EXHIBIT B

CLEAR SAILING GROUP IV LLC

THIRD AMENDED AND RESTATED LIMITED LIABILITY COMPANY OPERATING AGREEMENT

THE LIMITED LIABILITY COMPANY INTERESTS EVIDENCED BY THIS AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "1933 ACT") OR UNDER THE SECURITIES LAWS OF ANY STATE OR FOREIGN JURISDICTION. SUCH LIMITED LIABILITY COMPANY INTERESTS ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE, AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT IN COMPLIANCE WITH THE 1933 ACT AND THE APPLICABLE STATE OR FOREIGN SECURITIES LAWS, PURSUANT TO REGISTRATION THEREUNDER OR EXEMPTION THEREFROM. IN ADDITION, TRANSFER OR OTHER DISPOSITION OF SUCH LIMITED LIABILITY COMPANY INTERESTS IS FURTHER RESTRICTED AS PROVIDED IN THIS AGREEMENT. PURCHASERS OF LIMITED LIABILITY COMPANY INTERESTS SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THEIR INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

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ARTICLE XIII

CLEAR SAILING GROUP IV LLC

THIRD AMENDED AND RESTATED OPERATING AGREEMENT

THIS THIRD AMENDED AND RESTATED LIMITED LIABILITY COMPANY OPERATING AGREEMENT, dated as of February ___, 2014 is being entered into by and among those Persons listed on Schedule A who have or may hereafter become parties to this Agreement as Members of Clear Sailing Group IV, LLC, a Delaware series limited liability company (the "**Company**" or the "**Fund**").

W I T N E S S E T H :

WHEREAS, the Certificate of Formation for the Company, a series limited liability company organized under the laws of the State of Delaware, was filed with the Secretary of State of Delaware on August 10, 2011 and a Certificate of Amendment to the Certificate of Formation was filed with the Secretary of State of Delaware on May 21, 2012; and

WHEREAS, the parties (the "**Parties**") to this Agreement wish to amend and restate hereby the Amended and Restated Operating Agreement of the Company dated as of December 16, 2011.

NOW, THEREFORE, the Parties hereby agree as follows:

ARTICLE I

DEFINED TERMS

The defined terms used in this Agreement shall, unless the context otherwise requires, have the meanings specified in this Article I.

"**1933 Act**" shall mean the Securities Act of 1933, as amended.

"**Accredited Investor**" has the meaning set forth in Rule 501 of Regulation D promulgated under the 1933 Act.

"**Affiliate**" means any Person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, another Person. The term "control", "controlled", or "controlling" means the possession, directly or indirectly, of the power to direct the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise. For the avoidance of doubt, no Member shall be deemed to be an Affiliate of the Company solely as a result of such Member's membership in the Company.

"**Agreement**" shall mean this Limited Liability Company Operating Agreement, as originally executed and as amended, modified, supplemented or restated from time to time, as the context requires.

"**Annual Report**" shall have the meaning specified in paragraph 11.2.1.

"**Attorney**" shall have the meaning specified in paragraph 10.1.1.

"**Board of Managers**" shall have the meaning specified in paragraph 3.1.1.

"**Capital Account**" shall have the meaning specified in paragraph 4.1.1.

"**Capital Contribution**" of a Member shall mean a contribution such Member has made to the Company pursuant to paragraph 3.3.

"**Carried Interest Designee**" shall have the meaning specified in paragraph 4.7.2(c).

"**Close of Business**" shall mean 5:00 p.m., local time, in New York, New York.

"**Code**" shall mean the Internal Revenue Code of 1986, as amended, or any successor federal income tax code.

"**Company**" shall have the meaning set forth in the recitals.

"**Consent**" shall mean the approval of a Person, given as provided in paragraph 9.1, to do the act or thing for which the approval is solicited, or the act of granting such approval, as the context may require. Reference to the Consent of a majority or specified Percentage Interest of the Members of a Series or the Company, shall mean, except as specifically set forth otherwise in this Agreement, the Consent of the Members of such Series or the Company, as applicable, whose aggregate Capital Contributions represent more than fifty percent (50%) (or not less than the specified percentage, as the case may be), of the aggregate Capital Contributions of all Members of such Series or the Company, as applicable.

"**Defaulting Member**" shall have the meaning specified in paragraph 3.6.

"**Disposition**" means the sale, exchange, redemption, assignment, transfer, repayment, repurchase or other disposition by the Company of all or any portion of an Investment for cash or for Marketable Securities that can be distributed to the Members pursuant to paragraph 4.7, including the receipt by the Company of a liquidating dividend, distribution upon a sale of all or substantially all of the assets of a portfolio company or other like distribution for cash or for Marketable Securities.

"**Dispute**" shall have the meaning specified in paragraph 13.1.

"**Dispute Notice**" shall have the meaning specified in paragraph 14.2.

"**Disputing Party**" shall have the meaning specified in paragraph 14.2.

"**Entity**" shall mean a corporation, partnership, limited partnership, limited liability company, limited liability partnership, business trust or other association.

"**ERISA**" shall mean the Employee Retirement Income Security Act of 1974, as amended.

"**ERISA Member**" shall mean any Member that is an employee benefit plan subject to ERISA or a "benefit plan investor" within the meaning of the Plan Asset Rules.

"**Event of Default**" shall have the meaning specified in paragraph 3.6.

"**Fair Market Value**" shall mean the value of Company assets and, when the reference so requires, of Investments, determined as provided in paragraph 11.3.

"**Fiscal Year**" shall mean the calendar year or, in the case of the first fiscal year, the period commencing on the Initial Closing Date and ending on December 31, 2013; and in the case of the last fiscal year, the fraction of a calendar year ending on the date on which the winding up of the Company is completed.

"**Fund**" shall have the meaning set forth in the recitals.

"**General Assets**" shall have the meaning specified in paragraph 2.8(c)(i).

"**General Liabilities**" shall have the meaning specified in paragraph 2.8(c)(ii).

"**Incapacity**" shall mean, as to any Person, (i) the adjudication of incompetence or insanity, the filing of a voluntary petition in bankruptcy, the entry of an order of relief in any bankruptcy or insolvency proceeding or the entry of an order that such Person is bankrupt or insolvent, or (ii) the death, dissolution or termination (other than by merger or consolidation), as the case may be, of such Person.

"**Indemnified Party**" shall mean each of the following: (i) the Managers, the Liquidating Trustee, (ii) each manager or managing member of any of the foregoing, (iii) each director, officer, stockholder, partner, member, employee, agent, legal counsel, representative and incorporator of any of the foregoing; (iv) trustees of any of the foregoing; (iv) controlling persons or Affiliates of any of the foregoing; and (v) successor, assigns and personal representatives of any of the foregoing.

"**Initial Closing Date**" shall be the date on which subscriptions for the purchase of Interests are first accepted by the Board of Managers.

"**Insured Party**" shall have the meaning specified in paragraph 5.4.3.

"**Interest**" shall mean the entire interest of a Member in the Company at any particular time, including the right of such Member to any and all benefits to which a Member may be entitled as provided in this Agreement, together with the obligations of such Member to comply with all the terms and provisions of this Agreement.

"**Investment**" shall mean any investment made by the Company.

"**Investment Advisers Act**" means the Investment Advisers Act of 1940, as amended.

"**Investment Company Act**" means the Investment Company Act of 1940, as amended.

"**LLC Act**" shall mean the Delaware Limited Liability Company Act, Section 18-101, *et seq.*, as it may be amended from time to time and any successor to said law.

"**Liquidating Trustee**" shall mean the Manager or, if there is none, a Person selected by the Consent of the Members to act as a liquidating trustee.

"**Manager**" shall have the meaning specified in paragraph 3.1.1.

"**Marketable Securities**" shall have the meaning specified in paragraph 4.7.4.

"**Member**" or "**Members**" shall mean those Persons owning an Interest in the Company.

"**Net Profits**" shall mean, with respect to any Fiscal Year, the excess, if any, of the items of income or gain over its items of loss or deduction, and "**Net Losses**" shall mean, with respect to any Fiscal Year, the excess, if any, of the Company's items of loss or deduction over its items of income or gain, in each case computed under the method of accounting for maintaining Capital Accounts in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv).

"**Parties**" shall have the meaning set forth in the recitals.

"**Percentage Interest**" shall mean, with respect to a Member as it relates to a Series, the ratio, expressed as a percentage, of (i) such Member's Capital Contributions in a Series to (ii) the total Capital Contributions of all Members in such Series, and with respect to a Member as it relates to the Company, the ratio, expressed as a percentage of (i) such Member's Capital Contributions to the Company to (ii) the total Capital Contributions of all Members to the Company.

"**Person**" shall mean any individual or Entity.

"**Plan Asset Rules**" shall mean Section 3(42) of ERISA and the regulations issued by the U.S. Department of Labor at Section 2510.3-101 of Part 2510 of Chapter XXV, Title 29 of the Code of Federal Regulations.

"**Preferred Return"** shall mean an eight percent (8%) per annum cumulative return on a Series G Member's Unreturned Capital Contributions.

"**Qualified Client**" has the meaning set forth in Rule 205-3(d)(1) of the Investment Advisers Act.

"**Realized Investment**" means any Investment (or any portion thereof) that has been the subject of a Disposition, in any such case to the extent so subject.

"**Series**" shall have the meaning specified in paragraph 2.8(a).

"**Series G Interests**" shall mean the Series of Interests sold and issued by the Company to Members in Series G.

"**Series G Member**" shall mean a Member holding Series G Interests.

"**Series Closing**" shall mean the acceptance by the Company of subscriptions for, and issuance to a Member of, Interests in a Series of the Company.

"**Series Closing Date**" shall mean any date on which a Series Closing occurs.

"**Settlement Period**" shall have the meaning specified in paragraph 13.2(b).

"**Side Letters**" shall mean any written agreements or side letters entered into by the Company with one or more Members on or after the date hereof.

"**Subscription Agreement**" shall mean the subscription agreement each Member signs in connection with its Capital Contribution to any Series of the Company, and any amendments or supplements thereto.

"**Substituted Member**" shall mean any Person admitted to the Company as a Member pursuant to the provisions of paragraph 6.3.

"**Target Capital Account**" shall mean, with respect to any Member, the balance in such Member's Capital Account as of the end of the relevant Fiscal Year or period, increased by (x) any amount which such Member is obligated to restore under this Agreement, (y) the amount such Member is treated as obligated to restore under Treasury Regulations Section 1.704-1(b)(2)(ii)(c) and (z) the amount which such Member is deemed to be obligated to restore pursuant to the penultimate sentence of Treasury Regulations Section 1.704-2(g)(1) and the penultimate sentence of Treasury Regulations Section 1.704-2(i)(5).

"**Transfer**" shall have the meaning specified in paragraph 6.1.1.

"**Treasury Regulations**" shall mean the regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

"**Unpaid Preferred Return**" means, with respect to each Series G Member, as of any date of determination, the excess, if any, of (i) such Member's Preferred Return, over (ii) the aggregate amount of all distributions made to such Member pursuant to paragraphs 4.7.2(b) and 4.7.2(c)(i).

"**Unreturned Capital Contributions"** shall mean a Series G Member's aggregate Capital Contributions, minus the aggregate distributions to such Member under paragraph 4.7.2(a).

