time. The examples contained within this notice are illustrations only and are not intended to be exclusive. This notice is intended to comply with the privacy provisions of applicable U.S. federal law. You may have additional rights under other foreign or domestic laws that may apply to you.

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[1] This Privacy Notice is intended only for individuals and certain entities that are essentially "alter egos" of individuals (e.g., revocable grantor trusts, IRAs or certain estate planning vehicles).

Form **W-9**
(Rev. January 2011)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

Print or type See Specific Instructions on page 2.

Name (as shown on your income tax return)
Commonwealth of Pennsylvania, Public School Employees' Retirement System

Business name/disregarded entity name, if different from above

Check appropriate box for federal tax classification (required): ☐ Individual/sole proprietor ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ►

☑ Other (see instructions) ► Governmental Pension Fund

☑ Exempt payee

Address (number, street, and apt. or suite no.)
5 N. 5th St.

Requester's name and address (optional)

City, state, and ZIP code
Harrisburg, PA 17101

List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number
[redacted]

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here Signature of U.S. person ► [signature] Date ► 8/11/11

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,
- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.

2. The treaty article addressing the income.

3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.

4. The type and amount of income that qualifies for the exemption from tax.

5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS a percentage of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,

2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),

3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate Instructions for the Requester of Form W-9.

Also see *Special rules for partnerships* on page 1.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account, for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of $50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a $500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name/disregarded entity name" line.

Partnership, C Corporation, or S Corporation. Enter the entity's name on the "Name" line and any business, trade, or "doing business as (DBA) name" on the "Business name/disregarded entity name" line.

Disregarded entity. Enter the owner's name on the "Name" line. The name of the entity entered on the "Name" line should never be a disregarded entity. The name on the "Name" line must be the name shown on the income tax return on which the income will be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a domestic owner, the domestic owner's name is required to be provided on the "Name" line. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on the "Business name/disregarded entity name" line. If the owner of the disregarded entity is a foreign person, you must complete an appropriate Form W-8.

Note. Check the appropriate box for the federal tax classification of the person whose name is entered on the "Name" line (Individual/sole proprietor, Partnership, C Corporation, S Corporation, Trust/estate).

Limited Liability Company (LLC). If the person identified on the "Name" line is an LLC, check the "Limited liability company" box only and enter the appropriate code for the tax classification in the space provided. If you are an LLC that is treated as a partnership for federal tax purposes, enter "P" for partnership. If you are an LLC that has filed a Form 8832 or a Form 2553 to be taxed as a corporation, enter "C" for C corporation or "S" for S corporation. If you are an LLC that is disregarded as an entity separate from its owner under Regulation section 301.7701-3 (except for employment and excise tax), do not check the LLC box unless the owner of the LLC (required to be identified on the "Name" line) is another LLC that is not disregarded for federal tax purposes. If the LLC is disregarded as an entity separate from its owner, enter the appropriate tax classification of the owner identified on the "Name" line.

Other entities. Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name/ disregarded entity name" line.

Exempt Payee

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the "Exempt payee" box in the line following the "Business name/ disregarded entity name," sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following payees are exempt from backup withholding:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),

2. The United States or any of its agencies or instrumentalities,

3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,

4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or

5. An international organization or any of its agencies or instrumentalities.

Other payees that may be exempt from backup withholding include:

6. A corporation,

7. A foreign central bank of issue,

8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,

9. A futures commission merchant registered with the Commodity Futures Trading Commission,

10. A real estate investment trust,

11. An entity registered at all times during the tax year under the Investment Company Act of 1940,

12. A common trust fund operated by a bank under section 584(a),

13. A financial institution,

14. A middleman known in the investment community as a nominee or custodian, or

15. A trust exempt from tax under section 664 or described in section 4947.

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 9
Broker transactions	Exempt payees 1 through 5 and 7 through 13. Also, C corporations.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 5
Payments over $600 required to be reported and direct sales over $5,000 [1]	Generally, exempt payees 1 through 7 [2]

[1] See Form 1099-MISC, Miscellaneous Income, and its instructions.

[2] However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney, and payments for services paid by a federal executive agency.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at *www.ssa.gov*. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at *www.irs.gov/businesses* and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: *A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.*

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, below, and items 4 and 5 on page 4 indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on the "Name" line must sign. Exempt payees, see *Exempt Payee* on page 3.

Signature requirements. Complete the certification as indicated in items 1 through 3, below, and items 4 and 5 on page 4.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account [1]
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor [2]
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee [1]
b. So-called trust account that is not a legal or valid trust under state law	The actual owner [1]
5. Sole proprietorship or disregarded entity owned by an individual	The owner [3]
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulation section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	**Give name and EIN of:**
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity [4]
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulation section 1.671-4(b)(2)(i)(B))	The trust

[1] List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

[2] Circle the minor's name and furnish the minor's SSN.

[3] You must show your individual name and you may also enter your business or "DBA" name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

[4] List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

*Note. Grantor also must provide a Form W-9 to trustee of trust.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to *phishing@irs.gov*. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: *spam@uce.gov* or contact them at *www.ftc.gov/idtheft* or 1-877-IDTHEFT (1-877-438-4338).

Visit IRS.gov to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

Form **W-8BEN**
(Rev. February 2006)
Department of the Treasury
Internal Revenue Service

Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding

▶ Section references are to the Internal Revenue Code. ▶ See separate instructions.
▶ Give this form to the withholding agent or payer. Do not send to the IRS.

OMB No. 1545-1621

Do not use this form for:	Instead, use Form:
• A U.S. citizen or other U.S. person, including a resident alien individual	W-9
• A person claiming that income is effectively connected with the conduct of a trade or business in the United States	W-8ECI
• A foreign partnership, a foreign simple trust, or a foreign grantor trust (see instructions for exceptions)	W-8ECI or W-8IMY
• A foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession that received effectively connected income or that is claiming the applicability of section(s) 115(2), 501(c), 892, 895, or 1443(b) (see instructions)	W-8ECI or W-8EXP
Note: *These entities should use Form W-8BEN if they are claiming treaty benefits or are providing the form only to claim they are a foreign person exempt from backup withholding.*	
• A person acting as an intermediary	W-8IMY

Note: *See instructions for additional exceptions.*

Part I Identification of Beneficial Owner (See instructions.)

1 Name of individual or organization that is the beneficial owner

2 Country of incorporation or organization

3 Type of beneficial owner: ☐ Individual ☐ Corporation ☐ Disregarded entity ☐ Partnership ☐ Simple trust ☐ Grantor trust ☐ Complex trust ☐ Estate ☐ Government ☐ International organization ☐ Central bank of issue ☐ Tax-exempt organization ☐ Private foundation

4 Permanent residence address (street, apt. or suite no., or rural route). **Do not use a P.O. box or in-care-of address.**

City or town, state or province. Include postal code where appropriate.

Country (do not abbreviate)

5 Mailing address (if different from above)

City or town, state or province. Include postal code where appropriate.

Country (do not abbreviate)

6 U.S. taxpayer identification number, if required (see instructions) ☐ SSN or ITIN ☐ EIN

7 Foreign tax identifying number, if any (optional)

8 Reference number(s) (see instructions)

Part II Claim of Tax Treaty Benefits (if applicable)

9 **I certify that (check all that apply):**

a ☐ The beneficial owner is a resident of ..... within the meaning of the income tax treaty between the United States and that country.

b ☐ If required, the U.S. taxpayer identification number is stated on line 6 (see instructions).

c ☐ The beneficial owner is not an individual, derives the item (or items) of income for which the treaty benefits are claimed, and, if applicable, meets the requirements of the treaty provision dealing with limitation on benefits (see instructions).

d ☐ The beneficial owner is not an individual, is claiming treaty benefits for dividends received from a foreign corporation or interest from a U.S. trade or business of a foreign corporation, and meets qualified resident status (see instructions).

e ☐ The beneficial owner is related to the person obligated to pay the income within the meaning of section 267(b) or 707(b), and will file Form 8833 if the amount subject to withholding received during a calendar year exceeds, in the aggregate, $500,000.

10 **Special rates and conditions** (if applicable—see instructions): The beneficial owner is claiming the provisions of Article ..... of the treaty identified on line 9a above to claim a ..... % rate of withholding on (specify type of income): ..... .

Explain the reasons the beneficial owner meets the terms of the treaty article: .....

.....

Part III Notional Principal Contracts

11 ☐ I have provided or will provide a statement that identifies those notional principal contracts from which the income is **not** effectively connected with the conduct of a trade or business in the United States. I agree to update this statement as required.

Part IV Certification

Under penalties of perjury, I declare that I have examined the information on this form and to the best of my knowledge and belief it is true, correct, and complete. I further certify under penalties of perjury that:

1 I am the beneficial owner (or am authorized to sign for the beneficial owner) of all the income to which this form relates,

2 The beneficial owner is not a U.S. person,

3 The income to which this form relates is (a) not effectively connected with the conduct of a trade or business in the United States, (b) effectively connected but is not subject to tax under an income tax treaty, or (c) the partner's share of a partnership's effectively connected income, **and**

4 For broker transactions or barter exchanges, the beneficial owner is an exempt foreign person as defined in the instructions.

Furthermore, I authorize this form to be provided to any withholding agent that has control, receipt, or custody of the income of which I am the beneficial owner or any withholding agent that can disburse or make payments of the income of which I am the beneficial owner.

Sign Here ▶ Signature of beneficial owner (or individual authorized to sign for beneficial owner) | Date (MM-DD-YYYY) | Capacity in which acting

Instructions for Form W-8BEN

(Rev. February 2006)

Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding

Department of the Treasury
Internal Revenue Service

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

For definitions of terms used throughout these instructions, see *Definitions* on pages 3 and 4.

Purpose of form. Foreign persons are subject to U.S. tax at a 30% rate on income they receive from U.S. sources that consists of:

- Interest (including certain original issue discount (OID));
- Dividends;
- Rents;
- Royalties;
- Premiums;
- Annuities;
- Compensation for, or in expectation of, services performed;
- Substitute payments in a securities lending transaction; or
- Other fixed or determinable annual or periodical gains, profits, or income.

This tax is imposed on the gross amount paid and is generally collected by withholding under section 1441 or 1442 on that amount. A payment is considered to have been made whether it is made directly to the beneficial owner or to another person, such as an intermediary, agent, or partnership, for the benefit of the beneficial owner.

In addition, section 1446 requires a partnership conducting a trade or business in the United States to withhold tax on a foreign partner's distributive share of the partnership's effectively connected taxable income. Generally, a foreign person that is a partner in a partnership that submits a Form W-8 for purposes of section 1441 or 1442 will satisfy the documentation requirements under section 1446 as well. However, in some cases the documentation requirements of sections 1441 and 1442 do not match the documentation requirements of section 1446. See Regulations sections 1.1446-1 through 1.1446-6. Further, the owner of a disregarded entity, rather than the disregarded entity itself, shall submit the appropriate Form W-8 for purposes of section 1446.

If you receive certain types of income, you must provide Form W-8BEN to:

- Establish that you are not a U.S. person;
- Claim that you are the beneficial owner of the income for which Form W-8BEN is being provided or a partner in a partnership subject to section 1446; and
- If applicable, claim a reduced rate of, or exemption from, withholding as a resident of a foreign country with which the United States has an income tax treaty.

You may also be required to submit Form W-8BEN to claim an exception from domestic information reporting and backup withholding for certain types of income that are not subject to foreign-person withholding. Such income includes:

- Broker proceeds.
- Short-term (183 days or less) original issue discount (OID).
- Bank deposit interest.
- Foreign source interest, dividends, rents, or royalties.
- Proceeds from a wager placed by a nonresident alien individual in the games of blackjack, baccarat, craps, roulette, or big-6 wheel.

You may also use Form W-8BEN to certify that income from a notional principal contract is not effectively connected with the conduct of a trade or business in the United States.

A withholding agent or payer of the income may rely on a properly completed Form W-8BEN to treat a payment associated with the Form W-8BEN as a payment to a foreign person who beneficially owns the amounts paid. If applicable, the withholding agent may rely on the Form W-8BEN to apply a reduced rate of withholding at source.

Provide Form W-8BEN to the withholding agent or payer before income is paid or credited to you. Failure to provide a Form W-8BEN when requested may lead to withholding at a 30% rate (foreign-person withholding) or the backup withholding rate.

Additional information. For additional information and instructions for the withholding agent, see the Instructions for the Requester of Forms W-8BEN, W-8ECI, W-8EXP, and W-8IMY.

Who must file. You must give Form W-8BEN to the withholding agent or payer if you are a foreign person and you are the beneficial owner of an amount subject to withholding. Submit Form W-8BEN when requested by the withholding agent or payer whether or not you are claiming a reduced rate of, or exemption from, withholding.

Do not use Form W-8BEN if:

- You are a U.S. citizen (even if you reside outside the United States) or other U.S. person (including a resident alien individual). Instead, use Form W-9, Request for Taxpayer Identification Number and Certification.
- You are a disregarded entity with a single owner that is a U.S. person and you are not a hybrid entity claiming treaty benefits. Instead, provide Form W-9.

- You are a nonresident alien individual who claims exemption from withholding on compensation for independent or dependent personal services performed in the United States. Instead, provide Form 8233, Exemption from Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual, or Form W-4, Employee's Withholding Allowance Certificate.
- You are receiving income that is effectively connected with the conduct of a trade or business in the United States, unless it is allocable to you through a partnership. Instead, provide Form W-8ECI, Certificate of Foreign Person's Claim That Income Is Effectively Connected With the Conduct of a Trade or Business in the United States. If any of the income for which you have provided a Form W-8BEN becomes effectively connected, this is a change in circumstances and Form W-8BEN is no longer valid. You must file Form W-8ECI. See *Change in circumstances* on this page.
- You are filing for a foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession claiming the applicability of section 115(2), 501(c), 892, 895, or 1443(b). Instead, provide Form W-8EXP, Certificate of Foreign Government or Other Foreign Organization for United States Tax Withholding. However, you should use Form W-8BEN if you are claiming treaty benefits or are providing the form only to claim you are a foreign person exempt from backup withholding. You should use Form W-8ECI if you received effectively connected income (for example, income from commercial activities).
- You are a foreign flow-through entity, other than a hybrid entity, claiming treaty benefits. Instead, provide Form W-8IMY, Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding. However, if you are a partner, beneficiary, or owner of a flow-through entity and you are not yourself a flow-through entity, you may be required to furnish a Form W-8BEN to the flow-through entity.
- You are a disregarded entity for purposes of section 1446. Instead, the owner of the entity must submit the form.
- You are a reverse hybrid entity transmitting beneficial owner documentation provided by your interest holders to claim treaty benefits on their behalf. Instead, provide Form W-8IMY.
- You are a withholding foreign partnership or a withholding foreign trust within the meaning of sections 1441 and 1442 and the accompanying regulations. A withholding foreign partnership or a withholding foreign trust is a foreign partnership or trust that has entered into a withholding agreement with the IRS under which it agrees to assume primary withholding responsibility for each partner's, beneficiary's, or owner's distributive share of income subject to withholding that is paid to the partnership or trust. Instead, provide Form W-8IMY.
- You are acting as an intermediary (that is, acting not for your own account, but for the account of others as an agent, nominee, or custodian). Instead, provide Form W-8IMY.
- You are a foreign partnership or foreign grantor trust for purposes of section 1446. Instead, provide Form W-8IMY and accompanying documentation. See Regulations sections 1.1446-1 through 1.1446-6.

