IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

SARAH A. BRADLEY, Plaintiff, v. ANDREW S. ROSEN, ROBERT W. SPERRY, DAVID KNICKEL, KAINOS CAPITAL, LLC, and KAINOS CAPITAL LP, Defendants.	)	C.A. No. 2019-0056-JTL

CORRECTED
VERIFIED COMPLAINT

Plaintiff Sarah A. Bradley ("**Bradley**"), by and through her attorneys, files this Verified Complaint against Defendants Andrew S. Rosen ("**Rosen**"), Robert W. Sperry ("**Sperry**"), David Knickel ("**Knickel**"), Kainos Capital, LLC, and Kainos Capital LP (collectively, "**Defendants**"), and alleges as follows:

SUMMARY OF THE ACTION

1. This case arises from a fraudulent scheme perpetrated by Defendants Rosen, Sperry, and Knickel—principals of the private equity firm Kainos Capital ("**Kainos**")[1]—to steal Bradley's 25% membership interest in the firm's investment

[1] "Kainos," as used throughout the Verified Complaint, refers to the Kainos group of entities controlled by Rosen and Sperry.

manager, Kainos Capital, LLC ("**Kainos Manager**").[2] Bradley now seeks to recover what Rosen, Sperry, and Knickel took from her in utter disregard of their contractual and fiduciary duties.

2. Rosen, Sperry, and Bradley founded Kainos. Prior to starting Kainos, Rosen was a principal at Hicks Muse Tate & Furst ("**Hicks Muse**").[3] Hicks Muse's reputation, however, had been irrevocably damaged by a pay-to-play scandal involving state pension funds, as well as significant investment losses. To distance himself from the Hicks Muse scandals and poor track record, Rosen set out to start a new private equity firm free from the negative Hicks Muse reputation.

3. Rosen recruited Bradley to help him co-found the new firm. Experienced in investment banking, investor relations, and fundraising, Bradley was a rising star in the industry. Rosen, on the other hand, had no experience in starting up a private equity firm and needed Bradley's skill and expertise.

4. Perhaps most importantly, however, Rosen needed Bradley's contacts and reputation. She had developed key business relationships in the investor community and had consistently produced noteworthy results as an investment

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[2] After the purported conversion of Kainos Manager to a limited partnership, Defendants Rosen, Sperry, and Knickel created a new entity with the exact same name, Kainos Capital, LLC ("**Kainos GP**") as the ostensible general partner of the limited partnership purportedly resulting from the attempted conversion. Kainos GP, the new entity, is a defendant here.

[3] Hicks Muse was later renamed HM Capital.

banker. Bradley's competency and track record earned her recognition as one of the Most Influential Women in Mid-Market M&A, and one of private equity's Top 15 Women to Watch and Female Influencers by the Wall Street Journal Private Equity Analyst. With Bradley as part of the new firm, Rosen could leverage her reputation to help him overcome the stigma of his past association with the fraud and failure surrounding Hicks Muse.

5. Rosen approached Bradley and pitched the idea of starting a new investment firm together with an initial fund of $400 million. Bradley explained that any new firm would have to be completely separate from Hicks Muse. Bradley also explained that without a large anchor investor and a first close of around $125 million, raising a fund of $400 million would be virtually impossible. In response, Rosen assured Bradley that he could easily obtain approximately $150 million from current Hicks Muse investors to jump-start Kainos, with the vast majority coming from Carson Private Capital.

6. Based on Rosen's assurances, Bradley agreed to co-found Kainos with Rosen and Sperry. Bradley, Rosen, and Sperry agreed that they would all be owners of the investment manager, Kainos Manager, and that they would all also receive a salary, distributions of profits from the Kainos Manager, and have a right to the carried interest generated by the investment funds that Kainos Manager would create. The co-founders all agreed to the following membership percentages in

Kainos Manager: Bradley -- 25%; Sperry -- 33%; and Rosen -- 42%. Further, and more importantly, they agreed to be bound by the operating agreement that governed Kainos Manager and, in turn, their respective rights.