ARTICLE II

ORGANIZATION

2.1 Formation. The Members have formed a series limited liability company pursuant to the provisions of the LLC Act. The Company commenced upon the filing of the Certificate of Formation with the Secretary of State of Delaware.

2.2 Name. The name of the Company is Clear Sailing Group IV LLC. The business of the Company, however, may be conducted, upon compliance with all applicable laws, under any other name designated in writing by the Board of Managers, provided such name contains the words "limited liability company" or the abbreviation "LLC" or "L.L.C.".

2.3 Registered Agent. The name and address of the Company's registered agent for service of process on the Company in the State of Delaware is National Corporate Research, Ltd., 615 S. Dupont Highway, Dover, DE 19901 or such other agent as the Board of Managers may from time to time designate.

2.4 Purpose. The Company has been established primarily to make venture capital and growth equity investments in various leading seed-stage, early-stage, developmental-stage and later-stage private companies, including, without limitation, companies engaged in social media, digital media, cleantech and life sciences businesses; to purchase securities in such companies from secondary sources; to invest in interests of investment funds, special purpose vehicles and other Entities whose portfolios are comprised of one or more companies consistent with the Company's investment focus; and to engage in any and all other lawful activities and transactions as may be necessary, advisable, or desirable, as determined by the Board of Managers, in its sole discretion, to carry out the foregoing or any reasonably related activities.

2.5 Term. The term of the Company commenced on August 10, 2011, and shall continue in full force and effect in perpetuity, unless earlier terminated in accordance with the provisions of this Agreement.

2.6 Investment Limitations. The Company shall have no minimum portfolio investment size.

2.7 Qualification in Other Jurisdictions. The Board of Managers shall cause the Company to be qualified or registered under assumed or fictitious names or foreign limited liability company statutes or similar laws in any jurisdiction in which the Company transacts business and to the extent, in the judgment of the Board of Managers, such qualification or registration is necessary or advisable in order to protect the limited liability of the Members or to permit the Company lawfully to own property or transact business. The Board of Managers shall have the power and authority to execute, file and publish all such certificates, notices, statements or other instruments necessary to permit the Company to conduct business as a limited liability company in all jurisdictions where the Company elects to do business.

2.8 Interests and Series.

(a) The Board of Managers shall cause the Company to issue Interests in one or more separate and distinct series (each, a "**Series**"), with each such Series established to make separate Investment or portfolio of Investments. The Board of Managers may establish Series for the purpose of (1) making Investments in specific and distinct companies identified by the Board of Managers, (2) to purchase securities in such companies from secondary sources, or (3) to invest in interests of investment funds, special purpose vehicles or other Entities consistent with the Company's investment focus, which such Series will be segregated from each other. The Board of Managers may use its commercially reasonable efforts to have securities purchased

by a particular Series be issued for the benefit of such particular Series to which there are allocated. Members of a Series shall be entitled to the benefits of that particular Series only and shall not be entitled to share in the profits, losses, allocations or distributions of any other Series of which they are not a Member.

(b) Each Series so established shall be set forth on Schedule A to this Agreement, and Schedule A will be updated by the Board of Managers from time to time in connection with the establishment of one or more additional Series. Subject to such limitations as may be set forth in this Agreement, the Board of Managers shall establish and may modify the investment objective and policies of each Series and all other rights and features thereof.

(c) Interests of each Series, unless otherwise provided in paragraph 4.7 herein shall have the following relative rights and preferences:

(i) Assets Held With Respect to a Particular Series. All Capital Contributions made to the Company with respect to a particular Series, together with all assets in which such contributions are invested or reinvested, all income, earnings and profits thereon, and the proceeds thereof, from whatever source derived, including, without limitation, any proceeds derived from the sale, exchange or liquidation of such assets, shall irrevocably be held with respect to that Series for all purposes, subject only to the rights of creditors of such Series, and shall be so recorded upon the books of account of the Company. All such consideration, assets, income, earnings, profits and proceeds thereof of a Series, are herein referred to as "assets held with respect to" that Series. In the event that there are any assets, income, earnings, profits and proceeds thereof, funds or payments which are not readily identifiable as assets held with respect to any particular Series (collectively "**General Assets**"), the Board of Managers shall allocate such General Assets to, between or among any one or more of the Series' in such manner and on such basis as the Board of Managers, in its sole discretion, deems fair and equitable, and any General Assets so allocated to a particular Series shall be assets held with respect to that Series. Each such allocation by the Board of Managers shall be conclusive and binding upon Members of all Series for all purposes.

(ii) Liabilities Attributable to a Particular Series. The assets of the Company held with respect to each particular Series shall be charged with all liabilities, expenses, costs, charges and reserves attributable to that Series. All such liabilities, expenses, costs, charges, and reserves so charged to a Series are herein referred to as "liabilities attributable to" that Series. Any liabilities of the Company which are not readily identifiable as being attributable to any particular Series ("**General Liabilities**") shall be allocated and charged by the Board of Managers to, between or among any one or more of the Series in such manner and on such basis as the Board of Managers, in its sole discretion, deems fair and equitable, and any General Liabilities so allocated to a particular Series shall be liabilities attributable to that Series. Each such allocation of liabilities, expenses, costs, charges and reserves by the Board of Managers shall be conclusive and binding upon Members of all Series for all purposes. The liabilities attributable to any Series shall be enforceable against the assets of such Series only, and not against the General Assets, or the assets of any other Series. All Persons, including any Affiliates of the Board of Managers, who have extended credit that has been allocated to a particular Series, or who have a claim or contract that has been allocated to any particular Series, shall look, and shall be required by contract to look exclusively, to the assets held with respect to

that particular Series for payment of such credit, claim or contract. In the absence of an express contractual agreement so limiting the claims of such creditors, claimants and contract providers, each creditor, claimant and contract provider will be deemed nevertheless to have impliedly agreed to such limitation unless an express provision to the contrary has been incorporated in the written contract or other document establishing the claimant relationship.

(iii) Distributions. Notwithstanding any other provisions of this Agreement: (A) no distribution including, without limitation, any distribution paid upon termination of the Company or of any Series with respect to any Series shall be effected other than from the assets held with respect to such Series; and (B) no Member owning an Interest with respect to any particular Series shall otherwise have any right or claim against the assets held with respect to any other Series except to the extent that such Member has such a right or claim hereunder as a Member owning an Interest with respect to such other Series.

(iv) Equality. All Interests of each particular Series shall represent a proportionate interest in the assets held with respect to that Series (subject to the liabilities attributable to Series and such rights and preferences as may have been established and designated with respect to such Series, and subject to any provisions hereunder applicable in the event of a default by a Member), and each Interest of any particular Series shall be proportionate to the other Interests of that Series.

2.9 Termination of a Series. Upon the Disposition of all of the assets of a particular Series and the completion of the corresponding distributions to Members of such Series made pursuant to paragraph 4.7 hereof, each Member of such Series shall be deemed to have taken such actions necessary to resign their membership in such Series pursuant to paragraph 6.4, and the Manager shall take such actions necessary to terminate such Series.

ARTICLE III

MANAGER, MEMBERS AND CAPITAL

3.1 Manager.

3.1.1 The business, operations and affairs of the Company shall be managed by a Board of Managers (each, a "**Manager**") consisting of no more than five (5) Managers (the "**Board of Managers**"). The Members hereby agree that initially John Bivona shall be a Manager and constitute the Board of Managers. Actions of the Board of Managers shall require a majority vote or majority consent of the Managers. If a Manager is removed as described below in paragraph 3.1.2, or if a Manager withdraws, resigns, dies or is disabled, a successor Manager shall be promptly appointed by vote of a majority in Interest of the Members.

3.1.2 Removal of a Manager shall be subject to the following conditions:

(a) Without limiting any rights of the Members otherwise provided at law or in equity, a Manager may be removed as Manager of the Company at any time by a vote of of a majority in Interest of the Members only for (i) fraud, gross negligence or willful misconduct; or (ii) a material default by him in the performance of his obligations to the

Company under this Agreement, which is not cured by the Manager within twenty (20) days after receipt of notice of such default.

(b) The Members agree that they will not exercise their right to remove or enforce any of their rights against a Manager until such time as they have given written notice to such Manager of their intention to exercise such right and the default, or act or action allegedly constituting fraud, gross negligence or willful misconduct relating thereto and have provided such Manager with a reasonable time thereafter within which to cure the default. If such default is cured within the permitted time, the rights of the Members under this paragraph 3.1.2 with respect to that particular default will terminate.

(c) Any removal of a Manager under this paragraph 3.1.2 shall not relieve such removed Manager from its obligations to the Company incurred prior to such removal.

3.2 Members.

3.2.1 The names, addresses, Series and Capital Contributions of the Members who are accepted as Members of the Company are set forth on Schedule A hereto, as amended from time to time. The Board of Managers may, from time-to-time during the term of the Company, hold Series Closing Dates with respect to any Series. A Member may be a member of one or more Series.

3.2.2 No Member shall be required to lend any funds to the Company.

3.2.3 The Members who are not Managers shall not participate or take part in the management or control of the Company business, and shall have no right or authority to act for or bind the Company.

3.2.4 Unless admitted to the Company as a Member, as provided in this Agreement, no Person shall be considered a Member. The Company and the Board of Managers need deal only with Persons so admitted as Members. They shall not be required to deal with any other Person (other than with respect to distributions to assignees pursuant to assignments in compliance with Article VII) merely because of an assignment or transfer of Company's Interest to such Person whether by reason of the Incapacity of a Member or otherwise; provided, however, that any distribution by the Company to the Person shown on the Company's records as a Member or to its legal representatives, or to the assignee of the right to receive Company's distributions as provided herein, shall relieve the Company and the Board of Managers of all liability to any other Person who may be interested in such distribution by reason of any other assignment by the Member or by reason of his Incapacity, or for any other reason.

3.3 Membership Capital.

3.3.1 Each Member's Capital Contribution to a Series of the Company shall be set forth on Schedule A.

3.3.2 No Member shall be paid interest on any Capital Contribution to the Company or on such Member's Capital Account.

3.3.3 No Member shall have any right to demand the return of its Capital Contributions, except upon dissolution of the Company pursuant to Article VIII.

3.3.4 No Member shall have the right to demand or receive property other than cash in return for its Capital Contributions.

3.4 Liability of Members. In no event shall any Member (or former Member) have any liability for the repayment or discharge of the debts and obligations of the Company or, subject to clause (b) of this paragraph 3.4, be obligated to make any contribution to the Company; provided, however, that

(a) each Member shall pay to the Company such Member's proportionate share of liabilities of the Company (including any taxes that may be payable if the Company shall be found to be an Entity separately subject to any taxes and any indemnification obligation of the Company) incurred in respect of any period on or after the date hereof during which such Member is or was a Member of the Company; provided, however, that (i) no Member shall be required to make payment pursuant to this clause (a) unless, and then only to the extent that, a call for payment is made by the Board of Managers; (ii) a Member's aggregate liability to the Company under this clause (a) shall in no event exceed the aggregate amount distributed to such Member by the Company for the applicable Series; (iii) prior to requiring any Member to make any payment to the Company pursuant to this clause (a), the Company shall first apply and exhaust the capital, if any, of the Member in the Company for the applicable Series and/or any reserves established by the Company; (iv) this clause (a) shall not create any rights in, or inure to the benefit of, any Persons other than the Company, the Board of Managers and the other Indemnified Parties; and (v) no Member shall be required to make any payment pursuant to this clause (a) in respect of any indemnification obligation of the Company more than two (2) years after the date of dissolution of the Company, unless the claim for indemnification has been asserted against the Company, and the Members have been notified of such claim (which notice shall include a brief description of the claim) prior to the end of such two (2) year period; and

(b) each Member shall have such other liabilities as are expressly provided for in this Agreement.