Giving Form W-8BEN to the withholding agent. Do not send Form W-8BEN to the IRS. Instead, give it to the person who is requesting it from you. Generally, this will be the person from whom you receive the payment, who credits your account, or a partnership that allocates income to you. Give Form W-8BEN to the person requesting it before the payment is made to you, credited to your account or allocated. If you do not provide this form, the withholding agent may have to withhold at the 30% rate, backup withholding rate, or the rate applicable under section 1446. If you receive more than one type of income from a single withholding agent for which you claim different benefits, the withholding agent may, at its option, require you to submit a Form W-8BEN for each different type of income. Generally, a separate Form W-8BEN must be given to each withholding agent.

Note. If you own the income or account jointly with one or more other persons, the income or account will be treated by the withholding agent as owned by a foreign person if Forms W-8BEN are provided by all of the owners. If the withholding agent receives a Form W-9 from any of the joint owners, the payment must be treated as made to a U.S. person.

Change in circumstances. If a change in circumstances makes any information on the Form W-8BEN you have submitted incorrect, you must notify the withholding agent or payer within 30 days of the change in circumstances and you must file a new Form W-8BEN or other appropriate form.

If you use Form W-8BEN to certify that you are a foreign person, a change of address to an address in the United States is a change in circumstances. Generally, a change of address within the same foreign country or to another foreign country is not a change in circumstances. However, if you use Form W-8BEN to claim treaty benefits, a move to the United States or outside the country where you have been claiming treaty benefits is a change in circumstances. In that case, you must notify the withholding agent or payer within 30 days of the move.

If you become a U.S. citizen or resident alien after you submit Form W-8BEN, you are no longer subject to the 30% withholding rate or the withholding tax on a foreign partner's share of effectively connected income. You must notify the withholding agent or payer within 30 days of becoming a U.S. citizen or resident alien. You may be required to provide a Form W-9. For more information, see Form W-9 and instructions.

Expiration of Form W-8BEN. Generally, a Form W-8BEN provided without a U.S. taxpayer identification number (TIN) will remain in effect for a period starting on the date the form is signed and ending on the last day of the third succeeding calendar year, unless a change in circumstances makes any information on the form incorrect. For example, a Form W-8BEN signed on September 30, 2005, remains valid through December 31, 2008. A Form W-8BEN furnished with a U.S. TIN will remain in effect until a change in circumstances makes any information on the form incorrect, provided that the withholding agent reports on Form 1042-S at least one payment annually to the beneficial owner who provided the Form W-8BEN. See the instructions for line 6

beginning on page 4 for circumstances under which you must provide a U.S. TIN.

Definitions

Beneficial owner. For payments other than those for which a reduced rate of withholding is claimed under an income tax treaty, the beneficial owner of income is generally the person who is required under U.S. tax principles to include the income in gross income on a tax return. A person is not a beneficial owner of income, however, to the extent that person is receiving the income as a nominee, agent, or custodian, or to the extent the person is a conduit whose participation in a transaction is disregarded. In the case of amounts paid that do not constitute income, beneficial ownership is determined as if the payment were income.

Foreign partnerships, foreign simple trusts, and foreign grantor trusts are not the beneficial owners of income paid to the partnership or trust. The beneficial owners of income paid to a foreign partnership are generally the partners in the partnership, provided that the partner is not itself a partnership, foreign simple or grantor trust, nominee or other agent. The beneficial owners of income paid to a foreign simple trust (that is, a foreign trust that is described in section 651(a)) are generally the beneficiaries of the trust, if the beneficiary is not a foreign partnership, foreign simple or grantor trust, nominee or other agent. The beneficial owners of a foreign grantor trust (that is, a foreign trust to the extent that all or a portion of the income of the trust is treated as owned by the grantor or another person under sections 671 through 679) are the persons treated as the owners of the trust. The beneficial owners of income paid to a foreign complex trust (that is, a foreign trust that is not a foreign simple trust or foreign grantor trust) is the trust itself.

For purposes of section 1446, the same beneficial owner rules apply, except that under section 1446 a foreign simple trust rather than the beneficiary provides the form to the partnership.

The beneficial owner of income paid to a foreign estate is the estate itself.

Note. A payment to a U.S. partnership, U.S. trust, or U.S. estate is treated as a payment to a U.S. payee that is not subject to 30% withholding. A U.S. partnership, trust, or estate should provide the withholding agent with a Form W-9. For purposes of section 1446, a U.S. grantor trust or disregarded entity shall not provide the withholding agent a Form W-9 in its own right. Rather, the grantor or other owner shall provide the withholding agent the appropriate form.

Foreign person. A foreign person includes a nonresident alien individual, a foreign corporation, a foreign partnership, a foreign trust, a foreign estate, and any other person that is not a U.S. person. It also includes a foreign branch or office of a U.S. financial institution or U.S. clearing organization if the foreign branch is a qualified intermediary. Generally, a payment to a U.S. branch of a foreign person is a payment to a foreign person.

Nonresident alien individual. Any individual who is not a citizen or resident alien of the United States is a nonresident alien individual. An alien individual meeting either the "green card test" or the "substantial presence test" for the calendar year is a resident alien. Any person not meeting either test is a nonresident alien individual. Additionally, an alien individual who is a resident of a foreign country under the residence article of an income tax treaty, or an alien individual who is a bona fide resident of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, or American Samoa is a nonresident alien individual. See Pub. 519, U.S. Tax Guide for Aliens, for more information on resident and nonresident alien status.

CAUTION *Even though a nonresident alien individual married to a U.S. citizen or resident alien may choose to be treated as a resident alien for certain purposes (for example, filing a joint income tax return), such individual is still treated as a nonresident alien for withholding tax purposes on all income except wages.*

Flow-through entity. A flow-through entity is a foreign partnership (other than a withholding foreign partnership), a foreign simple or foreign grantor trust (other than a withholding foreign trust), or, for payments for which a reduced rate of withholding is claimed under an income tax treaty, any entity to the extent the entity is considered to be fiscally transparent (see below) with respect to the payment by an interest holder's jurisdiction.

For purposes of section 1446, a foreign partnership or foreign grantor trust must submit Form W-8IMY to establish the partnership or grantor trust as a look through entity. The Form W-8IMY may be accompanied by this form or another version of Form W-8 or Form W-9 to establish the foreign or domestic status of a partner or grantor or other owner. See Regulations section 1.1446-1.

Hybrid entity. A hybrid entity is any person (other than an individual) that is treated as fiscally transparent (see below) in the United States but is not treated as fiscally transparent by a country with which the United States has an income tax treaty. Hybrid entity status is relevant for claiming treaty benefits. See the instructions for line 9c on page 5.

Reverse hybrid entity. A reverse hybrid entity is any person (other than an individual) that is not fiscally transparent under U.S. tax law principles but that is fiscally transparent under the laws of a jurisdiction with which the United States has an income tax treaty. See the instructions for line 9c on page 5.

Fiscally transparent entity. An entity is treated as fiscally transparent with respect to an item of income for which treaty benefits are claimed to the extent that the interest holders in the entity must, on a current basis, take into account separately their shares of an item of income paid to the entity, whether or not distributed, and must determine the character of the items of income as if they were realized directly from the sources from which realized by the entity. For example, partnerships, common trust funds, and simple trusts or grantor trusts are generally considered to be fiscally transparent with respect to items of income received by them.

Disregarded entity. A business entity that has a single owner and is not a corporation under Regulations section 301.7701-2(b) is disregarded as an entity separate from its owner.

A disregarded entity shall not submit this form to a partnership for purposes of section 1446. Instead, the owner of such entity shall provide appropriate documentation. See Regulations section 1.1446-1.

Amounts subject to withholding. Generally, an amount subject to withholding is an amount from sources within the United States that is fixed or determinable annual or periodical (FDAP) income. FDAP income is all income included in gross income, including interest (as well as OID), dividends, rents, royalties, and compensation. FDAP income does not include most gains from the sale of property (including market discount and option premiums).

For purposes of section 1446, the amount subject to withholding is the foreign partner's share of the partnership's effectively connected taxable income.

Withholding agent. Any person, U.S. or foreign, that has control, receipt, or custody of an amount subject to withholding or who can disburse or make payments of an amount subject to withholding is a withholding agent. The withholding agent may be an individual, corporation, partnership, trust, association, or any other entity, including (but not limited to) any foreign intermediary, foreign partnership, and U.S. branches of certain foreign banks and insurance companies. Generally, the person who pays (or causes to be paid) the amount subject to withholding to the foreign person (or to its agent) must withhold.

For purposes of section 1446, the withholding agent is the partnership conducting the trade or business in the United States. For a publicly traded partnership, the withholding agent may be the partnership, a nominee holding an interest on behalf of a foreign person, or both. See Regulations sections 1.1446-1 through 1.1446-6.

Specific Instructions

TIP *A hybrid entity should give Form W-8BEN to a withholding agent only for income for which it is claiming a reduced rate of withholding under an income tax treaty. A reverse hybrid entity should give Form W-8BEN to a withholding agent only for income for which no treaty benefit is being claimed.*

Part I

Line 1. Enter your name. If you are a disregarded entity with a single owner who is a foreign person and you are not claiming treaty benefits as a hybrid entity, this form should be completed and signed by your foreign single owner. If the account to which a payment is made or credited is in the name of the disregarded entity, the foreign single owner should inform the withholding agent of this fact. This may be done by including the name and account number of the disregarded entity on line 8 (reference number) of the form. However, if you are a disregarded entity that is claiming treaty benefits as a hybrid entity, this form should be completed and signed by you.

Line 2. If you are a corporation, enter the country of incorporation. If you are another type of entity, enter the country under whose laws you are created, organized, or governed. If you are an individual, enter N/A (for "not applicable").

Line 3. Check the one box that applies. By checking a box, you are representing that you qualify for this classification. You must check the box that represents your classification (for example, corporation, partnership, trust, estate, etc.) under U.S. tax principles. Do not check the box that describes your status under the law of the treaty country. If you are a partnership or disregarded entity receiving a payment for which treaty benefits are being claimed, you must check the "Partnership" or "Disregarded entity" box. If you are a sole proprietor, check the "Individual" box, not the "Disregarded entity" box.

CAUTION *Only entities that are tax-exempt under section 501 should check the "Tax-exempt organization" box. Such organizations should use Form W-8BEN only if they are claiming a reduced rate of withholding under an income tax treaty or some code exception other than section 501. Use Form W-8EXP if you are claiming an exemption from withholding under section 501.*

Line 4. Your permanent residence address is the address in the country where you claim to be a resident for purposes of that country's income tax. If you are giving Form W-8BEN to claim a reduced rate of withholding under an income tax treaty, you must determine your residency in the manner required by the treaty. Do not show the address of a financial institution, a post office box, or an address used solely for mailing purposes. If you are an individual who does not have a tax residence in any country, your permanent residence is where you normally reside. If you are not an individual and you do not have a tax residence in any country, the permanent residence address is where you maintain your principal office.

Line 5. Enter your mailing address only if it is different from the address you show on line 4.

Line 6. If you are an individual, you are generally required to enter your social security number (SSN). To apply for an SSN, get Form SS-5 from a Social Security Administration (SSA) office or, if in the United States, you may call the SSA at 1-800-772-1213. Fill in Form SS-5 and return it to the SSA.

If you do not have an SSN and are not eligible to get one, you must get an individual taxpayer identification number (ITIN). To apply for an ITIN, file Form W-7 with the IRS. It usually takes 4-6 weeks to get an ITIN.

CAUTION *An ITIN is for tax use only. It does not entitle you to social security benefits or change your employment or immigration status under U.S. law.*

If you are not an individual or you are an individual who is an employer or you are engaged in a U.S. trade or business as a sole proprietor, you must enter an employer identification number (EIN). If you do not have an EIN, you should apply for one on Form SS-4, Application for Employer Identification Number. If you are a disregarded entity claiming treaty benefits as a hybrid entity, enter your EIN.

A partner in a partnership conducting a trade or business in the United States will likely be allocated effectively connected taxable income. The partner is

required to file a U.S. federal income tax return and must have a U.S. taxpayer identification number (TIN).

You must provide a U.S. TIN if you are:

- Claiming an exemption from withholding under section 871(f) for certain annuities received under qualified plans,
- A foreign grantor trust with 5 or fewer grantors,
- Claiming benefits under an income tax treaty, or
- Submitting the form to a partnership that conducts a trade or business in the United States.

However, a U.S. TIN is not required to be shown in order to claim treaty benefits on the following items of income:

- Dividends and interest from stocks and debt obligations that are actively traded;
- Dividends from any redeemable security issued by an investment company registered under the Investment Company Act of 1940 (mutual fund);
- Dividends, interest, or royalties from units of beneficial interest in a unit investment trust that are (or were upon issuance) publicly offered and are registered with the SEC under the Securities Act of 1933; and
- Income related to loans of any of the above securities.

TIP *You may want to obtain and provide a U.S. TIN on Form W-8BEN even though it is not required. A Form W-8BEN containing a U.S. TIN remains valid for as long as your status and the information relevant to the certifications you make on the form remain unchanged provided at least one payment is reported to you annually on Form 1042-S.*

Line 7. If your country of residence for tax purposes has issued you a tax identifying number, enter it here. For example, if you are a resident of Canada, enter your Social Insurance Number.

Line 8. This line may be used by the filer of Form W-8BEN or by the withholding agent to whom it is provided to include any referencing information that is useful to the withholding agent in carrying out its obligations. For example, withholding agents who are required to associate the Form W-8BEN with a particular Form W-8IMY may want to use line 8 for a referencing number or code that will make the association clear. A beneficial owner may use line 8 to include the number of the account for which he or she is providing the form. A foreign single owner of a disregarded entity may use line 8 to inform the withholding agent that the account to which a payment is made or credited is in the name of the disregarded entity (see instructions for line 1 on page 4).

Part II

Line 9a. Enter the country where you claim to be a resident for income tax treaty purposes. For treaty purposes, a person is a resident of a treaty country if the person is a resident of that country under the terms of the treaty.

Line 9b. If you are claiming benefits under an income tax treaty, you must have a U.S. TIN unless one of the exceptions listed in the line 6 instructions above applies.

Line 9c. An entity (but not an individual) that is claiming a reduced rate of withholding under an income tax treaty must represent that it:

- Derives the item of income for which the treaty benefit is claimed, and
- Meets the limitation on benefits provisions contained in the treaty, if any.

An item of income may be derived by either the entity receiving the item of income or by the interest holders in the entity or, in certain circumstances, both. An item of income paid to an entity is considered to be derived by the entity only if the entity is not fiscally transparent under the laws of the entity's jurisdiction with respect to the item of income. An item of income paid to an entity shall be considered to be derived by the interest holder in the entity only if:

- The interest holder is not fiscally transparent in its jurisdiction with respect to the item of income, and
- The entity is considered to be fiscally transparent under the laws of the interest holder's jurisdiction with respect to the item of income. An item of income paid directly to a type of entity specifically identified in a treaty as a resident of a treaty jurisdiction is treated as derived by a resident of that treaty jurisdiction.