7. Early on, it became clear that fundraising would be more difficult when Carson Private Capital notified Rosen that it would not do business with a Hicks Muse-related entity or principal, including Rosen.

8. With Carson Private Capital out of the picture, Bradley and the Kainos team had to start virtually from scratch to secure the necessary investor commitments.

9. Faced with mounting obstacles to a traditional start-up raise, Bradley came up with an innovative idea to combine an investment in Kainos's fund with the purchase of Hicks Muse's legacy assets. She developed and presented the idea to the Canadian Pension Plan Investment Board ("**CPPIB**") in October 2012. Intrigued by the idea and impressed with Bradley's approach, CPPIB provided an early investment of over $100 million to Kainos's first fund and over $400 million to a separate special purpose vehicle to purchase the Hicks Muse legacy assets (the "**SAV**"). With an anchor investor in place, Kainos—largely through Bradley—raised the remaining funds. In fact, Kainos's first fund, Kainos Capital Partners, LP ("**Fund I**"), closed with equity commitments totaling approximately $475 million.

10. After launching Fund I, Kainos Manager began generating significant fee earnings. As Kainos began to see early success in the market, Rosen began a power grab inside Kainos, excluding Bradley from the decision-making process while taking complete control over Kainos's accounting, management, and compensation. Rosen also began evolving the culture of Kainos into one of forced overconsumption of alcohol and general debauchery, coupled with shaming and coercion if anyone tried to push back. At the same time Rosen was consolidating power and turning Kainos into a frat house, he was also secretly plotting to reduce Bradley's interest in Kainos Manager.

11. The co-founders had agreed to form Kainos Manager as an LLC. Under the Kainos Manager operating agreement that the co-founders agreed to, each co-founder receiving membership interests that carried the same rights, none of which included the ability to force out another member. Thus, under Kainos Manager's operating agreement, Rosen and Sperry had no authority to reduce Bradley's interest in their sole discretion.

12. On December 17, 2015, as Kainos was ramping up to launch its second fund, Kainos Capital Partners II, LP ("**Fund II**"), and as its economic prospects were brightening, Rosen sent an email to Bradley that indicated he intended to reduce her interest in Kainos Manager to 12%. Rather than attempting to comply with Delaware law in seeking to reduce Bradley's interest, Rosen attempted to strongarm

Bradley into voluntarily agreeing to the reduction with no compensation. Rosen also told Bradley that if she did not help raise Fund II, he would fire her for cause and strip her of her economic rights, including the carried interest in the firm's investment portfolio that comprised a significant part of her compensation. Bradley objected to Rosen's purported reduction in her interest in Kainos Manager and never agreed to Rosen's terms. Bradley refused to give up over half of her share of Kainos Manager for nothing. Consistent with his view of himself as a dictator rather than one of three managing members in an LLC, Rosen responded: "Happy to discuss but don't see changing it." Despite Rosen's dictatorial decree, he could not lawfully reduce Bradley's interest, let alone without compensation, and so she retained her 25% interest in Kainos Manager.

13. When Bradley followed up with a call to Rosen, he told her not to send any more emails on the subject of her ownership interest or with respect to governance of the firm and told her again that if she refused to raise Fund II, she would be terminated, and he and Sperry would make sure that her carried interest never vested.

14. Having refused to agree to Rosen's demand that she give away a substantial portion of her interest in Kainos Manager, Bradley turned to creating more value for Kainos and herself by raising Fund II and expanding its role in the

market. Bradley's efforts were extremely successful, helping Fund II raise $895 million of committed capital, nearly double the size of Fund I.

15. After Fund II closed, Kainos had over $1.3 billion under management. As a result, Kainos's annual gross income generated by the management fees, transactional fees, and monitoring fees for Fund I and Fund II exceeded $25 million annually. As a 25% owner, Bradley held a substantial interest in an increasingly valuable investment manager and its profit stream that stood poised to become even more valuable as its investments grew.