As used in clause (a) above, "proportionate share" means a percentage equal to such Member's Percentage Interest in the net losses of the Company for the applicable Series during the period in respect of which a liability or obligation is incurred.

3.5 Status Under the Uniform Commercial Code. All Interests in the Company shall be securities governed by Article 8 of the Uniform Commercial Code as in effect from time to time in the State of Delaware. The Interests are not evidenced by certificates, and will remain not evidenced by certificates. The Company is not authorized to issue certificated Interests. The Company will keep a register of the Members' Interests, in which it will record all Transfers of Members' Interests made in accordance with Article VII of this Agreement.

3.6 Defaulting Member.

3.6.1 In the event any Member shall, in the Board of Managers's reasonable judgment, breach Article VII of this Agreement with respect to the transferability of Interests, or

violate the federal, state or local laws that govern the sale, issuance and ownership of securities in the Company (each an "**Event of Default**"), then such Member shall be a "**Defaulting Member**", and, except as may be determined by the Manager in its discretion, some or all of the following provisions of this paragraph 3.6 shall apply:

(a) Without the Consent of the Board of Managers, which may be given or withheld in the Board of Managers' sole discretion, such Defaulting Member: (i) shall not be entitled to Transfer any of such Defaulting Member's Interests in the Company; (ii) shall not be entitled to participate in Investments made by the Company prior to or after such Event of Default for any Series in which such Defaulting Member holds an Interest, and shall not be entitled to any distributions with respect to such Investments; (iii) shall lose its right, if any, to participate in any Consent of the Members for any Series or for the Company; and (iv) shall lose its right to obtain information distributed to Members regarding the Company and its affairs, other than the information pursuant to paragraph 11.4.

(b) The Board of Managers shall have the right, in its sole discretion, to cause such Defaulting Member to Transfer its Interest in the Company effective upon five (5) days' written notice (without regard to the provisions of paragraph 6.1), to any Person for a transfer price equal to such Defaulting Member's Capital Account balance for each applicable Series reduced, in the discretion of the Board of Managers, by an amount up to seventy-five percent (75%). Additionally, the Defaulting Member shall in all instances pay the expenses incurred by the Company in connection with any such Transfer. Alternatively, the Manager shall have the right, in its discretion, to reduce the Capital Account balance of the Defaulting Member for the applicable Series by an amount up to seventy-five percent (75%) and reapportion such amounts among the other Members for the applicable Series (except any other Defaulting Member) in proportion to their Percentage Interests.

ARTICLE IV

CAPITAL ACCOUNTS, ALLOCATIONS, AND DISTRIBUTIONS

4.1 Capital Accounts.

4.1.1 A separate capital account shall be maintained for each Member (each a "**Capital Account**") for each applicable Series in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv). The Capital Account of each Member shall be: (i) increased by contributions of money or property by the Member to the Company for the applicable Series and allocations of income or gain; (ii) decreased by distributions of money or property by the Company to the Member and allocations of loss or deduction for the applicable Series; and (iii) otherwise adjusted in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv). The Board of Managers may modify the manner in which Capital Accounts are computed as it deems necessary to comply with Code Section 704(b) and the Treasury Regulations thereunder; provided, that such modifications shall not have a material effect on the amounts distributable to any Member under this Agreement.

4.1.2 The Company may, at the discretion of the Board of Managers, revalue Company property as permitted under Treasury Regulations Section 1.704-1(b)(2)(iv)(f). In the

event of such a revaluation, the Capital Accounts of the Members shall be adjusted in accordance with Treasury Regulations Sections 1.704-1(b)(2)(iv)(f) and (g).

4.2 Allocation of Net Profits and Net Losses. Subject to paragraphs 4.3 through 4.6 below, for each Fiscal Year, the Company's Net Profits or Net Losses, as the case may be, for each Series, shall be allocated among the Members of the applicable Series in such a manner that, immediately after giving effect to such allocations, each Member's Target Capital Account balance for the applicable Series, taking into account all contributions by such Member and distributions to such Member for the applicable Series, equals, as nearly as possible, the amount of cash, if any, that would be distributed to such Member if (a) all the Series' assets were sold for cash equal to their respective book values (as determined under Treasury Regulations Section 1.704-(b)(2)(iv)), reduced, but not below zero, by the amount of nonrecourse debt to which such assets are subject, (b) all the Series' liabilities (other than nonrecourse liabilities) were paid in full, and (c) all the remaining cash were distributed to the Members under paragraph 4.7.

4.3 Nonrecourse Deductions, Tax Credits, etc. Nonrecourse deductions (within the meaning of Treasury Regulations Section 1.704-2(b)(1)), tax credits, and other items the allocation of which cannot have economic effect shall be allocated to the Members in accordance with their Percentage Interests of each applicable Series.

4.4 Section 704(b) Regulatory Allocations. The provisions of the Treasury Regulations under Code Section 704(b) relating to qualified income offset, minimum gain chargeback, minimum gain chargeback with respect to Member nonrecourse debt, allocations of nonrecourse deductions, allocations with respect to Member nonrecourse debt, limitations on allocations of losses to cause or increase a Capital Account deficit, and forfeiture allocations with respect to substantially nonvested partnership interests are hereby incorporated by reference and shall be applied to the allocation of income, gain, loss, or deduction in the manner provided in the Treasury Regulations. The Board of Managers may, in its discretion, adjust the subsequent allocations of income, gain, losses, or deduction to prevent distortion of the economic arrangement of the Member, as otherwise described in this Agreement, due to allocations resulting from the preceding sentence.

4.5 Tax Allocations.

4.5.1 A Member's distributive share shall be deemed to consist of a *pro rata* portion of each item of income, gain, loss, or deduction required to be separately stated under Code Section 702(a).

4.5.2 In accordance with Code Section 704(c) and the Treasury Regulations thereunder, and by such methods (including but not limited to adjustments described in Treasury Regulations Sections 1.704-3(c)(ii) and (iii)(B)) determined by the Board of Managers, allocations of items of income, gain, loss, or deduction for income tax purposes shall take into account any variation between the adjusted tax basis of Company property and the book value of such property as determined for purposes of maintaining Capital Accounts.

4.6 Transfer or Change of Interests. If any interests in a Series are newly issued, reserved, transferred, forfeited, or redeemed during a Fiscal Year, the Board of Managers shall adjust allocations of income, gain, loss, deduction, and credit to take account of the varying interests of the Members in any manner consistent with Code Section 706 and the Treasury Regulations thereunder.

4.7 Distributions.

4.7.1 Subject to paragraphs 4.8 and 4.9, the Company shall make distributions, at such times and intervals as the Board of Managers shall determine but in no event later than twelve (12) months following the date of a Disposition with respect to any specific Realized Investment.

4.7.2 Distributions made with respect to Series G Interests shall be made in accordance with this paragraph 4.7.2. Such distributions shall initially be apportioned among the Members of Series G in proportion to their respective Percentage Interests in a specific Realized Investment. Amounts initially apportioned to the Carried Interest Designee (as hereinafter defined) shall be distributed to the Carried Interest Designee, and amounts initially apportioned to any Member shall then be immediately reapportioned as between such Member on the one hand and the Carried Interest Designee on the other hand and distributed in the following order of priority:

(a) First, one hundred percent (100%) to such Member in proportion to such Member's respective Capital Contribution to Series G until such Member has received aggregate distributions equal to such Member's respective Capital Contributions to Series G with respect to a specific Realized Investment;

(b) Second, one hundred percent (100%) to such Member until the Unpaid Preferred Return of such Member is reduced to zero; and

(c) Thereafter, with respect to such Realized Investment, (i) ninety percent (90%) to such Member in proportion to its respective Capital Contribution to Series G, and (ii) ten percent (10%) as carried interest to a Person designated at the sole discretion of the Board of Managers (the "**Carried Interest Designee**").

4.7.3 Distributions made with respect to Interests other than Series G Interests shall be made in accordance with this paragraph 4.7.3. Such distributions shall be distributed in the following order of priority:

(a) First, to each Member in proportion to such Member's respective Capital Contribution to the applicable Series until such Member has received aggregate distributions equal to such Member's respective Capital Contributions to such Series with respect to a specific Realized Investment; and

(b) Thereafter, among the Members in accordance with their respective Capital Contribution to the applicable Series.

4.7.4 Distributions pursuant to this Article IV may be made in cash or, in the sole discretion of the Board of Managers, upon not less than ten (10) days prior written notice to the Members, in Marketable Securities (as hereinafter defined) that satisfy the further requirements described below, except that no distribution of securities shall be made to any Member to the extent such Member would be prohibited by applicable law from holding such securities. Each distribution in kind of Marketable Securities shall be distributed as if there had been a Disposition of such securities for an amount of cash equal to the Fair Market Value of such securities followed by an immediate distribution of such cash proceeds. "**Marketable Securities**" shall mean securities (i) of which the Company's holding may be sold in one or more transactions to the general public (notwithstanding any restrictions on the sale of such securities pursuant to agreement, contract or otherwise) without the necessity of any federal, state or local government filing (other than notice filings), whether pursuant to Rule 144 under the 1933 Act or otherwise, and (ii) that are either (A) listed on a United States national or regional securities exchange or any internationally recognized securities exchange, or (B) traded on any recognized United States or internationally recognized automated quotation system, listing service or other form of securities exchange or trading forum, or traded on PORTAL (in the case of securities eligible for trading pursuant to Rule 144A under the 1933 Act, or any successor rule thereto). Distributions consisting of both cash and Marketable Securities shall be made, to the extent practicable, in *pro rata* portions as to each Member receiving such distributions. The Board of Managers may request, but no Member shall be required to give, a proxy with respect to any securities so distributed.

4.8 Tax Advances. Prior to making distributions under paragraph 4.7, and subject to the maintenance of reasonable cash reserves, the Company shall use reasonable efforts to distribute to the Carried Interest Designee, prior to the due date for making quarterly federal and state estimated income tax payments, amounts that, in the aggregate, approximate the income taxes payable by the Carried Interest Designee (or any Person whose tax liability is determined by reference to the income of the Carried Interest Designee) with respect to taxable income or gain allocated to the Carried Interest Designee by reason of paragraph 4.7.2(c), determined by using the combined marginal federal, state and local income tax rates then applicable to an individual resident of New York City, taking into account the type of income allocated and any previously allocated taxable losses that may offset later taxable income. Any payment made under this paragraph 4.8 shall be treated as an advance against distributions otherwise to be made to the Carried Interest Designee under this Agreement with respect to the Series generating the taxable income or gain and shall be reimbursed by reducing, dollar-for-dollar, amounts to be distributed to the Carried Interest Designee r under this Agreement (with appropriate adjustments made for offsets to cash generated by other Series). Any amounts not so reimbursed after the liquidation of the Company and the application of paragraph 7.2.3 shall be repaid by the Carried Interest Designee to the Company.