If an entity is claiming treaty benefits on its own behalf, it should complete Form W-8BEN. If an interest holder in an entity that is considered fiscally transparent in the interest holder's jurisdiction is claiming a treaty benefit, the interest holder should complete Form W-8BEN on its own behalf and the fiscally transparent entity should associate the interest holder's Form W-8BEN with a Form W-8IMY completed by the entity.

CAUTION *An income tax treaty may not apply to reduce the amount of any tax on an item of income received by an entity that is treated as a domestic corporation for U.S. tax purposes. Therefore, neither the domestic corporation nor its shareholders are entitled to the benefits of a reduction of U.S. income tax on an item of income received from U.S. sources by the corporation.*

To determine whether an entity meets the limitation on benefits provisions of a treaty, you must consult the specific provisions or articles under the treaties. Income tax treaties are available on the IRS website at *www.irs.gov*.

TIP *If you are an entity that derives the income as a resident of a treaty country, you may check this box if the applicable income tax treaty does not contain a "limitation on benefits" provision.*

Line 9d. If you are a foreign corporation claiming treaty benefits under an income tax treaty that entered into force before January 1, 1987 (and has not been renegotiated) on (a) U.S. source dividends paid to you by another foreign corporation or (b) U.S. source interest paid to you by a U.S. trade or business of another foreign corporation, you must generally be a "qualified resident" of a treaty country. See section 884 for the definition of interest paid by a U.S. trade or business of a foreign corporation ("branch interest") and other applicable rules.

In general, a foreign corporation is a qualified resident of a country if any of the following apply.

- It meets a 50% ownership and base erosion test.
- It is primarily and regularly traded on an established securities market in its country of residence or the United States.
- It carries on an active trade or business in its country of residence.
- It gets a ruling from the IRS that it is a qualified resident.

See Regulations section 1.884-5 for the requirements that must be met to satisfy each of these tests.

If you are claiming treaty benefits under an income tax treaty entered into force after December 31, 1986, do not check box 9d. Instead, check box 9c.

Line 9e. Check this box if you are related to the withholding agent within the meaning of section 267(b) or 707(b) and the aggregate amount subject to withholding received during the calendar year will exceed $500,000. Additionally, you must file Form 8833, Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b).

Line 10

Line 10 must be used only if you are claiming treaty benefits that require that you meet conditions not covered by the representations you make in lines 9a through 9e. However, this line should always be completed by foreign students and researchers claiming treaty benefits. See *Scholarship and fellowship grants* below for more information.

The following are additional examples of persons who should complete this line.

- Exempt organizations claiming treaty benefits under the exempt organization articles of the treaties with Canada, Mexico, Germany, and the Netherlands.
- Foreign corporations that are claiming a preferential rate applicable to dividends based on ownership of a specific percentage of stock.
- Persons claiming treaty benefits on royalties if the treaty contains different withholding rates for different types of royalties.

This line is generally not applicable to claiming treaty benefits under an interest or dividends (other than dividends subject to a preferential rate based on ownership) article of a treaty.

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the recipient has otherwise become a U.S. resident alien for tax purposes. The individual must use Form W-9 to claim the tax treaty benefit. See the instructions for Form W-9 for more information. Also see *Nonresident alien student or researcher who becomes a resident alien* later for an example.

Scholarship and fellowship grants. A nonresident alien student (including a trainee or business apprentice) or researcher who receives noncompensatory scholarship or fellowship income may use Form W-8BEN to claim benefits under a tax treaty that apply to reduce or eliminate U.S. tax on such income. No Form W-8BEN is required unless a treaty benefit is being claimed. A nonresident alien student or researcher who receives compensatory scholarship or fellowship income must use Form 8233 to claim any benefits of a tax treaty that apply to that income. The student or researcher must use Form W-4 for any part of such income for which he or she is not claiming a tax treaty withholding exemption. Do not use Form W-8BEN for compensatory scholarship or fellowship income. See *Compensation for Dependent Personal Services* in the Instructions for Form 8233.

If you are a nonresident alien individual who received noncompensatory scholarship or fellowship income and personal services income (including compensatory scholarship or fellowship income) from the same withholding agent, you may use Form 8233 to claim a tax treaty withholding exemption for part or all of both types of income.

Completing lines 4 and 9a. Most tax treaties that contain an article exempting scholarship or fellowship grant income from taxation require that the recipient be a resident of the other treaty country at the time of, or immediately prior to, entry into the United States. Thus, a student or researcher may claim the exemption even if he or she no longer has a permanent address in the other treaty country after entry into the United States. If this is the case, you may provide a U.S. address on line 4 and still be eligible for the exemption if all other conditions required by the tax treaty are met. You must also identify on line 9a the tax treaty country of which you were a resident at the time of, or immediately prior to, your entry into the United States.

Completing line 10. You must complete line 10 if you are a student or researcher claiming an exemption from taxation on your scholarship or fellowship grant income under a tax treaty.

Nonresident alien student or researcher who becomes a resident alien. You must use Form W-9 to claim an exception to a saving clause. See *Nonresident alien who becomes a resident alien* on this page for a general explanation of saving clauses and exceptions to them.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would complete Form W-9.

Part III

If you check this box, you must provide the withholding agent with the required statement for income from a notional principal contract that is to be treated as income not effectively connected with the conduct of a trade or business in the United States. You should update this statement as often as necessary. A new Form W-8BEN is not required for each update provided the form otherwise remains valid.

Part IV

Form W-8BEN must be signed and dated by the beneficial owner of the income, or, if the beneficial owner is not an individual, by an authorized representative or

officer of the beneficial owner. If Form W-8BEN is completed by an agent acting under a duly authorized power of attorney, the form must be accompanied by the power of attorney in proper form or a copy thereof specifically authorizing the agent to represent the principal in making, executing, and presenting the form. Form 2848, Power of Attorney and Declaration of Representative, may be used for this purpose. The agent, as well as the beneficial owner, may incur liability for the penalties provided for an erroneous, false, or fraudulent form.

Broker transactions or barter exchanges. Income from transactions with a broker or a barter exchange is subject to reporting rules and backup withholding unless Form W-8BEN or a substitute form is filed to notify the broker or barter exchange that you are an exempt foreign person.

You are an exempt foreign person for a calendar year in which:

- You are a nonresident alien individual or a foreign corporation, partnership, estate, or trust;
- You are an individual who has not been, and does not plan to be, present in the United States for a total of 183 days or more during the calendar year; and
- You are neither engaged, nor plan to be engaged during the year, in a U.S. trade or business that has effectively connected gains from transactions with a broker or barter exchange.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to provide the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping,** 5 hr., 58 min.; **Learning about the law or the form,** 3 hr., 46 min.; **Preparing and sending the form to IRS,** 4 hr., 2 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can email us at **taxforms@irs.gov.* Please put "Forms Comment" on the subject line. Or you can write to Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6406, Washington, DC 20224. Do not send Form W-8BEN to this office. Instead, give it to your withholding agent.

Form **W-8ECI**

(Rev. February 2006)

Department of the Treasury
Internal Revenue Service

Certificate of Foreign Person's Claim That Income Is Effectively Connected With the Conduct of a Trade or Business in the United States

▶ **Section references are to the Internal Revenue Code.** ▶ **See separate instructions.**
▶ **Give this form to the withholding agent or payer. Do not send to the IRS.**

OMB No. 1545-1621

Note: *Persons submitting this form must file an annual U.S. income tax return to report income claimed to be effectively connected with a U.S. trade or business (see instructions).*

Do not use this form for:	**Instead, use Form:**
• A beneficial owner solely claiming foreign status or treaty benefits	W-8BEN
• A foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession claiming the applicability of section(s) 115(2), 501(c), 892, 895, or 1443(b)	W-8EXP

Note: *These entities should use Form W-8ECI if they received effectively connected income (e.g., income from commercial activities).*

• A foreign partnership or a foreign trust (unless claiming an exemption from U.S. withholding on income effectively connected with the conduct of a trade or business in the United States)	W-8BEN or W-8IMY
• A person acting as an intermediary	W-8IMY

Note: *See instructions for additional exceptions.*

Part I Identification of Beneficial Owner (See instructions.)

1 Name of individual or organization that is the beneficial owner

2 Country of incorporation or organization

3 Type of entity (check the appropriate box): ☐ Individual ☐ Corporation ☐ Disregarded entity
☐ Partnership ☐ Simple trust ☐ Complex trust ☐ Estate
☐ Government ☐ Grantor trust ☐ Central bank of issue ☐ Tax-exempt organization
☐ Private foundation ☐ International organization

4 Permanent residence address (street, apt. or suite no., or rural route). **Do not use a P.O. box.**

City or town, state or province. Include postal code where appropriate.

Country (do not abbreviate)

5 Business address in the United States (street, apt. or suite no., or rural route). **Do not use a P.O. box.**

City or town, state, and ZIP code

6 U.S. taxpayer identification number (required—see instructions) ☐ SSN or ITIN ☐ EIN

7 Foreign tax identifying number, if any (optional)

8 Reference number(s) (see instructions)

9 Specify each item of income that is, or is expected to be, received from the payer that is effectively connected with the conduct of a trade or business in the United States (attach statement if necessary)

Part II Certification

Sign Here

Under penalties of perjury, I declare that I have examined the information on this form and to the best of my knowledge and belief it is true, correct, and complete. I further certify under penalties of perjury that:

- I am the beneficial owner (or I am authorized to sign for the beneficial owner) of all the income to which this form relates,
- The amounts for which this certification is provided are effectively connected with the conduct of a trade or business in the United States and are includible in my gross income (or the beneficial owner's gross income) for the taxable year, **and**
- The beneficial owner is not a U.S. person.

Furthermore, I authorize this form to be provided to any withholding agent that has control, receipt, or custody of the income of which I am the beneficial owner or any withholding agent that can disburse or make payments of the income of which I am the beneficial owner.

Signature of beneficial owner (or individual authorized to sign for the beneficial owner) | Date (MM-DD-YYYY) | Capacity in which acting

Instructions for Form W-8ECI

(Rev. February 2006)

Certificate of Foreign Person's Claim That Income Is Effectively Connected With the Conduct of a Trade or Business in the United States

Department of the Treasury
Internal Revenue Service

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Note. For definitions of terms used throughout these instructions, see *Definitions* beginning on page 2.

Purpose of form. Foreign persons are generally subject to U.S. tax at a 30% rate on income they receive from U.S. sources. However, no withholding under section 1441 or 1442 is required on income that is, or is deemed to be, effectively connected with the conduct of a trade or business in the United States and is includible in the beneficial owner's gross income for the tax year.

The no withholding rule does not apply to personal services income and income subject to withholding under section 1445 (dispositions of U.S. real property interests) or section 1446 (foreign partner's share of effectively connected income).

If you receive effectively connected income from sources in the United States, you must provide Form W-8ECI to:

- Establish that you are not a U.S. person,
- Claim that you are the beneficial owner of the income for which Form W-8ECI is being provided, and
- Claim that the income is effectively connected with the conduct of a trade or business in the United States.

If you expect to receive both income that is effectively connected and income that is not effectively connected from a withholding agent, you must provide Form W-8ECI for the effectively connected income and Form W-8BEN (or Form W-8EXP or Form W-8IMY) for income that is not effectively connected.

If you submit this form to a partnership, the income claimed to be effectively connected with the conduct of a U.S. trade or business is subject to withholding under section 1446. If a nominee holds an interest in a partnership on your behalf, you, not the nominee, must submit the form to the partnership or nominee that is the withholding agent.

If you are a foreign partnership, a foreign simple trust, or a foreign grantor trust with effectively connected income, you may submit Form W-8ECI without attaching Forms W-8BEN or other documentation for your foreign partners, beneficiaries, or owners.

A withholding agent or payer of the income may rely on a properly completed Form W-8ECI to treat the payment associated with the Form W-8ECI as a payment to a foreign person who beneficially owns the amounts paid and is either entitled to an exemption from withholding under sections 1441 or 1442 because the income is effectively connected with the conduct of a trade or business in the United States or subject to withholding under section 1446.

Provide Form W-8ECI to the withholding agent or payer before income is paid, credited, or allocated to you. Failure by a beneficial owner to provide a Form W-8ECI when requested may lead to withholding at the 30% rate or the backup withholding rate.

Additional information. For additional information and instructions for the withholding agent, see the Instructions for the Requester of Forms W-8BEN, W-8ECI, W-8EXP, and W-8IMY.

Who must file. You must give Form W-8ECI to the withholding agent or payer if you are a foreign person and you are the beneficial owner of U.S. source income that is (or is deemed to be) effectively connected with the conduct of a trade or business within the United States.

Do not use Form W-8ECI if:

- You are a nonresident alien individual who claims exemption from withholding on compensation for independent or certain dependent personal services performed in the United States. Instead, provide Form 8233, Exemption from Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual, or Form W-4, Employee's Withholding Allowance Certificate.
- You are claiming an exemption from withholding under section 1441 or 1442 for a reason other than a claim that the income is effectively connected with the conduct of a trade or business in the United States. For example, if you are a foreign person and the beneficial owner of U.S. source income that is not effectively connected with a U.S. trade or business and are claiming a reduced rate of withholding as a resident of a foreign country with which the United States has an income tax treaty in effect, do not use this form. Instead, provide Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding.
- You are a foreign person receiving proceeds from the disposition of a U.S. real property interest. Instead, see Form 8288-B, Application for Withholding Certificate for Dispositions by Foreign Persons of U.S. Real Property Interests.
- You are filing for a foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession claiming the applicability of section 115(2), 501(c), 892, 895, or 1443(b). Instead, provide Form W-8EXP, Certificate of Foreign Government or Other Foreign Organization for United States Tax Withholding. However, these entities should use Form W-8BEN if they are claiming treaty benefits or are providing the form only to claim exempt recipient status for backup withholding purposes. They should use Form W-8ECI if they received effectively connected income (for example, income from commercial activities).

- You are acting as an intermediary (that is, acting not for your own account or for that of your partners, but for the account of others as an agent, nominee, or custodian). Instead, provide Form W-8IMY, Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding.
- You are a withholding foreign partnership or a withholding foreign trust for purposes of sections 1441 and 1442. A withholding foreign partnership is, generally, a foreign partnership that has entered into a withholding agreement with the IRS under which it agrees to assume primary withholding responsibility for each partner's distributive share of income subject to withholding that is paid to the partnership. A withholding foreign trust is, generally, a foreign simple trust or a foreign grantor trust that has entered into a withholding agreement with the IRS under which it agrees to assume primary withholding responsibility for each beneficiary's or owner's distributive share of income subject to withholding that is paid to the trust. Instead, provide Form W-8IMY.
- You are a foreign corporation that is a personal holding company receiving compensation described in section 543(a)(7). Such compensation is not exempt from withholding as effectively connected income, but may be exempt from withholding on another basis.
- You are a foreign partner in a partnership and the income allocated to you from the partnership is effectively connected with the conduct of the partnership's trade or business in the United States. Instead, provide Form W-8BEN. However, if you made or will make an election under section 871(d) or 882(d), provide Form W-8ECI. In addition, if you are otherwise engaged in a trade or business in the United States and you want your allocable share of income from the partnership to be subject to withholding under section 1446, provide Form W-8ECI.