16. Meanwhile, Rosen was intent to carry out his plan to reduce Bradley's interest in spite of her refusal to agree to his 2015 demand. Unbeknownst to Bradley, in April 2016 as Fund II was about to close, Rosen, Sperry, and Knickel conspired to fraudulently extinguish Bradley's 25% ownership interest in Kainos Manager without consideration, in breach of their fiduciary and contractual duties.

17. Specifically, Rosen, Sperry, and Knickel concocted a scheme to (a) convert the investment manager from a Delaware LLC to a Delaware limited partnership (the "**Conversion**"), which they planned to use to reduce Bradley's ownership rights to zero, and (b) fraudulently induce her into signing to the conversion.

18. To convince her to sign the consent to the Conversion (the "**Consent**"), Knickel told Bradley the Conversion was *only* for tax purposes while hiding the real

reason: to create a new business structure that stripped Bradley of her interest and granted Rosen and Sperry absolute control over the investment manager. In fact, Knickel expressly assured Bradley that although the new limited partnership agreement had not been drafted yet, Bradley's existing rights and interest under Kainos Manager's governance documents would *not* materially change. To ensure Bradley's quick compliance, Defendants also told Bradley she had to sign the Consent immediately, or Fund II would not close.

19. Under time pressure to close Fund II and relying on the representation that the Conversion's sole purpose was to provide the investment manager's owners a tax benefit, Bradley signed the Consent. At the time, Defendants prevented Bradley from discovering that the purported Conversion would extinguish her LLC interest, deprive her of participation in management, and subject her to an LP structure that was fundamentally different than the one agreed to by all of the Kainos co-founders when starting the firm.

20. Having fraudulently induced Bradley to sign the Consent, Rosen, Sperry, and Knickel then attempted to execute their plan to take her interest in Kainos Manager.

21. On April 21, 2016, in spite of Knickel's representation *that same day* that no limited partnership agreement had yet been drafted, Rosen, Sperry, and Knickel adopted a limited partnership agreement they had prepared for Kainos

Capital LP ("**LP Agreement**") that extinguished Bradley's ownership interest in the investment manager, taking her from a 25% owner to nothing. Defendants then executed an amended and restated limited partnership agreement ("**Amended LP Agreement**") that purported to give Rosen and Sperry sole control over the post-Conversion investment manager through a general partner they owned and controlled.

22. The LP Agreement and Amended LP Agreement purported to eliminate the restrictions that Rosen faced under the Kainos Manager's operating agreement. Unlike under the LLC structure, under the new GP/LP structure, the governing documents gave Rosen the unfettered ability to run Kainos as a dictatorship, and reduce or eliminate the limited partners' ownership interest, including Bradley's, with no compensation.

23. And, in spite of Knickel's representation that her ownership interest would remain intact, the Amended LP Agreement also purported to assign Bradley a revocable 12% profit-sharing interest in Kainos Capital LP ("**LP Interest**"). This meant that rather than having a 25% ownership interest in the member-managed manager, she was unwittingly converted to a revocable 12% passive limited partnership interest, which was subject to Rosen's and Sperry's unilateral whim.

24. The following year, Rosen and Sperry exercised the discretion afforded them under the Amended LP Agreement to further reduce Bradley's LP Interest to

a paltry 7.48% without any notification to Bradley. Critically, the LP Interest only gave Bradley the right to share in the profits of Kainos Capital LP but did not come with any managerial or voting rights that Bradley enjoyed as a 25% member of Kainos Manager.

25. Although Rosen, Sperry, and Knickel proceeded with their scheme as though they had properly converted Kainos Manager into Kainos Capital LP, the conversion was ineffective under Delaware law for a myriad of reasons. In order to prevent both Bradley and Kainos's investors from understanding the true nature of the Conversion and resulting Kainos corporate structure, Rosen, Sperry, and Knickel decided to give Kainos GP—the general partner of the converted limited partnership that was entirely owned and controlled by Rosen and Sperry—the same name as Kainos Manager: "Kainos Capital, LLC." So, to anyone seeking to identify Kainos's investment manager entity following the Conversion, it appeared that Kainos Manager was the same exact entity as the general partner of Kainos Capital LP. But in fact, Kainos Manager and Kainos GP were completely distinct entities – in spite of the fact that they had the same exact name.