4.9 Withholding.

4.9.1 The Company shall withhold from payments and distributions to a Member and remit to the appropriate government authority any amounts required to be withheld under the Code, Treasury Regulations, or state, local, or foreign tax law. All amounts so withheld shall be treated as paid or distributed, as the case may be, to the Member for all purposes of this Agreement. In addition, the Company may withhold from distributions amounts

deemed necessary, in the reasonable discretion of the Board of Managers, to be held in reserve for payment of accrued or foreseeable expenses.

4.9.2 Each Member hereby agrees to indemnify and hold harmless the Company from and against any liability with respect to income attributable to or distributions or other payments to such Member. To the extent that the Code, Treasury Regulations, or state, local, or foreign tax law requires the Company to remit to a governmental authority an amount with respect to a Member that exceeds the amount then otherwise distributable to such Member, (i) the excess shall constitute a loan from the Company to such Member which shall be payable upon demand and shall bear interest, from the date that the Company makes the payment to the relevant governmental authority, at the lesser of (a) the one-month LIBOR plus four percent (4%) or (b) the maximum legal interest rate under applicable law, compounded annually, (ii) the Company shall be entitled to collect such sum from amounts otherwise distributable to such Member under this Agreement, and (iii) the Company may exercise any and all rights and remedies to collect such sum from such Member that a creditor would have to collect a debt from a debtor under applicable law. Any payment made by a Member to the Company pursuant to this paragraph 4.9.2 shall not constitute a Capital Contribution.

ARTICLE V

RIGHTS AND DUTIES OF THE MANAGER

5.1 Management.

5.1.1 The Board of Managers is hereby vested with the full, exclusive and complete right, power and discretion to operate, manage and control the affairs and business of the Company and to make all decisions affecting the Company's affairs and business, as deemed proper, convenient or advisable by the Board of Managers to carry on the business of the Company as described herein, and the Board of Managers shall have all of the rights and powers of a "manager" under the LLC Act and otherwise as provided by law. Without limiting the generality of the foregoing, all of the Members hereby specifically agree and Consent that the Board of Managers may, on behalf of the Company, at any time, and without further notice to or Consent from any Member, do the following:

(a) make Investments consistent with the purposes of the Company;

(b) sell all or any part of any Investment whether for cash, securities, property or on such terms as the Board of Managers shall determine to be appropriate;

(c) borrow money, issue debt obligations, guarantee loans or otherwise incur leverage, including from the assets of one Series for the benefit of a separate Series;

(d) perform, or arrange for the performance of the management and administrative services necessary for the operations of the Company and the management of the investment of the Company's funds prior to their investment in Investments;

(e) manage Investments, including, but not limited to, administering Investments actually made by the Company and the ultimate realization of those Investments and

providing, or arranging for the provision of, managerial assistance to the Persons in which the Company holds Investments;

(f) incur all expenditures permitted by this Agreement, and, to the extent that funds of the Company are available, pay all expenses, debts and obligations of the Company;

(g) employ and dismiss from employment any and all employees, consultants, custodians of the assets of the Company or other agents;

(h) enter into, execute, amend, supplement, acknowledge and deliver any and all contracts, agreements or other instruments as the Board of Managers shall determine to be appropriate in furtherance of the purposes of the Company;

(i) advance funds for Investments prior to the consummation of such Investments;

(j) admit additional Members and create additional Series on the terms and conditions set forth in this Agreement;

(k) waive, alter or amend any or all fees or expenses that may be due or payable by a Member in connection with a Member's Capital Contribution;

(l) consent to the Transfer of a Member's Interest in a Series;

(m) admit an assignee of all or any fraction of a Member's Interest to be a Substituted Member in the Company pursuant to and subject to the terms of paragraph 6.3;

(n) make any reasonable election under federal and state tax laws;

(o) designate a Member to act as the "tax matters partner" of the Company, as such term is defined in Section 6231(a)(7) of the Code;

(p) retain an outside administrator to provide administrative services to the Company;

(q) retain outside tax consultants, legal counsel, and independent auditors for the Company;

(r) acquire on behalf of the Company a Member's Interest in a particular Series pursuant to paragraph 6.4;

(s) terminate a Series pursuant to paragraphs 2.9 and 6.4; and

(t) dissolve the Company pursuant to paragraph 7.1(c).

5.1.2 Subject to the provisions of this Agreement, the Board of Managers shall have the right, at its option, to cause the Company to borrow money from any Person or to guarantee loans made to any Person in which the Company acquires or proposes to acquire

Investments (or to any subsidiary thereof). The Company may receive for guarantees and other financial assistance given by it as provided herein, fees negotiated in good faith by the Board of Managers, taking into account, among other matters, the Investment acquired by the Company, the nature and terms of the guaranty, the risks associated therewith and fees paid to unrelated Persons for providing comparable financial accommodation.

5.1.3 Third parties dealing with the Company may rely conclusively upon any certificate of the Board of Managers to the effect that it is acting on behalf of the Company. The authorized signature of a Manager shall be sufficient to bind the Company in every manner to any agreement or on any document, including, but not limited to, documents drawn or agreements made in connection with the acquisition or disposition of any Investments or other properties in furtherance of the purposes of the Company.

5.2 Duties and Obligations of the Board of Managers.

5.2.1 The Board of Managers will use reasonable efforts, and act in good faith to find opportunities for investment in Investments. The Board of Managers shall have the discretion to determine the amount, terms and provisions of the Investments to be made by the Company.

5.2.2 The Board of Managers shall take all action that may be necessary or appropriate for the continuation of the Company's valid existence and authority to do business as a limited liability company under the laws of the State of Delaware and of each other jurisdiction in which such authority to do business is, in the judgment of the Board of Managers, necessary or advisable.

5.2.3 The Board of Managers shall prepare or cause to be prepared and shall file on or before the due date (or any extension thereof) any federal, state or local tax returns required to be filed by the Company.

5.2.4 The Board of Managers shall cause the Company to pay any taxes payable by the Company (it being understood that the expenses of preparation and filing of such tax returns, and the amounts of such taxes, are expenses of the Company); provided, however, that the Board of Managers shall not be required to cause the Company to pay any tax so long as the Board of Managers or the Company is in good faith and by appropriate legal proceedings contesting the validity, applicability or amount thereof and such contest does not materially endanger any right or interest of the Company.

5.2.5 The Board of Managers shall use its reasonable best efforts to ensure that at no time shall the equity participation in the Company or in any particular Series by "benefit plan investors" be "significant," within the meaning of the Plan Asset Rules. If the Board of Managers becomes aware that the assets of the Company or any particular Series at any time are likely to include plan assets of a benefit plan investor or benefit plan investors, the Board of Managers may require any or all of the ERISA Members to immediately withdraw so much of their capital in the Company or any particular Series as shall be necessary to maintain the investment of such Members at a level so that the assets of the Company or such Series are not deemed to include plan assets under ERISA.

5.3 Other Businesses of the Managers.

5.3.1 The Managers shall devote to the Company and to portfolio companies in which the Company acquires or holds Investments such time as the Managers reasonably believe shall be necessary to conduct the Company business and affairs in an appropriate manner and in good faith. Except as expressly set forth herein, the Managers and each Member, and their respective Affiliates may engage in or possess any interest in other business ventures of any kind, nature or description, independently or with others, whether such ventures are competitive with the Company or otherwise. None of the foregoing shall have any rights or obligations by virtue of this Agreement or the business relationship created hereby in or to such independent ventures or the income or profits or losses derived therefrom.

5.4 Expenses, Reimbursement, and Indemnification.

5.4.1 In the absence of fraud, willful misconduct or gross negligence, no Indemnified Party shall be liable to any Party hereto (i) for any mistake in judgment, (ii) for any action taken or omitted to be taken, including any action taken or omitted to be taken by the Indemnified Party, or (iii) for any loss due to the mistake, action, inaction, negligence, dishonesty, fraud or bad faith of any broker or other agent; provided, that such broker or other agent shall have been selected, engaged or retained by the Indemnified Party with reasonable care. The Board of Managers may consult with legal counsel and accountants in respect of Company affairs and shall be fully protected and justified in any action or inaction which is taken or omitted in good faith, in reliance upon and in accordance with the opinion or advice of such counsel or accountants.

5.4.2 The Company shall, to the fullest extent permitted by law, out of the Company's assets, indemnify and hold harmless each of the Indemnified Parties, and the Company may, in the sole discretion of the Board of Managers, to the fullest extent permitted by law, out of the assets of the Company, indemnify and hold harmless (i) employees and agents of the Company, (ii) officers, directors, and board observers of portfolio companies in which the Company has made Investments, and (iii) any Person who serves at the request of the Company or the Board of Managers on behalf of the Company as an advisor, officer, director, board observer, employee or agent of any portfolio company (and each of their respective heirs and legal and personal representatives), in each case who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (including any action by or in the right of the Company or any of the Members), by reason of any actions or omissions or alleged actions or omissions arising out of such Person's activities either on behalf of the Company or in furtherance of the interests of the Company or arising out of or in connection with such Person's activities as a Manager, an Affiliate of a Manager or as the Liquidating Trustee, if such activities were performed in good faith either on behalf of the Company or in furtherance of the interests of the Company and in a manner reasonably believed by such Person to be within the scope of the authority conferred by this Agreement or by law, against losses, damages and expenses (which shall in each case be advanced as and when incurred) for which such Person has not otherwise been reimbursed (including attorneys' fees, judgments, fines and amounts paid in settlement) actually and reasonably incurred by such Person in connection with such action, suit or proceeding; provided, that any Person entitled to indemnification from the Company hereunder,

shall obtain the written Consent of the Board of Managers prior to entering into any compromise or settlement that would result in an obligation of the Company to indemnify such Person.

5.4.3 The Company shall have the power to purchase and maintain insurance on behalf of any present or future Indemnified Party (each an "**Insured Party**") against any liability asserted against such Insured Party by reason of actions or omissions or alleged actions or omissions taken or omitted to be taken by the Insured Party in connection with the Company and its business and affairs (including insurance against liability for any breach or alleged breach of its fiduciary responsibilities), whether or not the Company would have the power to indemnify such Insured Party against such liability under this Article V.

5.4.4 Notwithstanding anything to the contrary contained herein, any indemnity to an Indemnified Party provided herein shall be junior to any indemnity provided by a portfolio company of the Company. Additionally, the Company shall have the right of subrogation with respect to the rights of an Indemnified Party against any portfolio company of the Company.

5.5 Liability of Person Ceasing to be Manager. Any Person that shall cease to be a Manager shall remain liable for obligations and liabilities incurred on account of its activities as Manager prior to the time it ceased to be a Manager, but it shall be free of any obligation or liability incurred on account of the activities of the Company from and after the time it ceased to be a Manager. The Company shall, to the fullest extent permitted by law, indemnify and hold harmless a Person that has ceased to be a Manager and that was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (including any action by or in the right of the Company or any of the Members), by reason of any actions or omissions or alleged actions or omissions arising out of the activities of the Company from and after the time such Person shall have ceased to be a Manager, against losses, damages or expenses for which such Person has not otherwise been reimbursed (including attorneys' fees, judgments, fines and amounts paid in settlement) actually and reasonably incurred by such Person in connection with such actions, suits or proceedings; provided, that any Person entitled to indemnification from the Company hereunder shall obtain the written Consent of the Board of Managers prior to entering into any compromise or settlement that would result in an obligation of the Company to indemnify such Person.