Giving Form W-8ECI to the withholding agent. Do not send Form W-8ECI to the IRS. Instead, give it to the person who is requesting it from you. Generally, this will be the person from whom you receive the payment, who credits your account, or a partnership that allocates income to you. Give Form W-8ECI to the person requesting it before the payment is made, credited, or allocated. If you do not provide this form, the withholding agent may have to withhold at the 30% rate or the backup withholding rate. A separate Form W-8ECI must be given to each withholding agent.

U.S. branch of foreign bank or insurance company. A payment to a U.S. branch of a foreign bank or a foreign insurance company that is subject to U.S. regulation by the Federal Reserve Board or state insurance authorities is presumed to be effectively connected with the conduct of a trade or business in the United States unless the branch provides a withholding agent with a Form W-8BEN or Form W-8IMY for the income.

Change in circumstances. If a change in circumstances makes any information on the Form W-8ECI you have submitted incorrect, you must notify the withholding agent or payer within 30 days of the change in circumstances and you must file a new Form W-8ECI or other appropriate form. For example, if during the tax year any part or all of the income is no longer effectively connected with the conduct of a trade or business in the United States, your Form W-8ECI is no longer valid. You must notify the withholding agent and provide Form W-8BEN, W-8EXP, or W-8IMY.

Expiration of Form W-8ECI. Generally, a Form W-8ECI will remain in effect for a period starting on the date the form is signed and ending on the last day of the third succeeding calendar year, unless a change in circumstances makes any information on the form incorrect. For example, a Form W-8ECI signed on September 30, 2005, remains valid through December 31, 2008. Upon the expiration of the 3-year period, you must provide a new Form W-8ECI.

Definitions

Beneficial owner. For payments other than those for which a reduced rate of withholding is claimed under an income tax treaty, the beneficial owner of income is generally the person who is required under U.S. tax principles to include the income in gross income on a tax return. A person is not a beneficial owner of income, however, to the extent that person is receiving the income as a nominee, agent, or custodian, or to the extent the person is a conduit whose participation in a transaction is disregarded. In the case of amounts paid that do not constitute income, beneficial ownership is determined as if the payment were income.

Foreign partnerships, foreign simple trusts, and foreign grantor trusts are not the beneficial owners of income paid to the partnership or trust. The beneficial owners of income paid to a foreign partnership are generally the partners in the partnership, provided that the partner is not itself a partnership, foreign simple or grantor trust, nominee or other agent. The beneficial owners of income paid to a foreign simple trust (that is, a foreign trust that is described in section 651(a)) are generally the beneficiaries of the trust, if the beneficiary is not a foreign partnership, foreign simple or grantor trust, nominee or other agent. The beneficial owners of a foreign grantor trust (that is, a foreign trust to the extent that all or a portion of the income of the trust is treated as owned by the grantor or another person under sections 671 through 679) are the persons treated as the owners of the trust. The beneficial owners of income paid to a foreign complex trust (that is, a foreign trust that is not a foreign simple trust or foreign grantor trust) is the trust itself.

Generally, these beneficial owner rules apply for purposes of sections 1441, 1442, and 1446, except that section 1446 requires a foreign simple trust to provide a Form W-8 on its own behalf rather than on behalf of the beneficiary of such trust.

The beneficial owner of income paid to a foreign estate is the estate itself.

A payment to a U.S. partnership, U.S. trust, or U.S. estate is treated as a payment to a U.S. payee. A U.S. partnership, trust, or estate should provide the withholding agent with a Form W-9. However, for purposes of section 1446, a U.S. grantor trust shall not provide the withholding agent a Form W-9. Instead, the grantor or other owner must provide Form W-8 or Form W-9 as appropriate.

Disregarded entity. A business entity that has a single owner and is not a corporation under Regulations section 301.7701-2(b) is disregarded as an entity separate from its owner.

A disregarded entity shall not submit this form to a partnership for purposes of section 1446. Instead, the owner of such entity shall provide appropriate documentation. See Regulations section 1.1446-1.

Effectively connected income. Generally, when a foreign person engages in a trade or business in the United States, all income from sources in the United States other than fixed or determinable annual or periodical (FDAP) income (for example, interest, dividends, rents, and certain similar amounts) is considered income effectively connected with a U.S. trade or business. FDAP income may or may not be effectively connected with a U.S. trade or business. Factors to be considered to determine whether FDAP income and similar amounts from U.S. sources are effectively connected with a U.S. trade or business include whether:

- The income is from assets used in, or held for use in, the conduct of that trade or business, or
- The activities of that trade or business were a material factor in the realization of the income.

There are special rules for determining whether income from securities is effectively connected with the active conduct of a U.S. banking, financing, or similar business. See section 864(c)(4)(B)(ii) and Regulations section 1.864-4(c)(5)(ii) for more information.

Effectively connected income, after allowable deductions, is taxed at graduated rates applicable to U.S. citizens and resident aliens, rather than at the 30% rate. You must report this income on your annual U.S. income tax or information return.

A partnership that has effectively connected income allocable to foreign partners is generally required to withhold tax under section 1446. The withholding tax rate on a partner's share of effectively connected income is 35%. In certain circumstances the partnership may withhold tax at the highest applicable rate to a particular type of income (for example long-term capital gain allocated to a noncorporate partner). Any amount withheld under section 1446 on your behalf, and reflected on Form 8805 issued by the partnership to you may be credited on your U.S. income tax return.

Foreign person. A foreign person includes a nonresident alien individual, a foreign corporation, a foreign partnership, a foreign trust, a foreign estate, and any other person that is not a U.S. person.

Nonresident alien individual. Any individual who is not a citizen or resident alien of the United States is a nonresident alien individual. An alien individual meeting either the "green card test" or the "substantial presence test" for the calendar year is a resident alien. Any person not meeting either test is a nonresident alien individual. Additionally, an alien individual who is a resident of a foreign country under the residence article of an income tax treaty, or an alien individual who is a bona fide resident of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, or American Samoa is a nonresident alien individual.

Even though a nonresident alien individual married to a U.S. citizen or resident alien may choose to be treated as a resident alien for certain purposes (for example, filing a joint income tax return), such individual is still treated as a nonresident alien for withholding tax purposes on all income except wages.

See Pub. 519, U.S. Tax Guide for Aliens, for more information on resident and nonresident alien status.

Withholding agent. Any person, U.S. or foreign, that has control, receipt, or custody of an amount subject to withholding or who can disburse or make payments of an amount subject to withholding is a withholding agent. The withholding agent may be an individual, corporation, partnership, trust, association, or any other entity including (but not limited to) any foreign intermediary, foreign partnership, and U.S. branches of certain foreign banks and insurance companies. Generally, the person who pays (or causes to be paid) an amount subject to withholding to the foreign person (or to its agent) must withhold.

Specific Instructions

Part I

Line 1. Enter your name. If you are filing for a disregarded entity with a single owner who is a foreign person, this form should be completed and signed by the foreign single owner. If the account to which a payment is made or credited is in the name of the disregarded entity, the foreign single owner should inform the withholding agent of this fact. This may be done by including the name and account number of the disregarded entity on line 8 (reference number) of Part I of the form.

If you own the income or account jointly with one or more other persons, the income or account will be treated by the withholding agent as owned by a foreign person if Forms W-8ECI are provided by all of the owners. If the withholding agent receives a Form W-9, Request for Taxpayer Identification Number and Certification, from any of the joint owners, the payment must be treated as made to a U.S. person.

Line 2. If you are filing for a corporation, enter the country of incorporation. If you are filing for another type of entity, enter the country under whose laws the entity is created, organized, or governed. If you are an individual, write "N/A" (for "not applicable").

Line 3. Check the box that applies. By checking a box, you are representing that you qualify for this classification. You must check the one box that represents your classification (for example, corporation, partnership, etc.) under U.S. tax principles. If you are filing for a disregarded entity, you must check the "Disregarded entity" box (not the box that describes the status of your single owner).

Line 4. Your permanent residence address is the address in the country where you claim to be a resident for that country's income tax. Do not show the address of a financial institution, a post office box, or an address used solely for mailing purposes. If you are an individual who does not have a tax residence in any country, your permanent residence is where you normally reside. If you are not an individual and you do not have a tax residence in any country, the permanent residence address is where you maintain your principal office.

Line 5. Enter your business address in the United States. Do not show a post office box.

Line 6. You must provide a U.S. taxpayer identification number (TIN) for this form to be valid. A U.S. TIN is a social security number (SSN), employer identification number (EIN), or IRS individual taxpayer identification number (ITIN). Check the appropriate box for the type of U.S. TIN you are providing.

If you are an individual, you are generally required to enter your SSN. To apply for an SSN, get Form SS-5 from a Social Security Administration (SSA) office. Fill in Form SS-5 and return it to the SSA.

If you do not have an SSN and are not eligible to get one, you must get an ITIN. To apply for an ITIN, file Form W-7 with the IRS. It usually takes 4-6 weeks to get an ITIN.

If you are not an individual (for example, a foreign estate or trust), or you are an individual who is an employer or who is engaged in a U.S. trade or business as a sole proprietor, use Form SS-4, Application for Employer Identification Number, to obtain an EIN. If you are a disregarded entity, enter the U.S. TIN of your foreign single owner.

Line 7. If your country of residence for tax purposes has issued you a tax identifying number, enter it here. For example, if you are a resident of Canada, enter your Social Insurance Number.

Line 8. This line may be used by the filer of Form W-8ECI or by the withholding agent to whom it is provided to include any referencing information that is useful to the withholding agent in carrying out its obligations. A beneficial owner may use line 8 to include the name and number of the account for which he or she is providing the form. A foreign single owner of a disregarded entity may use line 8 to inform the withholding agent that the account to which a payment is made or credited is in the name of the disregarded entity (see instructions for line 1 on page 3).

Line 9. You must specify the items of income that are effectively connected with the conduct of a trade or business in the United States. You will generally have to provide Form W-8BEN, Form W-8EXP, or Form W-8IMY for those items from U.S. sources that are not effectively connected with the conduct of a trade or business in the United States. See Form W-8BEN, W-8EXP, or W-8IMY, and its instructions, for more details.

If you are providing this form to a partnership because you are a partner and have made an election under section 871(d) or section 882(d), attach a copy of the election to the form. If you have not made the election, but intend to do so effective for the current tax year, attach a statement to the form indicating your intent. See Regulations section 1.871-10(d)(3).

Part II

Signature. Form W-8ECI must be signed and dated by the beneficial owner of the income, or, if the beneficial owner is not an individual, by an authorized representative or officer of the beneficial owner. If Form W-8ECI is completed by an agent acting under a duly authorized power of attorney, the form must be accompanied by the power of attorney in proper form or a copy thereof specifically authorizing the agent to represent the principal in making, executing, and presenting the form. Form 2848, Power of Attorney and Declaration of Representative, may be used for this purpose. The agent, as well as the beneficial owner, may incur liability for the penalties provided for an erroneous, false, or fraudulent form.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. If you want to receive exemption from withholding on income effectively connected with the conduct of a trade or business in the United States, you are required to provide the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping,** 3 hr., 35 min.; **Learning about the law or the form,** 3 hr., 22 min.; **Preparing the form,** 3 hr., 35 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can email us at **taxforms@irs.gov.* Please put "Forms Comment" on the subject line. Or you can write to Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6406, Washington, DC 20224. Do not send Form W-8ECI to this office. Instead, give it to your withholding agent.

Form **W-8IMY**
(Rev. February 2006)

Department of the Treasury
Internal Revenue Service

Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding

▶ Section references are to the Internal Revenue Code. ▶ See separate instructions.
▶ Give this form to the withholding agent or payer. Do not send to the IRS.

OMB No. 1545-1621

Do not use this form for:	Instead, use Form:
• A beneficial owner solely claiming foreign status or treaty benefits	W-8BEN
• A hybrid entity claiming treaty benefits on its own behalf	W-8BEN
• A person claiming that income is effectively connected with the conduct of a trade or business in the United States	W-8ECI
• A disregarded entity. Instead, the single foreign owner should use	W-8BEN or W-8ECI
• A foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession claiming the applicability of section(s) 115(2), 501(c), 892, 895, or 1443(b).	W-8EXP

Part I Identification of Entity

1 Name of individual or organization that is acting as intermediary

2 Country of incorporation or organization

3 Type of entity—check the appropriate box:

- ☐ Qualified intermediary. Complete Part II.
- ☐ Nonqualified intermediary. Complete Part III.
- ☐ U.S. branch. Complete Part IV.
- ☐ Withholding foreign partnership. Complete Part V.
- ☐ Withholding foreign trust. Complete Part V.
- ☐ Nonwithholding foreign partnership. Complete Part VI.
- ☐ Nonwithholding foreign simple trust. Complete Part VI.
- ☐ Nonwithholding foreign grantor trust. Complete Part VI.

4 Permanent residence address (street, apt. or suite no., or rural route). **Do not use P.O. box.**

City or town, state or province. Include postal code where appropriate.

Country (do not abbreviate)

5 Mailing address (if different from above)

City or town, state or province. Include postal code where appropriate.

Country (do not abbreviate)

6 U.S. taxpayer identification number (if required, see instructions) ▶

☐ SSN or ITIN ☐ EIN ☐ QI-EIN

7 Foreign tax identifying number, if any (optional)

8 Reference number(s) (see instructions)

Part II Qualified Intermediary

9a ☐ (All qualified intermediaries check here) I certify that the entity identified in Part I:

- Is a qualified intermediary and is not acting for its own account with respect to the account(s) identified on line 8 or in a withholding statement associated with this form **and**
- Has provided or will provide a withholding statement, as required.

b ☐ (If applicable) I certify that the entity identified in Part I has assumed primary withholding responsibility under Chapter 3 of the Code with respect to the account(s) identified on this line 9b or in a withholding statement associated with this form ▶ .....

c ☐ (If applicable) I certify that the entity identified in Part I has assumed primary Form 1099 reporting and backup withholding responsibility as authorized in its withholding agreement with the IRS with respect to the account(s) identified on this line 9c or in a withholding statement associated with this form ▶ .....

Part III Nonqualified Intermediary

10a ☐ (All nonqualified intermediaries check here) I certify that the entity identified in Part I is not a qualified intermediary and is not acting for its own account.

b ☐ (If applicable) I certify that the entity identified in Part I is using this form to transmit withholding certificates and/or other documentary evidence and has provided or will provide a withholding statement, as required.

Part IV Certain United States Branches

Note: *You may use this Part if the entity identified in Part I is a U.S. branch of a foreign bank or insurance company and is subject to certain regulatory requirements (see instructions).*

11 ☐ I certify that the entity identified in Part I is a U.S. branch and that the payments are not effectively connected with the conduct of a trade or business in the United States.

Check box 12 or box 13, whichever applies:

12 ☐ I certify that the entity identified in Part I is using this form as evidence of its agreement with the withholding agent to be treated as a U.S. person with respect to any payments associated with this certificate.

13 ☐ I certify that the entity identified in Part I:

- Is using this form to transmit withholding certificates or other documentary evidence for the persons for whom the branch receives a payment **and**
- Has provided or will provide a withholding statement, as required.

Part V Withholding Foreign Partnership or Withholding Foreign Trust

14 ☐ I certify that the entity identified in Part I:

- Is a withholding foreign partnership or a withhholding foreign trust **and**
- Has provided or will provide a withholding statement, as required.