26. The ultimate goal of the games Rosen, Sperry, and Knickel played with the "Kainos Capital, LLC" name was to cause both Bradley as well as Kainos's investors to assume that after the Conversion, Bradley continued to hold a 25%

membership interest in the general partner of Kainos Capital LP, when in fact, Bradley had been excluded altogether from ownership of the investment manager.

27. Defendants' shell game would only work, however, if the entity name "Kainos Capital, LLC" was available when they formed Kainos GP. So, they had to convert Kainos Manager first in order to make the "Kainos Capital, LLC" name available for Kainos GP to use.

28. Thus, at 12:17 pm on April 21, 2016, a Certificate of Conversion was filed that purported to convert Kainos Manager, then legally named as "Kainos Capital, LLC" to Kainos Capital LP. Then, *three minutes later* at 12:20 pm the same day, the Certificate of Formation for Kainos GP also legally named as "Kainos Capital, LLC" was filed. Importantly, however, the Certificate of Conversion was signed and filed by Kainos GP *before* Kainos GP ever existed. Consequently, the purported Conversion of Kainos Manager to Kainos Capital LP was invalid because the entity that purported to authorize the Conversion did not exist at the time the Certificate of Conversion was signed and filed.

29. Thus, the purported Conversion of Kainos Manager to Kainos Capital LP was legally ineffective. Nonetheless, since April 2016 Rosen, Sperry, and Knickel have acted as though they properly converted Kainos Manager to Kainos Capital LP, representing to Bradley, investors, and regulatory authorities that the Conversion was effective. Presumably using their alleged unilateral authority under

the ineffective LP Agreement and Amended LP Agreement, Defendants have been acting as though they in fact had all of the powers allegedly created by those nugatory agreements.

30. In addition to the botched Conversion, there has never been a meeting of the minds nor execution of the Amended LP Agreement. When Bradley saw versions of the document long after April 2016 and the final close of Fund II, she refused to sign them. In fact, the Amended LP Agreement represents Rosen's mere arrogation of powers that no one has ever agreed to grant him, on the part of an entity that was not lawfully constituted.

31. Since the attempted Conversion, Rosen and Sperry have carried on with their campaign of coercion through the threat of economic harm to keep Bradley managing investor relations and raising funds while they continue to reduce her interest in the investment manager pursuant to their purported rights under the Amended LP Agreement. Because of Defendants' constant threats that she would be fired if she raised any trouble, Bradley has not aggressively sought more information regarding her compensation and financial interests, although she has always objected to any reduction or elimination of her ownership. And, of course, because Rosen controlled all of Kainos's management and accounting, Bradley had no information from which she could independently determine if she was being appropriately and fairly compensated.

32. In late 2018, however, Rosen and Sperry told Bradley that she would need to start raising funds for Kainos's $1.5 billion third fund ("**Fund III**") targeted to close in the first half of 2019, but that her interest in the investment manager would be further decreased to 5%. As before, Rosen and Sperry made clear that if Bradley did not accept the uncompensated and unjustified reduction in her share of profits from the investment manager, she would lose everything, and her family's financial health would be in jeopardy.

33. After that meeting, Bradley finally obtained various governance documents for Kainos Manager, the post-Conversion entity Kainos Capital LP, and other previously undisclosed documents that Rosen, Sperry, and Knickel had used in their attempt to effectuate the Conversion. For the first time, Bradley was able to learn the extent of Defendants' fraud and determine that through the purported Conversion, Defendants had sought to deprive Bradley of her ownership interest in Kainos Manager without ever making full disclosure or attempting to compensate her for what they had taken.