5.6 Conflicts of Interest. There are numerous potential conflicts of interest between the Company and other investment funds, special purpose vehicles and other Entities managed by the Managers or their Affiliates. Certain investment opportunities may be appropriate for the Company or such other Entities or for co-investment by the Company and such other Entities, in which case the Board of Managers shall use its discretion in allocating such opportunities among the Company and such other Entities. In addition, none of the Managers or any of their respective Affiliates or employees is obligated to share any investment opportunity that such Manager believes, in its discretion and based on its reasonable business judgment, does not satisfy the Company's investment criteria. In addition, the Company may purchase interests in investment funds, special purpose vehicles and other investment Entities sponsored and/or controlled by Affiliates of a Manager. Affiliates of the Company or Managers may, to the extent permissible by law, receive a placement agency fee in connection with the purchase of interests in such affiliated Entities, and, to the extent such Affiliate(s) is a sponsor of such Entities, may

also receive a profits interest in such Entities. Such Affiliates may also, to the extent permissible by law, receive a placement agent fee in connection with the purchase of securities of portfolio companies of the Company. Affiliates of the Managers may also, to the extent permissible by law, receive acquisition fees or placement agency fees in connection with the purchase of securities of portfolio companies of the Company or in connection with the sale of Interests from Members to other investors, including to Affiliates of the Company and the Managers. Affiliates of the Managers may also, to the extent permissible by law, receive income generated from the sale of Interests with an underlying price per share of portfolio company security that is higher to the Company than the price per share paid by the Affiliate for such security. Conflicts of interest between the Company, its Affiliates and other investment funds, special purpose vehicles and other Entities managed by Managers or their Affiliates will be resolved by the Board of Managers in its sole discretion, and in certain instances may have an adverse impact on the Company and its ability to achieve its investment objective.

5.7 Placement Agent. The Board of Managers shall have the authority to retain one or more placement agents to market and sell Interests in the Company to potential Members.

5.8 Waiver of Fiduciary Duties. Notwithstanding anything herein to the contrary, a Manager does not, shall not and will not owe any fiduciary duties of any kind whatsoever to the Company, or to any of the Members, by virtue of its role as a Manager, including, but not limited to, the duties of due care and loyalty, whether such duties were established as of the date of this Agreement or any time hereafter, and whether established under common law, at equity or legislatively defined. It is the intention of the Parties to this Agreement that any such fiduciary duties be affirmatively eliminated as permitted by Delaware law and under the LLC Act and the Members hereby waive any rights with respect to such fiduciary duties.

ARTICLE VI

TRANSFERABILITY OF A MEMBER'S INTERESTS

6.1 Restrictions on Transfers of Interests.

6.1.1 No sale, exchange, transfer, assignment, pledge, hypothecation, encumbrance or other disposition (herein collectively called a "**Transfer**") of all or any fraction of Member's Interest in any Series may be made except (x) with the prior written Consent of the Board of Managers, which Consent may be given or withheld in the sole discretion of the Board of Managers, and (y) in accordance with and as specifically permitted by the provisions of this Agreement; provided, however, that the following Transfers may be made without the Consent of the Board of Managers, and without compliance with paragraph 6.1.2, but subject to compliance with the other provisions of this Article VI:

(a) in its entirety to any other Member;

(b) by gift to any member or members of the family of a Member or in trust for any such person or persons or for himself;

(c) by succession or testamentary disposition upon the death of a Member;

(d) to a spouse or a former spouse pursuant to an agreement for division of community property or other property settlement agreement in the event of a marital dissolution or legal separation;

(e) to any guardian or conservator appointed by court order upon an adjudication of incompetency of a Member;

(f) to any successor in interest upon the sale of all assets or the merger, consolidation or dissolution of any Member that is itself a partnership or limited liability company;

(g) in the case of any Member that is an Entity, to any Affiliate of such Member; *provided*, that such Affiliate is an Accredited Investor and a Qualified Client;

(h) in the case of any Member that is a trustee of a trust, to any successor trustee; or

(i) in the case of any Member that is a trust, to a successor trust.

The term "family" as used in this paragraph shall mean any parent, spouse, lineal descendant, brother or sister.

Notwithstanding the foregoing, (x) no Transfer shall act as a release of the transferring Member hereunder unless the Consent of the Board of Managers shall have been obtained, and (y) the Consent of the Board of Managers shall be required for any Transfer otherwise permitted under clauses (a) - (i) of this paragraph 6.1.1 to the extent that either (A) the transferor is not transferring its entire Interest to one Person, or (B) such Transfer would cause an Interest in the Company to be owned by one or more persons that are not Accredited Investors and Qualified Clients.

6.1.2 Except as otherwise expressly permitted in this Agreement and except as the Board of Managers may otherwise permit, a Member may Transfer such Member's Interest in a Series (or a portion of such Interest) only (a) with the prior written Consent of the Board of Managers, which Consent may be given or withheld in the sole discretion of the Board of Managers, and (b) for a cash purchase price.

6.1.3 Notwithstanding any other provisions of this paragraph 6.1, no Transfer of all or any fraction of a Member's Interest in any Series may be made unless the Company shall have received a written opinion of counsel reasonably satisfactory in form and substance to the Board of Managers (which requirement may be waived, in whole or in part, at the discretion of the Board of Managers) with respect to the following matters:

(a) such Transfer would not violate the 1933 Act, as amended, or any state securities or "Blue Sky" laws applicable to the Company or the Interest to be Transferred;

(b) such Transfer would not cause the Company to lose its status as a "partnership" for federal income tax purposes, constitute a transaction effected through an

"established securities market" within the meaning of Treasury Regulation Section 1.7704-1(b) or otherwise cause the Company to be a "publicly traded partnership" within the meaning of Section 7704 of the Code;

(c) such Transfer would not cause the Company to become subject to the Investment Company Act, or require that the Company to register as an investment company under the Investment Company Act;

(d) such Transfer would not require any Manager or the Company to register as investment advisers under the Investment Advisers Act; or

(e) such Transfer would not cause all or any portion of the assets of the Company or of any particular Series to constitute "plan assets" under ERISA or the Code or to constitute assets of any ERISA Member for the purposes of ERISA or to be subject to the provisions of ERISA to substantially the same extent as if owned directly by any ERISA Member.

6.1.4 Each Member agrees that it will pay all reasonable expenses, including attorneys' fees, up to a maximum of two thousand five hundred dollars ($2,500), incurred by the Company in connection with a Transfer of Interest by that Member. At the election of the Board of Managers, such expenses may be paid by the Company and deducted from the Capital Account of the Member or the transferee.

6.2 Assignees.

6.2.1 The Company shall not recognize for any purpose any purported Transfer of all or any fraction of the Interest of any Series of a Member unless the provisions of paragraph 6.1 shall have been complied with and there shall have been filed with the Company a dated notice of such Transfer, in form satisfactory to the Board of Managers, executed and acknowledged by both the seller, assignor or transferor and the purchaser, assignee or transferee, and (unless the Board of Managers shall otherwise Consent) such notice (i) contains the acceptance by the purchaser, assignee or transferee of all of the terms and provisions of this Agreement, including the provisions of paragraph 10.1, and its agreement to be bound thereby, (ii) represents that such Transfer was made in accordance with all applicable laws and regulations, and (iii) contains a power of attorney granted by the purchaser, assignee or transferee to the Manager to execute this Agreement and all amendments hereto on its behalf.

6.2.2 Unless and until an assignee of an Interest becomes a Substituted Member, such assignee shall not be entitled to give Consents with respect to such Interest.

6.2.3 Any Member that Transfers all of its Interest in any Series shall cease to be a Member in such Series, and shall cease to have the rights of a Member for such applicable Series hereunder.

6.2.4 Anything herein to the contrary notwithstanding, both the Company and the Board of Managers shall be entitled to treat the assignor of an Interest as the absolute owner thereof in all respects, and shall incur no liability for distributions made in good faith to it, until

such time as a written assignment that conforms to the requirements of this Article VI has been received by the Company and accepted by the Board of Managers.

6.2.5 A Person who is the assignee of all or any fraction of the Interest of any Series of a Member as permitted hereby but does not become a Substituted Member and who desires to make a further Transfer of such Interest, shall be subject to all of the provisions of this Article VI to the same extent and in the same manner as any Member desiring to make a Transfer of its Interest.

6.3 Substituted Members.

6.3.1 No Member shall have the right to substitute a purchaser, assignee, transferee, heir, legatee, distributee or other recipient of all or any fraction of such Member's Interest as a Member in its place. Any such purchaser, assignee, transferee, heir, legatee, distributee or other recipient of an Interest (whether pursuant to a voluntary or involuntary Transfer) shall be admitted to the Company as a substituted Member ("**Substituted Member**") only (i) with the Consent of the Board of Managers, which Consent may be given or withheld in the sole discretion of the Board of Managers, (ii) by satisfying the requirements of paragraphs 6.1 and 6.2 (unless the Board of Managers shall otherwise Consent), and (iii) upon an amendment to this Agreement, Schedule A, and the Company's Certificate of Formation, if required, filed in the proper records of each jurisdiction in which such filing is necessary to qualify the Company to conduct business or to preserve the limited liability of the Members.

6.3.2 Each Substituted Member, as a condition to its admission as Member, shall execute and acknowledge such instruments in form and substance satisfactory to the Board of Managers, as the Board of Managers reasonably deems necessary or desirable to effectuate such admission and to confirm the agreement of the Substituted Member to be bound by all the terms and provisions of this Agreement with respect to the Interest acquired. All reasonable expenses, including attorneys' fees not paid by the assignor pursuant to paragraph 6.1.4 that are incurred by the Company in this connection shall be borne by such Substituted Member. At the election of the Board of Managers, such expenses may be paid by the Company and deducted from the Capital Account of the Substituted Member.

6.4 Mandatory Resignation. Notwithstanding anything in this Article VI to the contrary, upon the Disposition of all of the assets of a particular Series and the completion of the corresponding distributions to Members of such Series made pursuant to paragraph 4.7 hereof, the Members of such Series shall (a) be deemed to have resigned their membership in such Series (and, to the extent any Member's Interests are held solely in such Series, such Member shall be deemed to have resigned their membership in the Company), and (b) be deemed to have transferred all of their Interests in such Series to the Company, at which time such Interests shall be deemed canceled and such Series shall be terminated by the Board of Managers pursuant to paragraph 2.9. The Board of Managers may execute any documents to effect such resignation and transfer on behalf of the Members pursuant to the power of attorney granted in paragraph 10.1.1.

ARTICLE VII

DISSOLUTION, LIQUIDATION AND TERMINATION OF THE COMPANY

7.1 Dissolution. The Company shall be dissolved and its affairs wound up upon the happening of any of the following events:

(a) the entry of a decree of judicial dissolution under the LLC Act;

(b) the Consent of seventy-five percent (75%) in Interest of the Members; or

(c) the determination of the Board of Managers, in its sole discretion, that (i) the Company and each Series have no remaining assets, and (ii) a dissolution of the Company is in the best interest of the Members.

Dissolution of the Company shall be effective on the day on which the event occurs giving rise to the dissolution, but the Company shall not terminate until the assets of the Company have been distributed as provided in paragraph 7.2 and the Certificate of Formation of the Company has been cancelled (or the equivalent thereof).