Part VI Nonwithholding Foreign Partnership, Simple Trust, or Grantor Trust

15 ☐ I certify that the entity identified in Part I:

- Is a nonwithholding foreign partnership, a nonwithholding foreign simple trust, or a nonwithholding foreign grantor trust and that the payments to which this certificate relates are not effectively connected, or are not treated as effectively connected, with the conduct of a trade or business in the United States **and**
- Is using this form to transmit withholding certificates and/or other documentary evidence and has provided or will provide a withholding statement, as required.

Part VII Certification

Under penalties of perjury, I declare that I have examined the information on this form and to the best of my knowledge and belief it is true, correct, and complete. Furthermore, I authorize this form to be provided to any withholding agent that has control, receipt, or custody of the income for which I am providing this form or any withholding agent that can disburse or make payments of the income for which I am providing this form.

Sign Here ▶ ---------- ----------

Signature of authorized official | Date (MM-DD-YYYY)

Instructions for Form W-8IMY

(Rev. February 2006)

Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding

Department of the Treasury
Internal Revenue Service

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Note. For definitions of terms used throughout these instructions, see *Definitions* on pages 2 and 3.

Foreign persons are subject to U.S. tax at a 30% rate on income they receive from U.S. sources that consists of interest (including certain original issue discount (OID)), dividends, rents, premiums, annuities, compensation for, or in expectation of, services performed, or other fixed or determinable annual or periodical (FDAP) gains, profits, or income. This tax is imposed on the gross amount paid and is generally collected by withholding under section 1441 or 1442 on that amount. A payment is considered to have been made whether it is made directly to the beneficial owner or to another person, such as an intermediary, agent, trustee, executor, or partnership, for the benefit of the beneficial owner.

Foreign persons are also subject to tax at graduated rates on income they earn that is considered effectively connected with a U.S. trade or business. If a foreign person invests in a partnership that conducts a U.S. trade or business, the foreign person is considered to be engaged in a U.S. trade or business. The partnership is required to withhold tax under section 1446 on the foreign person's distributive share of the partnership's effectively connected taxable income. The partnership may generally accept any form submitted for purposes of section 1441 or 1442, with few exceptions, to establish the foreign status of the partner. See Regulations sections 1.1446-1 through 1.1446-6 to determine whether the form submitted for purposes of section 1441 or 1442 will be accepted for purposes of section 1446.

CAUTION *For purposes of section 1446, Form W-8IMY may only be submitted by an upper-tier foreign partnership or a foreign grantor trust, both of which must furnish additional documentation for their owners.*

Additional information. For additional information and instructions for the withholding agent, see the Instructions for the Requester of Forms W-8BEN, W-8ECI, W-8EXP, and W-8IMY.

Who must file. Form W-8IMY must be provided by:

- A foreign person, or a foreign branch of a U.S. person, to establish that it is a qualified intermediary that is not acting for its own account, to represent that it has provided or will provide a withholding statement, as required, and, if applicable, to represent that it has assumed primary withholding responsibility under Chapter 3 of the Code (excluding section 1446) and/or primary Form 1099 reporting and backup withholding responsibility.
- A foreign person to establish that it is a nonqualified intermediary that is not acting for its own account, and, if applicable, that it is using the form to transmit withholding certificates and/or other documentary evidence and has provided, or will provide, a withholding statement, as required. A U.S. person cannot be a nonqualified intermediary.
- A U.S. branch of certain foreign banks or foreign insurance companies to represent that the income it receives is not effectively connected with the conduct of a trade or business within the United States and either that it is using the form **(a)** as evidence of its agreement with the withholding agent to be treated as a U.S. person with respect to any payments associated with the Form W-8IMY or **(b)** to transmit the documentation of the persons for whom it receives a payment and has provided, or will provide, a withholding statement, as required.
- A foreign partnership or a foreign simple or grantor trust to establish that it is a withholding foreign partnership or withholding foreign trust under the regulations for sections 1441 and 1442 and that it has provided, or will provide, a withholding statement, as required.
- A foreign partnership or a foreign simple or grantor trust to establish that it is a nonwithholding foreign partnership or nonwithholding foreign simple or grantor trust for purposes of section 1441 and 1442 and to represent that the income is not effectively connected with a U.S. trade or business, that the form is being used to transmit withholding certificates and/or documentary evidence, and that it has provided, or will provide, a withholding statement, as required.

Solely for purposes of providing this form, a reverse hybrid entity that is providing documentation on behalf of its interest holders to claim a reduced rate of withholding under a treaty is considered to be a nonqualified intermediary unless it has entered into a qualified intermediary agreement with the IRS.

- A foreign partnership or foreign grantor trust to establish that it is an upper-tier foreign partnership or foreign grantor trust for purposes of section 1446, and to represent that the form is being used to transmit withholding certificates and/or documentary evidence and that it has provided, or will provide, a withholding statement, as required.

This form may serve to establish foreign status for purposes of sections 1441, 1442, and 1446. However, any representations that items of income, gain, deduction, or loss are not effectively connected with a U.S. trade or business will be disregarded by a partnership receiving this form for purposes of section 1446 as the partnership will undertake its own analysis.

Do not use Form W-8IMY if:

- You are the beneficial owner of U.S. source income (other than income that is effectively connected with the conduct of a trade or business within the United States) and you need to establish that you are not a U.S. person. Instead, submit Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding.

- You are the beneficial owner of U.S. source income (other than income that is effectively connected with the conduct of a trade or business within the United States) and are claiming a reduced rate of, or exemption from, withholding as a resident of a foreign country with which the United States has an income tax treaty. Instead, provide Form W-8BEN.
- You are filing for a hybrid entity claiming treaty benefits on its own behalf, or you are filing for a reverse hybrid entity and are not claiming treaty benefits on behalf of its interest holders. Instead, provide Form W-8BEN.
- You are the beneficial owner of income that is effectively connected with the conduct of a trade or business within the United States. Instead, provide Form W-8ECI, Certificate of Foreign Person's Claim That Income Is Effectively Connected With the Conduct of a Trade or Business in the United States.
- You are a nonresident alien individual who claims exemption from withholding on compensation for independent or certain dependent personal services performed in the United States. Instead, provide Form 8233, Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual, or Form W-4, Employee's Withholding Allowance Certificate.
- You are filing for a disregarded entity. (A business entity that has a single owner and is not a corporation under Regulations section 301.7701-2(b) is disregarded as an entity separate from its owner.) Instead, provide Form W-8BEN or W-8ECI.
- You are filing for a foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession claiming the applicability of section 115(2), 501(c), 892, 895, or 1443(b). Instead, provide Form W-8EXP, Certificate of Foreign Government or Other Foreign Organization for United States Tax Withholding. However, these entities should use Form W-8BEN if they are claiming treaty benefits or are providing the form only to claim exempt recipient status for backup withholding purposes.

Giving Form W-8IMY to the withholding agent. Do not send Form W-8IMY to the IRS. Instead, give it to the person who is requesting it. Generally, this person will be the one from whom you receive the payment, who credits your account, or a partnership that allocates income to you. Give Form W-8IMY to the person requesting it before income is paid to you, credited, or allocated to your account. If you do not provide this form, the withholding agent may have to withhold at the 30% rate, backup withholding rate with respect to non effectively connected income, or the 35% rate for net effectively connected taxable income allocable to a foreign partner in a partnership. Generally, a separate Form W-8IMY must be submitted to each withholding agent.

Change in circumstances. If a change in circumstances makes any information on the Form W-8IMY (or any documentation or a withholding statement associated with the Form W-8IMY) you have submitted incorrect, you must notify the withholding agent or payer within 30 days of the changes in circumstances and you must file a new Form W-8IMY or provide new documentation or a new withholding statement.

You must update the information associated with Form W-8IMY as often as is necessary to enable the withholding agent to withhold at the appropriate rate on each payment and to report such income.

Expiration of Form W-8IMY. Generally, a Form W-8IMY remains valid until the status of the person whose name is on the certificate is changed in a way relevant to the certificate or circumstances change that make the information on the certificate no longer correct. The indefinite validity period does not extend, however, to any withholding certificates, documentary evidence, or withholding statements associated with the certificate.

Definitions

Amounts subject to withholding. Generally, an amount subject to withholding under section 1441 or 1442 is an amount from sources within the United States that is FDAP income. FDAP income is all income included in gross income, including interest (and original issue discount), dividends, rents, royalties, and compensation. FDAP income does not include most gains from the sale of property (including market discount and option premiums). FDAP income also does not include items of U.S. source income that are excluded from gross income without regard to the U.S. or foreign status of the holder, such as interest under section 103(a).

Generally, an amount subject to withholding under section 1446 is an amount that is, or is treated as, effectively connected income of a U.S. trade or business of the partnership.

Beneficial owner. For payments other than those for which a reduced rate of withholding is claimed under an income tax treaty, the beneficial owner of income is generally the person who is required under U.S. tax principles to include the income in gross income on a tax return. A person is not a beneficial owner of income, however, to the extent that person is receiving the income as a nominee, agent, or custodian, or to the extent the person is a conduit whose participation in a transaction is disregarded. In the case of amounts paid that do not constitute income, beneficial ownership is determined as if the payment were income.

Foreign partnerships, foreign simple trusts, and foreign grantor trusts are not the beneficial owners of income paid to the partnership or trust. The beneficial owners of income paid to a foreign partnership are generally the partners in the partnership, provided that the partner is not itself a partnership, foreign simple or grantor trust, nominee, or other agent. The beneficial owners of income paid to a foreign simple trust (that is, a foreign trust that is described in section 651(a)) are generally the beneficiaries of the trust, if the beneficiary is not itself a foreign partnership, foreign simple or grantor trust, nominee, or other agent. The beneficial owners of a foreign grantor trust (that is, a foreign trust to the extent that all or a portion of the income of the trust is treated as owned by the grantor or another person under sections 671 through 679) are the persons treated as the owners of the trust. The beneficial owner of income paid to a foreign complex trust (that is, a foreign trust that is not a foreign simple trust or foreign grantor trust) is the trust itself.

The beneficial owner of income paid to a foreign estate is the estate itself.

Fiscally transparent entity. An entity is treated as fiscally transparent with respect to an item of income to the extent that the interest holders in the entity must, on a current basis, take into account separately their shares of an item of income paid to the entity, whether or not distributed, and must determine the character of the items of income as if they were realized directly from the sources from which realized by the entity.

Flow-through entity. A flow-through entity is a foreign partnership (other than a withholding foreign partnership), a foreign simple or foreign grantor trust (other than a withholding foreign trust), or, for payments for which a reduced rate of withholding is claimed under an income tax treaty, any entity to the extent the entity is considered to be fiscally transparent (see earlier) with respect to the payment by an interest holder's jurisdiction.

Foreign person. A foreign person includes a nonresident alien individual, a foreign corporation, a foreign partnership, a foreign trust, a foreign estate, and any other person that is not a U.S. person. It also includes a foreign branch or office of a U.S. financial institution or U.S. clearing organization if the foreign branch is a qualified intermediary. Generally, a payment to a U.S. branch of a foreign person is a payment to a foreign person.

Hybrid entity. A hybrid entity is any person (other than an individual) that is treated as fiscally transparent (see earlier) in the United States but is not treated as fiscally transparent by a country with which the United States has an income tax treaty. Hybrid status is relevant for claiming treaty benefits.

Intermediary. An intermediary is any person that acts as a custodian, broker, nominee, or otherwise as an agent for another person, regardless of whether that other person is the beneficial owner of the amount paid, a flow-through entity, or another intermediary.

Qualified intermediary. A qualified intermediary is a person that is a party to a withholding agreement with the IRS and is:

- A foreign financial institution or a foreign clearing organization (other than a U.S. branch or U.S. office of the institution or organization),
- A foreign branch or office of a U.S. financial institution or a foreign branch or office of a U.S. clearing organization,
- A foreign corporation for purposes of presenting claims of benefits under an income tax treaty on behalf of its shareholders, or
- Any other person the IRS accepts as a qualified intermediary and who enters into a withholding agreement with the IRS.

See Rev. Proc. 2000-12 for procedures to apply to be a qualified intermediary. You can find Rev. Proc. 2000-12 on page 387 of Internal Revenue Bulletin (IRB) 2000-4 at *www.irs.gov/pub/irs-irbs/irb00-04.pdf.* Also see Notice 2001-4 (IRB 2001-2); Rev. Proc. 2003-64, Appendix 3 (IRB 2003-32); and Rev. Proc. 2004-21 (IRB 2004-14).

Nonqualified intermediary. A nonqualified intermediary is any intermediary that is not a U.S. person and that is not a qualified intermediary.

Nonwithholding foreign partnership, simple trust, or grantor trust. A nonwithholding foreign partnership is any foreign partnership other than a withholding foreign partnership. A nonwithholding foreign simple trust is any foreign simple trust that is not a withholding foreign trust. A nonwithholding foreign grantor trust is any foreign grantor trust that is not a withholding foreign trust.

Reportable amount. Solely for purposes of the statements required to be attached to Form W-8IMY, a reportable amount is an amount subject to withholding, U.S. source deposit interest (including original issue discount), and U.S. source interest or original issue discount on the redemption of short-term obligations. It does not include payments on deposits with banks and other financial institutions that remain on deposit for 2 weeks or less or amounts received from the sale or exchange (other than a redemption) of a short-term obligation that is effected outside the United States. It also does not include amounts of original issue discount arising from a sale and repurchase transaction completed within a period of 2 weeks or less, or amounts described in Regulations section 1.6049-5(b)(7), (10), or (11) (relating to certain obligations issued in bearer form). See the instructions for Forms 1042-S and 1099 to determine whether these amounts are also subject to information reporting.

Reverse hybrid entity. A reverse hybrid entity is any person (other than an individual) that is not fiscally transparent under U.S. tax law principles but that is fiscally transparent under the laws of a jurisdiction with which the United States has an income tax treaty.

Withholding agent. A withholding agent is any person, U.S. or foreign, that has control, receipt, or custody of an amount subject to withholding or who can disburse or make payments of an amount subject to withholding. The withholding agent may be an individual, corporation, partnership, trust, association, or any other entity, including (but not limited to) any foreign intermediary, foreign partnership, and U.S. branches of certain foreign banks and insurance companies. Generally, the person who pays (or causes to be paid) the amount subject to withholding to the foreign person (or to its agent) must withhold.

Withholding foreign partnership or withholding foreign trust. A withholding foreign partnership or withholding foreign trust is a foreign partnership or a foreign simple or grantor trust that has entered into a withholding agreement with the IRS in which it agrees to assume primary withholding responsibility under sections 1441 and 1442 for all payments that are made to it for certain of its partners, beneficiaries, or owners and is acting in its capacity as a withholding foreign partnership or withholding foreign trust.

See Rev. Proc. 2003-64 for procedures to apply to be a withholding foreign partnership or trust. You can find Rev. Proc. 2003-64 on page 306 of Internal Revenue Bulletin (IRB) 2003-32 at *www.irs.gov/pub/irs-irbs/irb03-32.pdf.* Also see Rev. Proc. 2004-21 (IRB 2004-14).

Specific Instructions

Part I

Line 1. Enter your name. By doing so, you are representing to the payer or withholding agent that you are not the beneficial owner of the amounts that will be paid to you.