34. To be clear, Bradley believed all along that Kainos Manager, the entity which she co-founded and in which she held rights, was the same "Kainos Capital, LLC" that was the general partner of the Kainos Capital LP. It was only in late 2018 that Bradley realized her co-founders had secretly created a new entity with the same name, in which she held no ownership interest.

35. Meanwhile, at all points in time, Defendants have concealed the investment manager's financial records and refused to provide enough information for Bradley to determine how its profits are calculated. Upon information and belief, Defendants have also artificially reduced Kainos Capital LP's profits to further diminish Bradley's yearly payout on her reduced profit interest in the investment manager.

36. By this action, Plaintiff seeks: (1) rescission of the purported Conversion and related alterations to the investment manager's governance and ownership structure that purported to limit, eliminate, or reduce the rights she had as a 25% member of Kainos Manager; (2) a declaration that the purported Conversion of Kainos Manager to Kainos Capital LP was legally ineffective, and/or a determination that the LP Agreement and the Amended LP Agreement are not binding on Bradley, in order to restore Bradley's 25% interest in Kainos Manager; and/or (3) to recover the value of what Defendants misappropriated from her through their fraudulent and bad-faith conduct in breach of their fiduciary and contractual duties – to wit, the value of her 25% share of a successful fund management firm with approximately $3 billion in assets under management, as well as the past due amounts that she has been entitled to all along as a 25% owner of the investment manager.

THE PARTIES

37. Plaintiff Sarah A. Bradley is an individual.

38. Defendant Andrew S. Rosen is an individual. This Court has jurisdiction over Rosen, pursuant to 6 *Del. C.* § 18-109(a), as a member-manager of Kainos Manager and/or as an officer who participated materially in the management of Kainos Manager. Rosen also submitted to this Court's jurisdiction in § 7(d) of the Assumption and Assignment Agreement, dated February 28, 2013, between Rosen, Sperry, and Bradley. Rosen is also a co-conspirator in the fraud alleged herein, a substantial act in furtherance of which occurred in Delaware when the Conversion papers were filed with the Delaware Secretary of State.

39. Defendant Robert W. Sperry is an individual. This Court has jurisdiction over Sperry, pursuant to 6 *Del. C.* § 18-109(a), as a member-manager of Kainos Manager and/or as an officer who participated materially in the management of Kainos Manager. Sperry also submitted to this Court's jurisdiction in § 7(d) of the Assumption and Assignment Agreement, dated February 28, 2013, between Rosen, Sperry, and Bradley. Sperry is also a co-conspirator in the fraud alleged herein, a substantial act in furtherance of which occurred in Delaware when the Conversion papers were filed with the Delaware Secretary of State.

40. Defendant David Knickel is an individual who served as Kainos Manager's Chief Financial Officer ("CFO"). This Court has jurisdiction over

Knickel, pursuant to 6 Del. C. § 18-109(a), as an officer who participated materially in the management of Kainos Manager. Knickel is also a co-conspirator in the fraud alleged herein, a substantial act in furtherance of which occurred in Delaware when the Conversion papers were filed with the Delaware Secretary of State.

41. Defendant Kainos Capital, LLC (*i.e.*, Kainos GP) is a limited liability company organized and existing under the laws of the State of Delaware. This Court has jurisdiction over Kainos GP as a Delaware limited liability company and, pursuant to 6 *Del. C.* § 17-109(a), as the general partner of Defendant Kainos Capital LP, a Delaware limited partnership.

42. Defendant Kainos Capital LP is a limited partnership organized and existing under the laws of the State of Delaware. This Court has jurisdiction over Defendant Kainos Capital LP as a Delaware limited partnership.

FACTUAL BACKGROUND

A. Rosen recruits Bradley, an experienced investment banker, investor relations professional, and fundraiser, to co-found a private equity firm.

43. Bradley's career in the financial industry represents decades of experience holding prestigious positions at large global institutions, both investment banks and private equity firms. That experience has given Bradley a skillset and collection of contacts that are almost impossible to replicate in her industry. In fact, in both 2017 and 2018 Bradley has been named as one of the Most Influential

Women in Mid-Market M&A,[4] and, in 2015, as one of private equity's Top 15 Women to Watch and Female Influencers by the Wall Street Journal Private Equity Analyst.