7.2 Liquidation.

7.2.1 Upon dissolution of the Company, the Liquidating Trustee shall wind up the affairs of the Company and proceed within a reasonable period of time to sell or otherwise liquidate the assets of the Company and, after paying or making provision by the setting up of reasonable reserves for all liabilities to creditors of the Company, to distribute the assets among the Members in accordance with the provisions for the making of distributions set forth in this Agreement. The Members acknowledge and agree (i) that under certain circumstances the Company will realize the highest value for an Investment through a sale or other disposition to a Member, a Manager or their respective Affiliates, or a group in which a Member, a Manager, or their respective Affiliates participate, and (ii) that in such a sale or other disposition, a Manager may elect to forego its *pro rata* portion of the sale or disposition proceeds in return for a continuing interest in the Investment or in the purchasing group. Each Member hereby Consents to the participation by the other Members, the Managers and their respective Affiliates, in such sales and other dispositions, and to any resulting non-ratable distribution of cash, securities, property or other assets.

7.2.2 Notwithstanding paragraph 7.2.1, in the event that the Liquidating Trustee shall, in its absolute discretion, determine a sale or other disposition of part or all of the Company's Investments would cause undue loss to the Members or otherwise be impractical or undesirable, the Liquidating Trustee may either defer liquidation of, and withhold from distribution for a reasonable time, any such Investments, or distribute part or all of such Investments, *pro rata* (or as otherwise contemplated by paragraph 7.2.1), to the Members in kind.

7.2.3 The assets of the Company or the proceeds from liquidation thereof shall be paid or distributed in the following manner:

(a) the expenses of liquidation (including legal and accounting expenses incurred in connection therewith up to and including the date that distribution of the Company's assets to the Members has been completed) and the liabilities and debts of the Company and for particular Series, other than liabilities for distributions to Members, shall first be satisfied (whether by payment or the making of reasonable provision for payment thereof); and

(b) all remaining assets or proceeds shall be paid or distributed to all Members with respect to each Series in the order of priority set forth in paragraph 4.7.

7.2.4 In any such liquidation, the Company may distribute (after payment, or the making of reasonable provision for payment, of the Company's obligations) the assets of the Company in cash, ratably in kind, or any combination thereof as the Liquidating Trustee shall determine; provided, however, that no distribution of securities, property or other assets shall be made to any Member to the extent such Member would be prohibited by applicable law from holding such securities, property or other assets (it being understood and agreed that under such circumstances and under the circumstances contemplated by the last two sentences of paragraph 7.2.1, a non-ratable distribution may be made). To the extent deemed desirable by the Liquidating Trustee, distributions may be made into a liquidating trust or other appropriate Entity, and reserves may be established for contingencies.

7.2.5 When the Liquidating Trustee has complied with the foregoing liquidation plan, the Liquidating Trustee, on behalf of all Members, shall execute, acknowledge and cause to be filed an instrument evidencing the cancellation of the Certificate of Formation (or the equivalent thereof).

ARTICLE VIII

AMENDMENTS

8.1 Adoption of Amendments; Limitations Thereon.

8.1.1 This Agreement may be amended as follows: (i) with respect to amendments that affect the entire Company, this Agreement is subject to amendment only with the written Consent of the Board of Managers and a majority in Interest of the Members, and (ii) with respect to amendments that affect a particular Series, this Agreement is subject to amendment only with the written Consent of the Board of Managers and a majority in Interest of the Members of such Series; provided, however, that, except as set forth below, no amendment to this Agreement or any Series may:

(a) modify the limited liability of a Member; modify the indemnification and exculpation rights of the Indemnified Parties; or increase in any material respect the liabilities or responsibilities of, or diminish in any material respect the rights or protections of, any Member under this Agreement, in each case, without the Consent of each such affected Member;

(b) alter the Interest of any Member in income, gains and losses or amend any portion of Article IV without the Consent of each Member adversely affected by such

amendment; provided, however, that the admission of additional Members in accordance with the terms of this Agreement shall not constitute such an alteration or amendment; or

(c) amend any provisions hereof that require the Consent, action or approval of a specified percentage in Interest of the Members without the Consent of such specified percentage in Interest of the Members.

8.1.2 Notwithstanding the limitations of paragraph 8.1.1, this Agreement may be amended from time to time by the Board of Managers without the Consent of any of the Members (i) to add to the representations, duties or obligations of the Manager or surrender any right or power granted to the Board of Managers herein; (ii) to cure any ambiguity or correct or supplement any provisions hereof which may be inconsistent with any other provision hereof, or correct any printing, stenographic or clerical errors or omissions; (iii) to admit one or more additional Members or one or more Substituted Members, or withdraw one or more Members, in accordance with the terms of this Agreement; (iv) to amend paragraph 4.1 as contemplated by paragraph 4.4; and (v) to effect any amendment, modification or change that is not adverse to the Members and does not result in non-uniform treatment of the Members (as reasonably determined by the Board of Managers in good faith); provided, however, that no amendment shall be adopted pursuant to this paragraph 8.1.2 unless such amendment would not alter, or result in the alteration of, the limited liability of the Members or the status of the Company as a "partnership" for federal income tax purposes.

8.1.3 Upon the adoption of any amendment to this Agreement, the amendment shall be executed by the Board of Managers and, if required, shall be recorded in the proper records of each jurisdiction in which recordation is necessary for the Company to conduct business. Any such adopted amendment may be executed by the Board of Managers on behalf of the Members pursuant to the power of attorney granted in paragraph 10.1.1.

8.1.4 In the event this Agreement shall be amended pursuant to this Article VIII, the Board of Managers shall amend the Certificate of Formation of the Company to reflect such change if such amendment is required or if the Board of Managers deems such amendment to be desirable and shall make any other filings or publications required or desirable to reflect such amendment, including any required filing for recordation of any Certificate of Formation or other instrument or similar document.

ARTICLE IX

CONSENTS, VOTING AND MEETINGS

9.1 Method of Giving Consent. Any Consent required by this Agreement may be given as follows:

(a) by a written Consent given by the approving Person at or prior to the doing of the act or thing for which the Consent is solicited; or

(b) by the affirmative vote by the approving Person to the doing of the act or thing for which the Consent is solicited at any meeting called and held to consider the doing of such act or thing.

9.2 Meetings. Any matter requiring the Consent of all or any of the Members of the Company or of a Series pursuant to this Agreement may be considered, at a meeting of the Members of the Company or of a Series, as applicable. Such meeting shall be held not less than five (5) nor more than sixty (60) business days after notice thereof shall have been given by the Board of Managers to all Members of the Company or of such Series, as applicable. Such notice (i) may be given by the Manager, in its discretion, at any time, and (ii) shall be given by the Board of Managers within thirty (30) days after receipt by the Board of Managers of a request for such a meeting made by twenty-five percent (25%) in Interest of the Members of the Company or of such Series, as applicable. Any such notice shall state briefly the purpose, time and place of the meeting. All such meetings shall be held at such reasonable place as the Manager shall designate and during normal business hours.

9.3 Record Dates. The Board of Managers may set in advance a date for determining the Members entitled to notice of and to vote at any meeting. All record dates shall not be more than sixty (60) days prior to the date of the meeting to which such record date relates.

9.4 Submissions to Members. The Board of Managers shall give all of the Members notice of any proposal or other matter required by any provision of this Agreement to be submitted for the consideration and approval of the Members. Such notice shall include any information required by the relevant provisions of this Agreement. Neither the Board of Managers nor the Company shall, directly or indirectly, pay or cause to be paid any remuneration, fee or other consideration to any Member for or as an inducement to the entering into by such Member of any waiver or amendment of any of the terms and provisions of this Agreement or the giving of any Consent, unless such remuneration is concurrently paid on the same terms, in proportion to their respective Capital Contributions, to all the then Members.

ARTICLE X

POWER OF ATTORNEY

10.1 Power of Attorney.

10.1.1 Each Member, by its execution hereof, hereby irrevocably makes, constitutes and appoints the Board of Managers and the Liquidating Trustee, if any, in such capacity as Liquidating Trustee for so long as it acts as such (each is hereinafter referred to as the "**Attorney**"), as its true and lawful agent and attorney-in-fact, with full power of substitution and full power and authority in its name, place and stead, to make, execute, sign, acknowledge, swear to, record and file (i) this Agreement and any amendment to this Agreement that has been adopted as herein provided; (ii) the original Certificate of Formation and all amendments thereto required or permitted by law or the provisions of this Agreement; (iii) all instruments or documents required to effect a transfer of an Interest, including without limitation, the transfer of an Interest from a Defaulting Member or pursuant to paragraph 6.4; (iv) all certificates and other instruments deemed advisable by the Board of Managers or the Liquidating Trustee, if any, to carry out the provisions of this Agreement, and applicable law or to permit the Company to become or to continue as a limited liability company wherein the Members have limited liability in each jurisdiction where the Company may be doing business; (v) all instruments that the Board of Managers or the Liquidating Trustee, if any, deems appropriate to reflect a change,

modification or termination of this Agreement or the Company in accordance with this Agreement including, without limitation, the admission of additional Members or Substituted Members pursuant to the provisions of this Agreement, as applicable; (vi) all fictitious or assumed name certificates required or permitted to be filed on behalf of the Company; (vii) all conveyances and other instruments or papers deemed advisable by the Board of Managers or the Liquidating Trustee, if any, including, without limitation, those to effect the dissolution and termination of the Company, including a Certificate of Cancellation; (viii) all other agreements and instruments necessary or advisable to consummate the acquisition or Disposition of any Investment; and (ix) all other instruments or papers that may be required or permitted by law to be filed on behalf of the Company.

10.1.2 The foregoing power of attorney:

(a) is coupled with an interest, shall be irrevocable and shall survive and shall not be affected by the subsequent death, disability or Incapacity of any Member or any subsequent power of attorney executed by a Member;

(b) may be exercised by the Attorney, either by signing separately as attorney-in-fact for each Member or by a single signature of the Attorney, acting as attorney-in-fact for all of them;

(c) shall survive the delivery of an assignment by a Member of the whole or any fraction of its Interest; except that, where the assignee of the whole of such Member's Interest has been approved by the Board of Managers for admission to the Company, as a Substituted Member, the power of attorney of the assignor shall survive the delivery of such assignment for the sole purpose of enabling the Attorney to execute, swear to, acknowledge and file any instrument necessary or appropriate to effect such substitution; and

(d) is in addition to any power of attorney that may be delivered by a Member in accordance with its Subscription Agreement entered into in connection with its acquisition of Interests.

10.1.3 Each Member shall execute and deliver to the Board of Managers within five (5) days after receipt of the Manager's request therefor such further designations, powers-of-attorney and other instruments as the Manager reasonably deems necessary to carry out the terms of this Agreement.

ARTICLE XI

RECORDS AND ACCOUNTING; REPORTS; FISCAL AFFAIRS

11.1 Records and Accounting.

11.1.1 Proper and complete records and books of account of the business of the Company, including a list of the names, addresses and Interests of all Members, shall be maintained at the Company's principal place of business. Each Member and its duly authorized representatives shall be permitted for any purpose reasonably related to a Member's interest as a

Member of the Company to inspect such books and records of the Company that are not legally required to be kept confidential at any reasonable time during normal business hours.