Line 2. If you are a corporation, enter the country of incorporation. If you are another type of entity, enter the country under whose laws you are created, organized, or governed. If you are an individual, enter "N/A" (for "not applicable").

Line 3. Check the one box that applies. If you are a foreign partnership receiving the payment on behalf of your partners, check the "Withholding foreign partnership" box or the "Nonwithholding foreign partnership" box, whichever is appropriate. If you are a foreign simple trust or foreign grantor trust receiving the payment on behalf of your beneficiaries or owners, check the "Withholding foreign trust" box, the "Nonwithholding foreign simple trust" box, or the "Nonwithholding foreign grantor trust" box, whichever is appropriate. If you are a foreign partnership (or a foreign trust) receiving a payment on behalf of persons other than your partners (or beneficiaries or owners), check the "Qualified intermediary" box or the "Nonqualified intermediary" box, whichever is appropriate. A reverse hybrid entity that is providing documentation from its interest

holders to claim a reduced rate of withholding under a treaty should check the "Nonqualified intermediary" box unless it has entered into a qualified intermediary agreement with the IRS. See *Parts II Through VI* below if you are acting in more than one capacity. A partnership or grantor trust submitting Form W-8IMY solely because it is allocated income effectively connected with a U.S. trade or business as a partner in a partnership should check the box for nonwithholding foreign partnership or nonwithholding foreign grantor trust and, if it is submitting or will submit documentation for its partners or owners, it should complete Part VI. A withholding foreign partnership or a grantor trust that is a withholding foreign trust should submit a separate Form W-8IMY if it is allocated income that is effectively connected with a U.S. trade or business as a partner in a partnership and should check the box for nonwithholding foreign partnership or nonwithholding foreign grantor trust and, if it is submitting or will submit documentation for its partners or owners, it should complete Part VI.

TIP *Form W-8IMY may be submitted and accepted to satisfy documentation requirements for purposes of withholding on certain partnership allocations to foreign partners under section 1446. Section 1446 generally requires withholding when a partnership is conducting a trade or business in the United States and allocates income effectively connected with that trade or business (ECI) to foreign persons that are partners in the partnership. Section 1446 can also apply when certain income is treated as effectively connected income of the partnership and is so allocated.*

An upper-tier partnership that is allocated ECI as a partner in a partnership may, in certain circumstances, have the lower-tier partnership perform its withholding obligation. Generally, this is accomplished by the upper-tier partnership submitting withholding certificates of its partners (for example, Form W-8BEN) along with a Form W-8IMY, which identifies itself as a partnership, and identifying the manner in which ECI of the upper-tier partnership will be allocated to the partners. For further information, see Regulations section 1.1446–5. A foreign grantor trust that is allocated ECI as a partner in a partnership should provide the withholding certificates of its grantor (for example, Form W-8BEN) along with its Form W-8IMY which identifies the trust as a foreign grantor trust. See Regulations section 1.1446-1(c)(ii)(E) for the rules requiring it to provide additional documentation to the partnership.

Line 4. Your permanent residence address is the address in the country where you claim to be a resident. Do not show the address of a financial institution, a post office box, or an address used solely for mailing purposes. If you do not have a tax residence in any country, the permanent residence address is where you maintain your principal office or, if you are an individual, where you normally reside.

Line 5. Enter your mailing address only if it is different from the address you show on line 4.

Line 6. You must provide an employer identification number (EIN) if you are a U.S. branch of a foreign bank or insurance company, an upper-tier partnership that is allocated ECI as a partner in a partnership, or a foreign grantor trust that is allocated ECI as a partner.

If you are acting as a qualified intermediary, withholding foreign partnership, or withholding foreign trust, check the QI-EIN box and enter the EIN that was issued to you in such capacity (your "QI-EIN," "WP-EIN," or "WT-EIN"). If you are not acting in that capacity, you must use your U.S. taxpayer identification number (TIN), if any, that is not your QI-EIN, WP-EIN, or WT-EIN.

A nonqualified intermediary, a nonwithholding foreign partnership, or a nonwithholding foreign simple or grantor trust is generally not required to provide a U.S. TIN. However, a nonwithholding foreign grantor trust with five or fewer grantors is required to provide an EIN.

Line 7. If your country of residence for tax purposes has issued you a tax identifying number, enter it here.

Line 8. This line may be used by the filer of Form W-8IMY or by the withholding agent to whom it is provided to include any referencing information that is useful to the withholding agent in carrying out its obligations. For example, a withholding agent who is required to associate a particular Form W-8BEN with this Form W-8IMY may want to use line 8 for a referencing number or code that will make the association clear.

Parts II Through VI

You should complete only one part. If you are acting in multiple capacities, you must provide separate Forms W-8IMY for each capacity. For example, if you are acting as a qualified intermediary for one account, but a nonqualified intermediary for another account, you must provide one Form W-8IMY in your capacity as a qualified intermediary, and a separate Form W-8IMY in your capacity as a nonqualified intermediary.

Part II — Qualified Intermediary

Check box 9a if you are a qualified intermediary (QI) (whether or not you assume primary withholding responsibility) for the income for which you are providing this form. By checking the box, you are certifying to all of the statements contained on line 9a.

Check box 9b only if you have assumed primary withholding responsibility under Chapter 3 of the Code (nonresident alien withholding) with respect to the accounts identified on this line or in a withholding statement associated with this form.

Check box 9c only if you have assumed primary Form 1099 reporting and backup withholding responsibility as authorized in a withholding agreement with the IRS with respect to the accounts identified on this line or in a withholding statement associated with this form.

Although a QI obtains withholding certificates or appropriate documentation from beneficial owners, payees, and, if applicable, shareholders, as specified in your withholding agreement with the IRS, a QI does not need to attach the certificates or documentation to this form. However, to the extent you have not assumed primary Form 1099 reporting or backup withholding responsibility, you must disclose the names of those U.S. persons for whom you receive reportable amounts and that are not exempt recipients (as defined in Regulations section 1.6049-4(c)(1)(ii) or under section 6041, 6042, 6045, or 6050N). You should make this disclosure by attaching to Form W-8IMY the Forms W-9 (or substitute forms) of persons that are not exempt recipients. If you do not have a Form W-9 for a non-exempt U.S. payee, you must attach to Form W-8IMY any information you do have regarding that person's name, address, and TIN.

Withholding statement of a QI. As a QI, you must provide a withholding statement to each withholding agent from which you receive reportable amounts. The withholding statement becomes an integral part of the Form W-8IMY and, therefore, the certification statement that you sign in Part VII of the form applies to the withholding statement as well as to the form. The withholding statement must:

- Designate those accounts for which you act as a QI,
- Designate those accounts for which you assumed primary withholding responsibility under Chapter 3 of the Code and/or primary Form 1099 reporting and backup withholding responsibility, and
- Provide information regarding withholding rate pools.

A withholding rate pool is a payment of a single type of income, based on the categories of income reported on Form 1042-S or Form 1099 (for example, interest or dividends), that is subject to a single rate of withholding. The withholding rate pool may be established by any reasonable method agreed upon by you and the withholding agent. For example, you may agree to establish a separate account for a single withholding rate pool or you may agree to divide a payment made to a single account into portions allocable to each withholding rate pool. You must provide the withholding rate pool information that is required for the withholding agent to meet its withholding and reporting obligations. A withholding agent may request any information reasonably necessary to withhold and report payments correctly.

If you do not assume primary Form 1099 reporting and backup withholding responsibility, you must establish a separate withholding rate pool for each U.S. non-exempt recipient account holder disclosed to the withholding agent unless the alternative procedure is used (see below). The withholding rate pools are based on valid documentation that you obtain under your withholding agreement with the IRS or, if a payment cannot be reliably associated with valid documentation, under the applicable presumption rules.

Alternative procedure for U.S. non-exempt recipients. If permitted by the QI withholding agreement with the IRS and if approved by the withholding agent, you may establish:
- A single withholding rate pool (not subject to backup withholding) for all U.S. non-exempt recipient account holders for whom you have provided Forms W-9 prior to the withholding agent making any payments. Alternatively, you may include such U.S. non-exempt recipients in a zero rate withholding pool that includes U.S. exempt recipients and foreign persons exempt from non-resident alien withholding provided all the conditions of the alternative procedure are met, and
- A separate withholding rate pool (subject to backup withholding) for all U.S. non-exempt recipient account holders for whom you have not provided Forms W-9 prior to the withholding agent making any payments.

If you elect the alternative procedure, you must provide the information required by your QI withholding agreement to the withholding agent not later than January 15 of the year following the year in which the payments are paid. Failure to provide this information may result in penalties under sections 6721 and 6722 and termination of your withholding agreement with the IRS.

Updating the statement. The statement by which you identify the relevant withholding rate pools must be updated as often as is necessary to allow the withholding agent to withhold at the appropriate rate on each payment and to correctly report the income to the IRS. The updated information becomes an integral part of Form W-8IMY.

Part III — Nonqualified Intermediary

If you are providing Form W-8IMY as a nonqualified intermediary (NQI), you must check box 10a. By checking this box, you are certifying to all of the statements on line 10a. Check box 10b if you are using this form to transmit withholding certificates or other documentation.

If you are acting on behalf of another NQI or on behalf of a foreign partnership or foreign trust that is not a withholding foreign partnership or a withholding foreign trust, you must attach to your Form W-8IMY the Form W-8IMY of the other NQI or the foreign partnership or the foreign trust together with the withholding certificates and other documentation attached to that Form W-8IMY.

Withholding statement of an NQI. In addition to valid documentation of its customers, an NQI must provide a withholding statement to obtain reduced rates of withholding for its customers and to avoid certain reporting responsibilities. The withholding statement must be provided prior to a payment and becomes an integral part of the Form W-8IMY and, therefore, the certification statement that you sign in Part VII of the form applies to the withholding statement as well as to the form. The withholding statement must:
- Contain the name, address, U.S. TIN (if any), and the type of documentation (documentary evidence, Form W-9, or type of Form W-8) for every person for whom documentation has been received and must state whether that person is a U.S. exempt recipient, a U.S. non-exempt recipient, or a foreign person. The statement must indicate whether a foreign person is a beneficial owner or an intermediary, flow-through entity, or U.S. branch and the type of recipient, based on the recipient codes reported on Form 1042-S.
- Allocate each payment by income type to every payee for whom documentation has been provided. The type of income is based on the income codes reported on Form 1042-S (or, if applicable, the income categories for Form 1099). If a payee receives income through another NQI, flow-through entity, or U.S. branch, your withholding certificate must also state the name, address, and U.S. TIN, if known, of the other NQI or U.S. branch from which the payee directly receives the payment or the flow-through entity in which the payee has a direct ownership interest. If another NQI, flow-through entity, or U.S. branch fails to allocate a payment, you must provide, for that payment, the name of the NQI, flow-through entity, or U.S. branch that failed to allocate the payment.
- If a payee is identified as a foreign person, you must specify the rate of withholding to which the payee is subject, the payee's country of residence and, if a reduced rate of withholding is claimed, the basis for that reduced rate (for example, treaty benefit, portfolio interest, exempt under section 501(c)(3), 892, or 895). The statement must also include the U.S. TIN (if required) and, if the beneficial owner is not an individual and is claiming treaty benefits, state whether the limitation on benefits and section 894 statements have been provided by the beneficial owner. You must inform the withholding agent as to which payments those statements relate.
- Contain any other information the withholding agent requests in order to fulfill its withholding and reporting obligations under Chapter 3 of the Code and/or Form 1099 reporting and backup withholding responsibility.

Alternative procedure for NQIs. Under this procedure, you may provide information allocating a payment of a reportable amount to each payee (including U.S. exempt recipients) after a payment is made. To use the alternative procedure you must inform the withholding agent on your withholding statement that you are using the procedure and the withholding agent must agree to the procedure.

This alternative procedure cannot be used for payments that are allocable to U.S. non-exempt recipients.

Under this procedure, you must provide a withholding agent with all the information required on the withholding statement (see *Withholding statement of an NQI* on this page) and all payee documentation, except the specific allocation information for each payee, prior to the payment of a reportable amount. In addition, you must provide the withholding agent with withholding rate pool information. The withholding statement must assign each payee to a withholding rate pool prior to the payment of a reportable amount. A withholding rate pool is a payment of a single type of income, based on the income codes reported on Form 1042-S (for example, interest or dividends), that is subject to a single rate of withholding. The withholding rate pool may be established by any reasonable method agreed upon by you and the withholding agent. For example, you may agree to establish a separate account for a single withholding rate pool, or you may agree to divide a payment made to a single account into portions allocable to each withholding rate pool. You must determine withholding rate pools based on valid documentation or, to the extent a payment cannot be reliably associated with valid documentation, the applicable presumption rules.

You must provide the withholding agent with sufficient information to allocate the income in each withholding rate pool to each payee (including U.S. exempt recipients) within the pool no later than January 31 of the year following the year of payment. If you fail to provide allocation information, if required, by January 31 for any withholding rate pool, you may not use this procedure for any payment made after that date for all withholding rate pools. You may remedy your failure to provide allocation information by providing the information to the withholding agent no later than February 14. See Regulations section 1.1441-1.

Part IV — Certain United States Branches

Line 11

Check the box to certify that you are either:

- A U.S. branch of a foreign bank subject to regulatory supervision by the Federal Reserve Board or
- A U.S. branch of a foreign insurance company required to file an annual statement on a form approved by the National Association of Insurance Commissioners with the insurance department of a state, a territory, or the District of Columbia.

By checking the box you are also certifying that the income you are receiving is not effectively connected with the conduct of your trade or business in the United States. You must provide your EIN on line 6 of Part I.

Line 12 or 13

If you are one of the types of U.S. branches specified in the instructions for line 11 above, then you may choose to be treated in one of two ways:

1. Check box 12 if you have an agreement with the withholding agent to which you are providing this form to be treated as a U.S. person. In this case, you will be treated as a U.S. person. Therefore, you will receive the payment free of Chapter 3 withholding but you will yourself be responsible for Chapter 3 withholding and backup withholding for any payments you make or credit to the account of persons for whom you are receiving the payment.
2. Check box 13 if you do not have an agreement with the withholding agent to be treated as a U.S. person.

Withholding statement of a U.S. branch not treated as a U.S. person. If you checked box 13, you must provide the withholding agent with a written withholding statement. The withholding statement becomes an integral part of the Form W-8IMY. The withholding statement must provide the same information outlined under *Withholding statement of an NQI* on page 5.

Part V — Withholding Foreign Partnership or Withholding Foreign Trust

Check box 14 if you are a withholding foreign partnership or a withholding foreign trust for the accounts for which you are providing this form and you are receiving the income from those accounts on behalf of your partners, beneficiaries, or owners. If you are not receiving the income on behalf of your partners, beneficiaries, or owners, do not complete Part V. Instead, complete Part II or Part III, whichever is appropriate. If you are a withholding foreign partnership or trust that is acting as a nonwithholding foreign partnership or trust for certain partners, beneficiaries, or owners, you must complete Part VI with respect to those partners, beneficiaries, or owners.

If you are acting as a withholding foreign partnership or withholding foreign trust, you must assume primary withholding responsibility for all payments that are made to you for your partners, beneficiaries, or owners for which you are required to act as a withholding foreign partnership or trust. Therefore, you are not required to provide information to the withholding agent regarding each partner's, beneficiary's, or owner's distributive share of the payment. If you are also receiving payments from the same withholding agent for persons other than your partners, beneficiaries, or owners, you must provide a separate Form W-8IMY for those payments.