11.1.2 The books and records of the Company shall be kept in accordance with generally accepted accounting principles. The accrual basis of accounting shall be followed by the Company for federal income tax purposes. The taxable year of the Company shall be its Fiscal Year.

11.2 Valuation of Assets Owned by the Company. For purposes of this Article XI, all assets of the Company shall be valued in accordance with generally accepted accounting principles. For all purposes of this Agreement (including, without limitation, any provisions requiring a valuation of the assets of the Company at their Fair Market Value), no value shall ever be attributed to the firm name of the Company, or the right of its use, or to the good will appertaining to the Company or its business, either during the continuation of the Company or in the event of its dissolution and termination. Liabilities shall be determined in accordance with the method of accounting employed by the Company and may include reserves for estimated accrued expenses and reserves for unknown or unfixed liabilities or contingencies. Subject to the specific standards set forth below, the valuation of assets and liabilities under this Agreement shall be at Fair Market Value.

11.3 Tax Information. The Company shall cause to be delivered to each Person who was a Member at any time during a Fiscal Year a Form K-1 and such other information, if any, with respect to the Company as may be necessary for the preparation of such Member's federal income tax returns, including a statement showing such Member's share of income, gain or loss, expense and credits for such Fiscal Year for federal income tax purposes.

11.4 Elections. The determinations of the Board of Managers with respect to the treatment of any item or its allocation for federal, state or local tax purposes shall be binding upon all of the Members so long as such determination shall not be inconsistent with any express term hereof. The Board of Managers and each Member (in their respective capacities as such) agree that such Members shall not undertake any action, including (without limitation) filing of any elections or making regular bid or offer quotes to buy or sell interests or derivative interests in the Company, that will cause the Company to be, or create a substantial risk that the Company will be, (i) classified as other than a partnership for United States federal income tax purposes, or (ii) treated as a "publicly traded company" within the meaning of Sections 469 or 7704 of the Code.

ARTICLE XII

REPRESENTATIONS AND WARRANTIES

12.1 Representations and Warranties of the Members. Each Member is fully aware that (i) the Company is relying upon the exemption from registration provided by Section 4(a)(2) of the 1933 Act and specifically the exemption set forth in Rule 506(b) of Regulation D promulgated thereunder, and (ii) the Company will not register as an investment company under the Investment Company Act, by reason of the provisions of Section 3(c)(1) thereof that exclude from the definition of "investment company" any issuer that is beneficially owned by not more

than one hundred (100) investors and that is not making a public offering of its securities. Each Member also is fully aware that the Company is relying upon the truth and accuracy of the following representations by each of the Members and in the representations made in its respective Subscription Agreement. Each of the Members hereby represents, warrants and covenants to the Company that:

(a) It has been duly formed and is validly existing and in good standing under the laws of its jurisdiction of organization with full power and authority to enter into and to perform this Agreement in accordance with its terms;

(b) This Agreement is a legal, valid and binding obligation of such Member, enforceable against such Member in accordance with its terms, subject to the effect of any applicable bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights, and subject, as to enforceability, to the effect of general principles of equity;

(c) Its Interest in the Company is being acquired for its own account, for investment and not with a view to the distribution or sale thereof, subject, however, to any requirement of law that the disposition of its property shall at all times be within its control;

(d) It is an Accredited Investor;

(e) It is a Qualified Client;

(f) It is not a participant-directed defined contribution plan;

(g) It is not (i) an "investment company" registered under the Investment Company Act, (ii) a "business development company", as defined in Section 202(a)(22) of the Investment Advisers Act, or (iii) a foreign investment company that is not required to register as an "investment company" under the Investment Company Act, pursuant to Section 7(d) thereunder;

(h) If it is a "benefit plan investor" under Section 3(42) of ERISA, it has identified itself as the same in writing to the Company, its purchase and holding of its Interest is permissible under the documents governing the investment of its assets and under ERISA and the Code;

(i) It will conduct its business and affairs (including its investment activities) in a manner such that it will be able to honor its obligations under this Agreement;

(j) It understands and acknowledges that the investments contemplated by the Company involve a high degree of risk. The Member, or its management, has substantial experience in evaluating and investing in securities and is capable of evaluating the merits and risks of its investments and has the capacity to protect its own interests. The Member, by reason of its, or its management's, business or financial experience, has the capacity to protect its own interests in connection with proposed investments. The Member has sufficient resources to bear the economic risk of any investments made, including any diminution in value thereof, and shall solely bear the economic risk of any investment; and

(k) It has undertaken its own independent investigation, and formed its own independent business judgment, based on its own conclusions, as to the merits of investing in the Company. The Member is not relying and has not relied on the Manager or any of its Affiliates for any evaluation or other investment advice in respect of the advisability of investing in the Company.

12.2 Representations and Warranties of the Company.

The Company represents, warrants and covenants to each Member that:

(a) The Company (i) has been duly formed and is validly existing and in good standing as a series limited liability company under the laws of the State of Delaware with full power and authority to conduct its business as contemplated in this Agreement, and (ii) is, under currently applicable law and regulations, a "partnership" for federal income tax purposes which will not be treated, for such purposes, as an association;

(b) All action required to be taken by the Board of Managers and the Company as a condition to the issuance and sale of the Interests in the Company being purchased by the Members has been taken; the Interest in the Company of each Member represents a duly and validly issued Interest in the Company; and each Member is entitled to all the benefits of a Member under this Agreement and the LLC Act;

(c) This Agreement has been duly authorized, executed and delivered by the Board of Managers and, upon due authorization, execution and delivery by a Member, will constitute the valid and legally binding agreement of the Company and the Board of Managers enforceable in accordance with its terms against the Company and the Board of Managers;

(d) The Company is not default (nor has any event occurred which with notice, lapse of time, or both, would constitute a default) in the performance of any obligation, agreement or condition contained in this Agreement, any indenture, mortgage, deed of trust, credit agreement, note or other evidence of indebtedness or any lease or other agreement or understanding, or any license, permit, franchise or certificate, to which it is a party or by which it is bound or to which its properties are subject, nor is it in violation of any statute, regulation, law, order, writ, injunction, judgment or decree to it is subject, which default or violation would materially adversely affect the business or financial condition of the Company or impair the Company's ability to carry out its obligations under this Agreement; and

(e) No consent, approval or authorization of, or filing, registration or qualification with, any court or governmental authority on the part of the Board of Managers or the Company is required for the execution and delivery of this Agreement by the Board of Managers, the performance of its or the Company's obligations and duties hereunder, or the issuance of Interests in the Company as contemplated hereby, except any thereof which is not yet required to be made (but will be made when so required) and any thereof which may be required of the Company solely by virtue of the nature of any Member.

ARTICLE XIII

DISPUTE RESOLUTION

13.1 Dispute Resolution Process. In the event of any claim, dispute or controversy arising under, out of or relating to this Agreement or any breach or purported breach thereof (the "**Dispute**") which the Parties hereto have been unable to settle or agree upon in the normal course of business, the Parties shall follow the dispute resolution process as set forth herein.

13.2 Negotiations. The Parties shall attempt in good faith to resolve the Dispute promptly by negotiation between representatives who have authority to settle the Dispute and who are at a higher level of management than the persons with direct responsibility for administration of this Agreement. Either Party (in this context, the "**Disputing Party**") may give the other Party written notice of the existence of any such Dispute ("**Dispute Notice**"). Within fifteen (15) days after delivery of the Dispute Notice, the Party receiving the notice shall submit to the Disputing Party a written response. The Dispute Notice and the response shall each include: (a) a statement of the relevant Party's position and a summary of arguments supporting that position; and (b) the name and title of the representative who will represent the Party in the negotiations and of any other person who will accompany such representative. Within thirty (30) days after delivery of the Dispute Notice, the representatives shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to attempt to resolve the Dispute ("**Settlement Period**"). However, this Settlement Period shall terminate no later than ninety (90) days after delivery of the Disputing Party's notice unless such period is extended by mutual written agreement of the Parties. All statements and/or negotiations pursuant to this Article XIV are confidential and shall be treated as inadmissible compromise and settlement negotiations for purposes of all applicable state and/or federal rules of evidence.

13.3 Arbitration. After, but only after, the Settlement Period set forth in paragraph 14.2 has terminated without a resolution, at the request of either Party to the Dispute, the Dispute shall be referred to and finally resolved by binding arbitration.

(a) Any arbitration pursuant to this paragraph 13.3 shall be administered by the American Arbitration Association (AAA) under its Commercial Arbitration Rules before a three (3) member panel, with each Party selecting one arbitrator and the third arbitrator, who shall be the chairperson of the panel, being selected by the two Party-appointed arbitrators. The Party who initiates the arbitration process shall name its arbitrator in the demand for arbitration and the responding Party shall name its arbitrator within ten (10) days after receipt of the demand for arbitration. No arbitrator can be an employee, ex-employee, director, shareholder of record, partner, member, representative or agent of such Party or its affiliates. The third arbitrator shall be named within ten (10) days after the appointment of the second arbitrator. If the two (2) Party-appointed arbitrators are unable to agree upon the third arbitrator within that ten (10) day period, the third arbitrator shall be selected by the AAA. Each arbitrator shall be qualified by at least ten (10) years experience in the corporate finance and/or venture capital industry, and the chairperson of the arbitration panel shall be a licensed attorney whose primary area of practice for the preceding ten (10) years is in the corporate finance and/or venture capital industry. If prior to the conclusion of the arbitration any arbitrator becomes incapacitated or otherwise

unable to serve, then a replacement arbitrator shall be appointed in the applicable manner described above.

(b) Prehearing discovery shall be limited as follows. Subject solely to the authority of the chairperson of the arbitration panel to modify the provisions of this subsection before the arbitration hearing upon a showing of exceptional circumstances, each Party (i) shall be entitled to discovery of all unprivileged written records of the other Party relating to the Dispute, and (ii) shall take no more than five (5) discovery depositions. No more than ten (10) interrogatories (including all subparts) shall be permitted. No residual, shadowed or deleted data or metadata shall be required to be produced. Any disputes concerning discovery obligations or protection of discovery materials shall be determined solely by the chairperson of the arbitration panel. The foregoing limitations shall not be deemed to limit a Party's right to subpoena witnesses or the production of documents at the arbitration hearing, nor to limit a Party's right to depose witnesses that are not subject to subpoena to testify in person at the arbitration hearing; provided, however, that the chairperson of the arbitration panel may, upon motion, place reasonable limits upon the number of such testimonial depositions. No deposition (discovery or testimonial) shall exceed eight (8) hours in length.

(c) The arbitration panel shall conduct a hearing no later than sixty (60) days following selection of the third arbitrator, or thirty (30) days after all prehearing discovery has been completed, whichever is later, at which hearing the Parties shall present such evidence and witnesses as they may choose. Absent exceptional circumstances (as deemed by the arbitration chairperson), or upon written agreement of the Parties, the arbitration hearing shall be conducted no later than one hundred and eighty (180) days following the referral to arbitration. Hearings for all arbitrations under this Agreement shall be conducted in New York County, New York. Each Party shall cooperate in making its witnesses reasonably available for examination at the arbitration hearing.

(d) The arbitrators shall be bound by the terms and conditions of this Agreement, and any relevant evidence and testimony, and shall render their decision within thirty (30) calendar days following conclusion of the hearing. The award rendered by the arbitration panel shall be (i) in writing, signed by the arbitrators, stating the reasons upon which the award is based, (ii) rendered as soon as practicable after conclusion of the arbitration and (iii) final and binding upon the Parties. Judgment on the award may be entered and enforced by any court of competent jurisdiction thereof. The Parties expressly invoke the provisions of the Federal Arbitration Act for purposes of confirmation, vacation or modification of the arbitration award (Title 9 U.S.C. §§ 9, 10 and 11). The preceding provisions of the Federal Arbitration Act are the sole and exclusive means by which an arbitration award can be reviewed, vacated or modified. The arbitrators shall, in any award, tax all of the arbitration fees (including arbitrators' fees) and costs of the arbitration (other than each Party's individual attorneys' fees and costs related to the Party's participation in the arbitration, which fees and costs shall be borne by such Party), against the losing Party. Until such award is made, however, the Parties shall share equally in paying the costs of the arbitration. Should it become necessary for the prevailing Party to seek judicial enforcement of the arbitration award, all attorneys' fees and costs associated with that effort shall be taxed against the losing Party.

(e) Only damages allowed pursuant to the terms of this Agreement may be awarded and, without limitation to the foregoing, the arbitrators shall have no jurisdiction to consider (a) any punitive, exemplary, special, indirect, incidental, consequential or similar damages arising under, arising out of or related to this Agreement or damages beyond the limitations of liability contained in this Agreement, regardless of the legal theory under which such damages may be sought and even if the Parties have been advised of the possibility of such damages or loss or (b) any challenge to the validity of the limitation of liability provisions contained in this Contract.

13.4 Exclusivity. The procedures specified in this Article XIII shall be the sole and exclusive procedures for the resolution of Disputes between the Parties arising out of or in connection with this Agreement; provided, however, that a Party, without prejudice to the above procedures, may seek a preliminary injunction or other preliminary judicial relief in the court specified in paragraph 13.7, if in its sole judgment such action is necessary to avoid irreparable damage or to preserve the status quo. Despite such action, the Parties shall continue to participate in good faith in the procedures specified in this Article XIII.

13.5 Tolling of Statute of Limitations. All applicable statutes of limitation and defenses based upon the passage of time shall be tolled during the Settlement Period while the procedures specified in paragraph 13.2 are pending. The Parties will take such action, if any, required to effectuate such tolling.

13.6 Right of Termination. The requirements of this Article XIII shall not be deemed a waiver of any right of termination relating to the Agreement.

13.7 Jurisdiction and Governing Law. EACH OF THE PARTIES HEREBY AGREES THAT ANY JUDICIAL PROCESS PROVIDED FOR IN THIS ARTICLE XIII, SHALL BE INSTITUTED IN THE STATE OR FEDERAL COURTS SITTING IN NEW YORK COUNTY, NEW YORK AND IN NO OTHER FORUM AND EACH OF THE PARTIES HEREBY IRREVOCABLY CONSENTS TO AND ACCEPTS GENERALLY AND UNCONDITIONALLY SUCH JURISDICTION AND IRREVOCABLY WAIVES ANY OBJECTIONS, INCLUDING, WITHOUT LIMITATION, ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY SUCH ACTION OR PROCEEDING IN SUCH RESPECTIVE COURTS. THE FOREGOING IS WITHOUT PREJUDICE TO THE RIGHT OF ANY PREVAILING PARTY TO SEEK ENFORCEMENT OF ANY JUDGMENT ENTERED PURSUANT TO AN ACTION SET FORTH IN PARAGRAPH 13.3 IN A COURT IN ANY JURISDICTION WHERE THE LOSING PARTY OR ITS PROPERTY MAY BE LOCATED. EACH OF THE PARTIES ALSO CONSENTS TO THE NON-EXCLUSIVE JURISDICTION OF SUCH COURTS FOR PURPOSES OF AID IN SUPPORT OF ARBITRATION AND THE ENFORCEMENT OF ANY ARBITRAL AWARD MADE UNDER THE PROVISIONS OF THIS PARAGRAPH 13.7. EACH PARTY HEREBY IRREVOCABLY CONSENTS TO THE SERVICE OF ANY AND ALL PROCESS IN ANY ACTION OR PROCEEDING BY DELIVERY OF COPIES OF SUCH PROCESS BY COMMERCIAL COURIER TO IT AT ITS ADDRESS SPECIFIED ON SCHEDULE A HEREOF OR IN ANY OTHER MANNER PERMITTED BY LAW. THE PARTIES FURTHER AGREE THAT THE RIGHTS, OBLIGATIONS AND REMEDIES OF

THE PARTIES AS SPECIFIED UNDER THIS CONTRACT SHALL BE INTERPRETED AND GOVERNED IN ALL RESPECTS BY THE LAWS OF THE STATE OF DELAWARE WITHOUT GIVING EFFECT TO THE CONFLICT OF LAWS PROVISIONS THEREOF.

13.8 No Delay. Each Party shall continue to perform its obligations under this Agreement pending final resolution of any Dispute, unless to do so would be impossible or impracticable or lead to irreparable harm under the circumstances.

13.9 WAIVER OF JURY TRIAL. THE PARTIES TO THIS AGREEMENT HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHT THAT MAY EXIST TO HAVE A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED UPON OR ARISING OUT OF, UNDER, OR IN ANY WAY CONNECTED WITH, THIS AGREEMENT.

ARTICLE XIV

MISCELLANEOUS

14.1 Notices.

14.1.1 Any notice to any Member shall be at the address of such Member set forth on Schedule A, or such other mailing address of which such Member shall advise the Company in writing. Any notice to the Company or the Board of Managers shall be at the principal office of the Company or such other mailing address either of which the Company or the Board of Managers shall advise the Members in writing from time to time.

14.1.2 Any notice shall be deemed to have been duly given if (i) sent by United States certified or registered mail, return receipt requested, when received, (ii) personally delivered, when received, (iii) sent by United States Express Mail or overnight courier, on the second following business day, or (iv) sent by facsimile or electronic mail, upon written confirmation of delivery to the intended recipient.

14.2 Separability of Provisions. If any provision of this Agreement shall be held to be invalid, the remainder of this Agreement shall not be affected thereby.

14.3 Entire Agreement. This Agreement, together with the Subscription Agreement and any Side Letter executed with the Company by any Member, together constitute the entire agreement among the Parties with respect to the subject matter hereof; it supersedes any prior agreement or understandings among them, oral or written with respect to the subject matter hereof, all of which are hereby canceled. There are no representations, agreements, arrangements or understandings, oral or written, between or among the Members relating only to the subject matter of such agreements that are not fully expressed herein or therein. The provisions of this Agreement and such agreements, to the extent that they restrict the duties and liabilities of the Board of Managers otherwise existing at law or in equity, are agreed by the Members to modify to that extent such duties and liabilities of the Board of Managers. This Agreement may not be modified or amended other than pursuant to Article VIII. Notwithstanding the foregoing, this Agreement is deemed to include the Subscription Agreement and any Side Letters (which may modify the terms of this Agreement with respect to the

Members party thereto); provided, however, that the Members agree that notwithstanding paragraphs 8.1 and 9.1 hereof, each such other agreement may be amended, modified, waived or terminated by the Company and the Members who are parties thereto without the Consent of any other Members, and any Member not a party to any such other agreement is not intended to be a third-party beneficiary of any such other agreement.

14.4 Headings, etc. The headings in this Agreement are inserted for convenience of reference only and shall not affect the interpretation of this Agreement. Wherever from the context it appears appropriate, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in either the masculine or the neuter gender shall include the masculine, the feminine and the neuter.

14.5 Binding Provisions. Subject to Article VII, the covenants and agreements contained herein shall be binding upon and inure to the benefit of the heirs, executors, administrators, personal or legal representatives, successors and assigns of the respective Parties hereto.

14.6 No Waiver. The failure of any Member to seek redress for violation, or to insist on strict performance, of any covenant or condition of this Agreement shall not prevent a subsequent act that would have constituted a violation from having the effect of an original violation.

14.7 Reproduction of Documents. This Agreement and all documents relating thereto, including, without limitation, Consents, waivers, amendments and modifications which may hereafter be executed, and certificates and other information previously or hereafter furnished to any Member, may be reproduced by it by any digital, photographic, photostatic, or other similar process, and any Member may destroy any original document so reproduced. The Company, the Manager and each Member agree and stipulate that any such reproduction shall be admissible in evidence as the original itself in any judicial or administrative proceeding (whether or not the original is in existence and whether or not such reproduction was made in the regular course of business).

14.8 Confidentiality. Each Member will maintain the confidentiality of information that is, to the knowledge of such Member, non-public information regarding the Company (including information regarding any Person in which the Company holds, or contemplates acquiring, any Investments) received by such Member pursuant to this Agreement, except as otherwise required by law or as otherwise consented to in writing by the Company. Notwithstanding anything to the contrary, the Parties hereto may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure hereof and all materials of any kind (including opinions or other tax analyses) that are provided to any party relating to the tax treatment and tax structure hereof.

14.9 No Right to Partition. To the extent permitted by law, and except as otherwise expressly provided in this Agreement, the Members, on behalf of themselves and their shareholders, partners, heirs, executors, administrators, personal or legal representatives, successors and assigns, if any, hereby specifically renounce, waive and forfeit all rights, whether arising under contract or statute or by operation of law, to seek, bring or maintain any

action in any court of law or equity for partition of the Company or any asset of the Company, or any interest that is considered to be Company property, regardless of the manner in which title to any such property may be held.

14.10 No Recourse. Each Party acknowledges that it will look solely to each other relevant Party for the performance of its respective covenants, agreements and obligations under this Agreement, not to any other Person, and that it shall have no recourse to any Affiliate of any Party in connection therewith.

14.11 Damages Waiver. Notwithstanding any provision herein to the contrary, no Person shall be liable hereunder for punitive, indirect, consequential or exemplary losses or damages of any nature, including, but not limited to, diminution in value of investments, loss of tax benefits, damages for lost profits or revenues or the loss or use of such profits or anticipated revenues, cost of capital, loss of goodwill, penalties, damages to reputation or damages for lost opportunities, or any other special or incidental damages, regardless of whether said claim is based upon contract, warranty, tort (including negligence and strict liability) or other theory of law.

14.12 Counterparts. This Agreement may be executed in several counterparts (including counterparts signed or delivered electronically, e.g. by facsimile or email delivery), each of which shall be deemed an original but all of which shall constitute one and the same instrument.

14.13 Timing. All dates and times specified in this Agreement are of the essence and shall be strictly enforced. In the event that the last day for the exercise of any right or the discharge of any duty under this Agreement would otherwise be a day that is not a business day, the period for exercising such right or discharging such duty shall be extended until the Close of Business on the next succeeding business day.

14.14 Survival. The rights and obligations of the Parties pursuant to paragraphs 3.4, 5.4, 5.5, 5.8, and 7.2, and Articles X, XIII and XIV of this Agreement, shall survive any dissolution of the Company for a period of two (2) years thereafter.

14.15 Signature Page. The signature page of each Member to this Agreement is the signature page of the Subscription Agreement for such Member. The signature page of each Substituted Member shall be contained in the instrument executed by such Substituted Member pursuant to paragraph 6.3.2.

[*Remainder of page intentionally left blank. Signature page contained in the Subscription Agreement.*]

Schedule A

MEMBERS