Part VI — Nonwithholding Foreign Partnership, Simple Trust, or Grantor Trust

Check box 15 if you are a foreign partnership or a foreign simple or grantor trust that is not a withholding foreign partnership or a withholding foreign trust. Additionally, check box 15 if you are a withholding foreign partnership or trust acting as a nonwithholding foreign partnership or trust for certain partners, beneficiaries, or owners. By checking this box, you are certifying to both of the statements on line 15.

Note. If you are receiving income that is effectively connected with the conduct of a trade or business in the United States, provide Form W-8ECI (instead of Form W-8IMY).

If you are not receiving the income on behalf of your partners, beneficiaries, or owners, do not complete Part VI. Instead, complete Part II or Part III, whichever is appropriate.

If you are acting on behalf of an NQI or another foreign partnership or foreign trust that is not a withholding foreign partnership or a withholding foreign trust, you must associate with your Form W-8IMY the Form W-8IMY of the other foreign partnership or foreign trust together with the withholding certificates and other documentation attached to that other form.

Withholding statement of nonwithholding foreign partnership or nonwithholding foreign trust. You must provide the withholding agent with a written withholding

statement to obtain reduced rates of withholding and relief from certain reporting obligations. The withholding statement becomes an integral part of the Form W-8IMY. The withholding statement must provide the same information outlined under *Withholding statement of an NQI* on page 5.

Certain smaller and related partnerships and trusts. If you are a foreign partnership or foreign simple or grantor trust to which a QI is applying the rules of Section 4A.01 of the QI agreement, or to which a WP or WT is applying the rules of Section 10.01 of the WP or WT agreement (relating to certain smaller partnerships and trusts), you must provide the QI, WP, or WT with a Form W-8IMY; a Form W-8 from each of your partners, beneficiaries, or owners; and a withholding statement. The withholding statement must provide the same information outlined under *Withholding statement of an NQI* on page 5, except that it does not need any allocation information.

If you are a foreign partnership or foreign simple or grantor trust to which a QI is applying the rules of Section 4A.02 of the QI agreement, or to which a WP or WT is applying the rules of Section 10.02 of the WP or WT agreement (relating to certain related partnerships and trusts), you must provide the QI, WP, or WT with a Form W-8IMY and a withholding statement. The withholding statement must provide the same information outlined under *Withholding statement of an NQI* on page 5 except that it may include pooled basis information regarding direct partners, beneficiaries, or owners that are not intermediaries, flow-through entities, or U.S. non-exempt recipients.

See Rev. Proc. 2003-64 for rules regarding certain smaller and related partnerships or trusts. You can find Rev. Proc. 2003-64 on page 306 of Internal Revenue Bulletin (IRB) 2003-32 at *www.irs.gov/pub/irs-irbs/irb03-32.pdf.* Also see Rev. Proc. 2004-21 (IRB 2004–14).

Part VII — Certification

Form W-8IMY must be signed and dated by a person authorized to sign a declaration under penalties of perjury on behalf of the person whose name is on the form.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. If you are acting in any capacity described in these instructions, you are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping,** 5 hr., 58 min.; **Learning about the law or the form,** 4 hr., 38 min.; **Preparing the form,** 6 hr., 8 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can email us at **taxforms@irs.gov.* Please put "Forms Comment" on the subject line. Or you can write to Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6406, Washington, DC 20224. Do not send Form W-8IMY to this office. Instead, give it to your withholding agent.

Form **W-8EXP**
(Rev. February 2006)

Department of the Treasury
Internal Revenue Service

Certificate of Foreign Government or Other Foreign Organization for United States Tax Withholding

(For use by foreign governments, international organizations, foreign central banks of issue, foreign tax-exempt organizations, foreign private foundations, and governments of U.S. possessions.)

▶ **Section references are to the Internal Revenue Code.** ▶ **See separate instructions.**
▶ **Give this form to the withholding agent or payer. Do not send to the IRS.**

OMB No. 1545-1621

Do not use this form for:	**Instead, use Form:**
• Any foreign government or other foreign organization that is not claiming the applicability of section(s) 115(2), 501(c), 892, 895, or 1443(b)	W-8BEN or W-8ECI
• A beneficial owner solely claiming foreign status or treaty benefits	W-8BEN
• A foreign partnership or a foreign trust	W-8BEN or W-8IMY
• A person claiming that income is effectively connected with the conduct of a trade or business in the United States	W-8ECI
• A person acting as an intermediary	W-8IMY

Part I Identification of Beneficial Owner (See instructions before completing this part.)

1 Name of organization

2 Country of incorporation or organization

3 Type of entity ☐ Foreign government ☐ International organization ☐ Foreign central bank of issue (not wholly owned by the foreign sovereign) ☐ Foreign tax-exempt organization ☐ Government of a U.S. possession ☐ Foreign private foundation

4 Permanent address (street, apt. or suite no., or rural route). **Do not use a P.O. box.**

City or town, state or province. Include postal code where appropriate.

Country (do not abbreviate)

5 Mailing address (if different from above)

City or town, state or province. Include postal or ZIP code where appropriate.

Country (do not abbreviate)

6 U.S. taxpayer identification number, if required (see instructions)

7 Foreign tax identifying number, if any (optional)

8 Reference number(s) (see instructions)

Part II Qualification Statement

9 For a foreign government:

a ☐ I certify that the entity identified in Part I is a foreign government within the meaning of section 892 and the payments are within the scope of the exemption granted by section 892.

Check box 9b or box 9c, whichever applies:

b ☐ The entity identified in Part I is an integral part of the government of .....

c ☐ The entity identified in Part I is a controlled entity of the government of .....

10 For an international organization:

☐ I certify that:

- The entity identified in Part I is an international organization within the meaning of section 7701(a)(18) **and**
- The payments are within the scope of the exemption granted by section 892.

11 For a foreign central bank of issue (not wholly owned by the foreign sovereign):

☐ I certify that:

- The entity identified in Part I is a foreign central bank of issue,
- The entity identified in Part I does not hold obligations or bank deposits to which this form relates for use in connection with the conduct of a commercial banking function or other commercial activity, **and**
- The payments are within the scope of the exemption granted by section 895.

(Part II and required certification continued on page 2)

Part II Qualification Statement *(continued)*

12 For a foreign tax-exempt organization, including foreign private foundations:

If any of the income to which this certification relates constitutes income includible under section 512 in computing the entity's unrelated business taxable income, attach a statement identifying the amounts.

Check either box 12a or box 12b:

a ☐ I certify that the entity identified in Part I has been issued a determination letter by the IRS dated ..... that is currently in effect and that concludes that it is an exempt organization described in section 501(c).

b ☐ I have attached to this form an opinion from U.S. counsel concluding that the entity identified in Part I is described in section 501(c).

For section 501(c)(3) organizations only, check either box 12c or box 12d:

c ☐ If the determination letter or opinion of counsel concludes that the entity identified in Part I is described in section 501(c)(3), I certify that the organization is not a private foundation described in section 509. I have attached an affidavit of the organization setting forth sufficient facts for the IRS to determine that the organization is not a private foundation because it meets one of the exceptions described in section 509(a)(1), (2), (3), or (4).

d ☐ If the determination letter or opinion of counsel concludes that the entity identified in Part I is described in section 501(c)(3), I certify that the organization is a private foundation described in section 509.

13 For a government of a U.S. possession:

☐ I certify that the entity identified in Part I is a government of a possession of the United States, or is a political subdivision thereof, and is claiming the exemption granted by section 115(2).

Part III Certification

Under penalties of perjury, I declare that I have examined the information on this form and to the best of my knowledge and belief it is true, correct, and complete. I further certify under penalties of perjury that:

- The organization for which I am signing is the beneficial owner of the income to which this form relates,
- The beneficial owner is not a U.S. person,
- For a beneficial owner that is a controlled entity of a foreign sovereign (other than a central bank of issue wholly owned by a foreign sovereign), the beneficial owner is not engaged in commercial activities within or outside the United States, **and**
- For a beneficial owner that is a central bank of issue wholly owned by a foreign sovereign, the beneficial owner is not engaged in commercial activities within the United States.

Furthermore, I authorize this form to be provided to any withholding agent that has control, receipt, or custody of the income of which I am the beneficial owner or any withholding agent that can disburse or make payments of the income of which I am the beneficial owner.

Sign Here ....

Signature of authorized official | Date (MM-DD-YYYY) | Capacity in which acting

Instructions for Form W-8EXP

(Rev. February 2006)

Certificate of Foreign Government or Other Foreign Organization for United States Tax Withholding

Department of the Treasury
Internal Revenue Service

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Note. For definitions of terms used throughout these instructions, see *Definitions* on pages 2 and 3.

Purpose of form. Foreign persons are subject to U.S. tax at a 30% rate on income they receive from U.S. sources that consists of interest (including certain original issue discount (OID)), dividends, rents, premiums, annuities, compensation for, or in expectation of, services performed, or other fixed or determinable annual or periodical gains, profits, or income. This tax is imposed on the gross amount paid and is generally collected by withholding under section 1441 or 1442 on that amount. A payment is considered to have been made whether it is made directly to the beneficial owner or to another person for the benefit of the beneficial owner.

Foreign persons are also subject to tax at graduated rates on income they earn that is considered effectively connected with a U.S. trade or business. If a foreign person invests in a partnership that conducts a U.S. trade or business, the foreign person is considered to be engaged in a U.S. trade or business. The partnership is required to withhold tax under section 1446 on the foreign person's distributive share of the partnership's effectively connected taxable income.

If you receive certain types of income, you must provide Form W-8EXP to:

- Establish that you are not a U.S. person,
- Claim that you are the beneficial owner of the income for which Form W-8EXP is given, and
- Claim a reduced rate of, or exemption from, withholding as a foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession.

In general, payments to a foreign government (including a foreign central bank of issue wholly-owned by a foreign sovereign) from investments in the United States in stocks, bonds, other domestic securities, financial instruments held in the execution of governmental financial or monetary policy, and interest on deposits in banks in the United States are exempt from tax under section 892 and exempt from withholding under sections 1441 and 1442. Payments other than those described above, including income derived in the U.S. from the conduct of a commercial activity, income received from a controlled commercial entity (including gain from the disposition of any interest in a controlled commercial entity), and income received by a controlled commercial entity, do not qualify for exemption from tax under section 892 or exemption from withholding under sections 1441 and 1442. See Temporary Regulations section 1.892-3T. In addition, certain distributions to a foreign government from a real estate investment trust (REIT) may not be eligible for relief from withholding and may be subject to withholding at 35% of the gain realized. For the definition of "commercial activities," see Temporary Regulations section 1.892-4T.

Amounts allocable to a foreign person from a partnership's trade or business in the United States are considered derived from a commercial activity in the United States. The partnership's net effectively connected taxable income is subject to withholding under section 1446.

In general, payments to an international organization from investment in the United States in stocks, bonds and other domestic securities, interest on deposits in banks in the United States, and payments from any other source within the United States are exempt from tax under section 892 and exempt from withholding under sections 1441 and 1442. See Temporary Regulations section 1.892-6T. Payments to a foreign central bank of issue (whether or not wholly owned by a foreign sovereign) or to the Bank for International Settlements from obligations of the United States or of any agency or instrumentality thereof, or from interest on deposits with persons carrying on the banking business, are also generally exempt from tax under section 895 and exempt from withholding under sections 1441 and 1442. In addition, payments to a foreign central bank of issue from bankers' acceptances are exempt from tax under section 871(i)(2)(C) and exempt from withholding under sections 1441 and 1442. Effectively connected income or gain from a partnership conducting a trade or business in the United States may be subject to withholding under section 1446.

Payments to a foreign tax-exempt organization of certain types of U.S. source income are also generally exempt from tax and exempt from withholding. Gross investment income of a foreign private foundation, however, is subject to withholding under section 1443(b) at a rate of 4%. Effectively connected income or gain from a partnership conducting a trade or business in the United States may be subject to withholding under section 1446.

Payments to a government of a possession of the United States are generally exempt from tax and withholding under section 115(2).

To establish eligibility for exemption from 30% tax and withholding, a foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession must provide a Form W-8EXP to a withholding agent or payer with all

necessary documentation. The withholding agent or payer of the income may rely on a properly completed Form W-8EXP to treat the payment, credit, or allocation associated with the Form W-8EXP as being made to a foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession exempt from withholding at the 30% rate (or, where appropriate, subject to withholding at a 4% rate).

Provide Form W-8EXP to the withholding agent or payer before income is paid, credited, or allocated to you. Failure by a beneficial owner to provide a Form W-8EXP when requested may lead to withholding at the 30% rate, the backup withholding rate, or the rate applicable under section 1446.

Additional information. For additional information and instructions for the withholding agent, see the Instructions for the Requester of Forms W-8BEN, W-8ECI, W-8EXP, and W-8IMY.

Who must file. You must give Form W-8EXP to the withholding agent or payer if you are a foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession. Submit Form W-8EXP whether or not you are claiming a reduced rate of, or exemption from, U.S. tax withholding.

Do not use Form W-8EXP if:

- You are not a foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession claiming the applicability of section 115(2), 501(c), 892, 895, or 1443(b). Instead, provide Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding, or Form W-8ECI, Certificate of Foreign Person's Claim That Income Is Effectively Connected With the Conduct of a Trade or Business in the United States. For example, if you are a foreign tax-exempt organization claiming a benefit under an income tax treaty, provide Form W-8BEN.
- You are receiving income that is effectively connected with the conduct of a trade or business in the United States. Instead, provide Form W-8ECI.
- You are a tax-exempt organization receiving unrelated business taxable income subject to withholding under section 1443(a). Instead, provide Form W-8BEN or Form W-8ECI for this portion of your income.
- You are a foreign partnership, a foreign simple trust, or a foreign grantor trust. Instead, provide Form W-8ECI or Form W-8IMY, Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding. However, a foreign grantor trust is required to provide documentation of its grantor or other owner for purposes of section 1446. See Regulations section 1.1446-1.
- You are acting as an intermediary (that is, acting not for your own account, but for the account of others as an agent, nominee, or custodian). Instead, provide Form W-8IMY.

Giving Form W-8EXP to the withholding agent. Do not send Form W-8EXP to the IRS. Instead, give it to the person who is requesting it from you. Generally, this person will be the one from whom you receive the payment, who credits your account, or a partnership that allocates income to you. Generally, a separate Form W-8EXP must be given to each withholding agent.

Give Form W-8EXP to the person requesting it before the payment is made, credited, or allocated to you or your account. If you do not provide this form, the withholding agent may have to withhold tax at the 30% rate, the backup withholding rate, or the rate applicable under section 1446. If you receive more than one type of income from a single withholding agent, the withholding agent may require you to submit a Form W-8EXP for each different type of income.

Change in circumstances. If a change in circumstances makes any information on the Form W-8EXP you have submitted incorrect, you must notify the withholding agent within 30 days of the change in circumstances and you must file a new Form W-8EXP or other appropriate form.

Expiration of Form W-8EXP. Generally, a Form W-8EXP filed without a U.S. taxpayer identification number (TIN) will remain in effect for a period starting on the date the form is signed and ending on the last day of the third succeeding calendar year. However, in the case of an integral part of a foreign government (within the meaning of Temporary Regulations section 1.892-2T(a)(2)) or a foreign central bank of issue, a Form W-8EXP filed without a U.S. TIN will remain in effect until a change in circumstances makes any of the information on the form incorrect. A Form W-8EXP furnished with a U.S. TIN will remain in effect until a change in circumstances makes any information on the form incorrect provided that the withholding agent reports on Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, at least one payment annually to the beneficial owner.

Definitions

Beneficial owner. For payments other than those for which a reduced rate of withholding is claimed under an income tax treaty, the beneficial owner of income is generally the person who is required under U.S. tax principles to include the income in gross income on a tax return. A person is not a beneficial owner of income, however, to the extent that person is receiving the income as a nominee, agent, or custodian, or to the extent the person is a conduit whose participation in a transaction is disregarded. In the case of amounts paid that do not constitute income, beneficial ownership is determined as if the payment were income.

Foreign partnerships, foreign simple trusts, and foreign grantor trusts are not the beneficial owners of income paid to the partnership or trust. The beneficial owners of income paid to a foreign partnership are generally the partners in the partnership, provided that the partner is not itself a partnership, foreign simple or grantor trust, nominee or other agent. The beneficial owners of income paid to a foreign simple trust (that is, a foreign trust that is described in section 651(a)) are generally the beneficiaries of the trust, if the beneficiary is not a foreign partnership, foreign simple or grantor trust, nominee or other agent. The beneficial owners of a foreign grantor trust (that is, a foreign trust to the extent that all or a portion of the income of the trust is treated as owned by the grantor or another person under sections 671 through 679) are the persons treated as the owners of the trust. The beneficial owners of income paid to a foreign

complex trust (that is, a foreign trust that is not a foreign simple trust or foreign grantor trust) is the trust itself.

The beneficial owner of income paid to a foreign estate is the estate itself.

These beneficial owner rules apply primarily for purposes of withholding under sections 1441 and 1442. The rules also generally apply for purposes of section 1446, with a few exceptions. See Regulations section 1.1446-1 for instances where the documentation requirements of sections 1441 and 1442 differ from section 1446.

Foreign person. A foreign person includes a nonresident alien individual, foreign corporation, foreign partnership, foreign trust, foreign estate, foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession, and any other person that is not a U.S. person. It also includes a foreign branch or office of a U.S. financial institution or U.S. clearing organization if the foreign branch is a qualified intermediary. Generally, a payment to a U.S. branch of a foreign person is a payment to a foreign person.

Foreign government. A foreign government includes only the integral parts or controlled entities of a foreign sovereign as defined in Temporary Regulations section 1.892-2T.

An integral part of a foreign sovereign, in general, is any person, body of persons, organization, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority of a foreign country. The net earnings of the governing authority must be credited to its own account or to other accounts of the foreign sovereign, with no portion benefiting any private person.

A controlled entity of a foreign sovereign is an entity that is separate in form from the foreign sovereign or otherwise constitutes a separate juridical entity only if:

- It is wholly owned and controlled by the foreign sovereign directly or indirectly through one or more controlled entities.
- It is organized under the laws of the foreign sovereign by which it is owned.
- Its net earnings are credited to its own account or to other accounts of the foreign sovereign, with no portion of its income benefiting any private person.
- Its assets vest in the foreign sovereign upon dissolution.

A controlled entity also includes a pension trust defined in Temporary Regulations section 1.892-2T(c) and may include a foreign central bank of issue to the extent that it is wholly owned by a foreign sovereign.

A foreign government must provide Form W-8EXP to establish eligibility for exemption from withholding for payments exempt from tax under section 892.

International organization. An international organization is any public international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (22 U.S.C. 288-288(f)). In general, to qualify as an international organization, the United States must participate in the organization pursuant to a treaty or under the authority of an Act of Congress authorizing such participation.

Amounts exempt from tax under section 892. Only a foreign government or an international organization as defined above qualifies for exemption from taxation under section 892. Section 892 generally excludes from gross income and exempts from U.S. taxation income a foreign government receives from investments in the United States in stocks, bonds, or other domestic securities; financial instruments held in the execution of governmental financial or monetary policy; and interest on deposits in banks in the United States of monies belonging to the foreign government. Income of a foreign government from any of the following sources is not exempt from U.S. taxation.

- The conduct of any commercial activity.
- A controlled commercial entity.
- The disposition of any interest in a controlled commercial entity.

For the definition of "commercial activity," see Temporary Regulations section 1.892-4T.

Section 892 also generally excludes from gross income and exempts from U.S. taxation income of an international organization received from investments in the United States in stocks, bonds, or other domestic securities and interest on deposits in banks in the United States of monies belonging to the international organization or from any other source within the United States.

Controlled commercial entity. A controlled commercial entity is an entity engaged in commercial activities (whether within or outside the United States) if the foreign government holds:

- Any interest in the entity that is 50% or more of the total of all interests in the entity, or
- A sufficient interest or any other interest in the entity which provides the foreign government with effective practical control of the entity.

An entity includes a corporation, a partnership, a trust (including a pension trust) and an estate. A partnership's commercial activities are attributable to its general and limited partners for purposes of section 892. The partnership's activities will result in the partnership having to withhold tax under section 1446 on the effectively connected taxable income allocable to a foreign government partner.

Note. A foreign central bank of issue will be treated as a controlled commercial entity only if it engages in commercial activities within the United States.

Foreign central bank of issue. A foreign central bank of issue is a bank that is by law or government sanction the principal authority, other than the government itself, to issue instruments intended to circulate as currency. Such a bank is generally the custodian of the banking reserves of the country under whose law it is organized. For purposes of section 895, the Bank of International Settlements is treated as though it were a foreign central bank of issue.

A foreign central bank of issue must provide Form W-8EXP to establish eligibility for exemption from withholding for payments exempt from tax under either section 892 or section 895.

Amounts exempt from tax under section 895. Section 895 generally excludes from gross income and exempts from U.S. taxation income a foreign central bank of issue receives from obligations of the United States (or of any agency or instrumentality thereof) or from interest on

deposits with persons carrying on the banking business unless such obligations or deposits are held for, or used in connection with, the conduct of commercial banking functions or other commercial activities of the foreign central bank of issue.

Amounts subject to withholding. Generally, an amount subject to withholding under section 1441 or 1442 is an amount from sources within the United States that is fixed or determinable annual or periodical (FDAP) income. FDAP income is all income included in gross income, including interest (as well as original issue discount (OID)), dividends, rents, royalties, and compensation. FDAP income does not include most gains from the sale of property (including market discount and option premiums).

Income is subject to withholding under section 1446 if the income is effectively connected with a partnership's trade or business in the United States and is allocable to a foreign person.

Withholding agent. Any person, U.S. or foreign, that has control, receipt, or custody of an amount subject to withholding or who can disburse or make payments of an amount subject to withholding is a withholding agent. The withholding agent may be an individual, corporation, partnership, trust, association, or any other entity including (but not limited to) any foreign intermediary, foreign partnership, and U.S. branches of certain foreign banks and insurance companies. Generally, the person who pays (or causes to be paid) an amount subject to withholding to the foreign person (or to its agent) must withhold.

Specific Instructions

Part I

Before completing Part I, complete the Worksheet for Foreign Governments, International Organizations, and Foreign Central Banks of Issue on page 6 to determine whether amounts received are or will be exempt from U.S. tax under section 892 or 895 and exempt from withholding under sections 1441 and 1442. Use the results of this worksheet to check the appropriate box in Part II. Do not give the worksheet to the withholding agent. Instead, keep it for your records.

Line 1. Enter the full name of the organization.

Line 2. Enter the country under the laws of which the foreign government or other foreign organization was created, incorporated, organized, or governed.

Line 3. Check the one box that applies. A foreign central bank of issue (wholly owned by a foreign sovereign) should check the "Foreign government" box.

Line 4. The permanent address of a foreign government, international organization, or foreign central bank of issue is where it maintains its principal office. For all other organizations, the permanent address is the address in the country where the organization claims to be a resident for tax purposes. Do not show the address of a financial institution, a post office box, or an address used solely for mailing purposes.

Line 5. Enter the mailing address only if it is different from the address shown on line 4.

Line 6. A U.S. taxpayer identification number (TIN) means an employer identification number (EIN). A U.S. TIN is generally required if you are claiming an exemption or reduced rate of withholding based solely on your claim of tax-exempt status under section 501(c) or private foundation status. Use Form SS-4, Application for Employer Identification Number, to obtain an EIN.

Line 7. If the country of residence for tax purposes has issued the organization a tax identifying number, enter it here.

Line 8. This line may be used by the filer of Form W-8EXP or by the withholding agent to whom it is provided to include any referencing information that is useful to the withholding agent in carrying out its obligations. A filer may use line 8 to include the name and number of the account for which the filer is providing the form.

Part II

Line 9. Check box 9a and box 9b or box 9c, whichever applies. Enter the name of the foreign sovereign's country on line 9b (if the entity is an integral part of a foreign government) or on line 9c (if the entity is a controlled entity). A central bank of issue (wholly owned by a foreign sovereign) should check box 9c.

Line 10. Check this box if you are an international organization. By checking this box, you are certifying to all the statements made in line 10.

Line 11. Check this box if you are a foreign central bank of issue not wholly owned by a foreign sovereign. By checking this box, you are certifying to all the statements made in line 11.

Line 12. Check the appropriate box if you are a foreign tax-exempt organization.

If you are a foreign tax-exempt organization, you must attach a statement setting forth any income that is includible under section 512 in computing your unrelated business taxable income.

Box 12a. Check this box if you have been issued a determination letter by the IRS. Enter the date of the IRS determination letter.

Box 12b. Check this box if you do not have an IRS determination letter, but are providing an opinion of U.S. counsel concluding that you are an organization described in section 501(c).

Box 12c. If you are a section 501(c)(3) organization, check this box if you are not a private foundation. You must attach to the withholding certificate an affidavit setting forth sufficient facts concerning your operations and support to enable the IRS to determine that you would be likely to qualify as an organization described in section 509(a)(1), (2), (3), or (4). See Rev. Proc. 92-94, 1992-2 C.B. 507, section 4, for information on affidavit preparation of foreign equivalents of domestic public charities.

Box 12d. Check this box if you are a section 501(c)(3) organization and you are a private foundation described in section 509.

Line 13. Check this box if you are a government of a U.S. possession. By checking this box you are certifying to the statements made in line 13.

Part III

Form W-8EXP must be signed and dated by an authorized official of the foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession, as appropriate.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to provide the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping,** 7 hr., 10 min.; **Learning about the law or the form,** 5 hr., 28 min.; **Preparing and sending the form to IRS,** 5 hr., 49 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can email us at **taxforms@irs.gov.* Please put "Forms Comment" on the subject line. Or you can write to Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6406, Washington, DC 20224. Do not send Form W-8EXP to this office. Instead, give it to your withholding agent.

WORKSHEET FOR FOREIGN GOVERNMENTS, INTERNATIONAL ORGANIZATIONS, AND FOREIGN CENTRAL BANKS OF ISSUE

(Do not give to the withholding agent. Keep for your records.)

Complete this worksheet to determine whether amounts received are or will be exempt from United States tax under section 892 or section 895 and exempt from withholding under sections 1441 and 1442.

- *Foreign governments and foreign central banks of issue, start with question* ***1.***
- *International organizations, go directly to question* ***6.***

FOREIGN GOVERNMENT	Yes	No
1 a Is the foreign government an integral part of a foreign sovereign (see **Definitions**)? (If "Yes," go to question **4**. If "No," answer question **1b**.)	☐	☐
b Is the foreign government a controlled entity of a foreign sovereign (see **Definitions**)? (If "Yes," answer question **2a**. If "No," go to question **7a**.)	☐	☐
2 a Is the controlled entity a foreign central bank of issue (see **Definitions**)? (If "Yes," answer question **2b**. If "No," go to question **3**.)	☐	☐
b Is the foreign central bank of issue engaged in commercial activities within the United States? (If "Yes," answer question **7a**. If "No," go to question **4**.)	☐	☐
3 Is the controlled entity engaged in commercial activities anywhere in the world? (If "Yes," income is **not** exempt from tax under section 892 and may be subject to withholding. **Do not** complete Form W-8EXP for such income. Instead, complete Form W-8BEN or W-8ECI. If "No," answer question **4**.)	☐	☐
4 Does the foreign government or foreign central bank of issue (wholly owned by the foreign sovereign) receive income directly or indirectly from any controlled commercial entities or income derived from the disposition of any interest in a controlled commercial entity (see **Definitions**)? (If "Yes," income is **not** exempt from tax under section 892 and may be subject to withholding. **Do not** complete Form W-8EXP for such income. Instead, complete Form W-8BEN or W-8ECI. If "No," answer question **5**.)	☐	☐
5 Is any of the income received by the foreign government or foreign central bank of issue (wholly owned by the foreign sovereign) from sources other than investments in the United States in stocks, bonds, other domestic securities (as defined in Temporary Regulations section 1.892-3T(a)(3)), financial instruments held in the execution of governmental financial or monetary policy (as defined in Temporary Regulations section 1.892-3T(a)(4) and (a)(5)), or interest on deposits in banks in the United States? (If "Yes," income is **not** exempt from tax under section 892 and may be subject to withholding. **Do not** complete Form W-8EXP for such income. Instead, complete Form W-8BEN or W-8ECI. If "No," check the appropriate box on **line 9** of Form W-8EXP.)	☐	☐
INTERNATIONAL ORGANIZATION	**Yes**	**No**
6 Is the international organization an organization in which the United States participates pursuant to any treaty or under an Act of Congress authorizing such participation and to which the President of the United States has issued an Executive Order entitling the organization to enjoy the privileges, exemptions, and immunities provided under the International Organization Immunities Act (22 U.S.C. 288, 288e, 288f)? (If "Yes," check the box on **line 10** of Form W-8EXP. If "No," income may be subject to withholding. **Do not** complete this form for such income. Instead, complete Form W-8BEN or W-8ECI.)	☐	☐
FOREIGN CENTRAL BANK OF ISSUE	**Yes**	**No**
7 a Is the entity, whether wholly or partially owned by the foreign sovereign, a foreign central bank of issue? (If "Yes," answer question **7b**. If "No," income is **not** exempt from tax under section 895 and may be subject to withholding. **Do not** complete Form W-8EXP for such income. Instead, complete Form W-8BEN or W-8ECI.)	☐	☐
b Is the income received by the foreign central bank of issue from sources other than obligations of the United States (or any agency or instrumentality thereof) or from interest on deposits with persons carrying on the banking business? (If "Yes," income is **not** exempt from tax under section 895 and may be subject to withholding. **Do not** complete Form W-8EXP for such income. Instead, complete Form W-8BEN or W-8ECI. If "No," answer question **7c**.)	☐	☐
c Are the obligations of the United States (or any agency or instrumentality thereof) or bank deposits owned by the foreign central bank of issue held for, or used in connection with, the conduct of commercial banking functions or other commercial activities by the foreign central bank of issue? (If "Yes," income is **not** exempt from tax under section 895 and may be subject to withholding. **Do not** complete Form W-8EXP for such income. Instead, complete Form W-8BEN or W-8ECI. If "No," check the box on **line 11** of Form W-8EXP.)	☐	☐