44. Bradley is a graduate of the University of Texas, where she also received a master's degree in public accounting. After completing her education, she began a career in investment banking with the Mergers & Acquisitions Group at Donaldson, Lufkin & Jenrette, before moving to Citigroup to become a Director in the investment bank's Global Consumer Group. Bradley then moved to Deutsche Bank where she worked as a Managing Director in the U.S. Financial Sponsors Group and U.S. Consumer Group. As a Managing Director at Deutsche Bank, she was responsible for food and consumer investment banking and middle market private equity investment banking. Prior to co-founding Kainos, Bradley was a Managing Director at Investcorp where she spent three years as Head of Global Investor Relations and Fundraising.

45. During her investment banking career, Bradley worked with private equity firms on numerous transactions in the food and consumer sectors. On one such transaction, she worked with Andrew Rosen of the Dallas-based private equity

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[4] *See* https://www.themiddlemarket.com/list/most-influential-women-q-a-sarah-bradley-kainos-capital.

firm Hicks Muse, later renamed "HM Capital." In October 2010, while Bradley was employed at Investcorp, Rosen reached out to her to request a lunch meeting.

46. The prior year Hicks Muse had entered into a multi-million dollar settlement to resolve claims related to a pay-to-play scheme, in which Hicks Muse indirectly paid kickbacks to induce state pension funds to invest millions of dollars with Hicks Muse.[5] In addition to the fallout from the pay-to-play scandal, Hicks Muse was facing substantial problems with the investments in both legacy funds and their current fund, the "2007 Sector Performance Fund." Several of their portfolio companies had become worthless, and a large portion of their investment team was leaving or had left the firm.

47. The view in the market was that Hicks Muse was toxic and full of subpar investment professionals with questionable ethics. With this perception, Hicks Muse, and its partners like Rosen, had no reasonable prospects for raising new funds under the Hicks Muse banner. The only option left for Hicks Muse was to operate a "zombie fund," a fund comprised of mostly illiquid and depressed investments that still generated management fees from remaining holdings in some portfolio companies.

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[5] For example, see the HM Capital settlement with the Attorney General of New York, signed by Defendant Knickel, whereby HM Capital agreed to pay $1.56 million, the amount of fees HM Capital charged a New York state pension fund. https://ag.ny.gov/sites/default/files/press-releases/archived/HM%20CAPITAL%20AOD%20EXECUTED.pdf.

48. Thus, if Rosen was to continue his career in the financial industry, he had to do so outside of Hicks Muse. And critically, he had to ensure that Hicks Muse's reputation did not follow him to his new venture. To solve his problem, he turned to Bradley.

49. At the October 2010 lunch meeting with Bradley, Rosen expressed an interest in spinning out Hicks Muse's food group but was unsure of how that could be accomplished. Bradley advised Rosen that to support a standalone fund focused on the food sector, he needed to make a clean break from Hicks Muse and form a new firm with different governance, management, and ownership. Recognizing the value Bradley would bring to the new venture, Rosen said that he needed Bradley to raise capital from investors and lend the new firm credibility as a co-founder. He told Bradley that her role would primarily involve raising funds and managing investor relations but would not be limited to those two functions. Bradley would also sit on the firm's investment committee and the boards of several portfolio companies, as well as help as needed with due diligence and business development.

50. Rosen also shared that Robert Sperry would also be a partner of Kainos alongside himself and Bradley. Sperry had previously worked with Rosen as an external Operating Partner at Hicks Muse and had most recently been a Partner at Brynwood Partners. Rosen also represented to Bradley that Sperry expected the

investor relationships he had cultivated at Brynwood would also be highly interested in following him and investing in Kainos.

51. Rosen told Bradley he planned to have the firm based in Dallas, Texas. Bradley told Rosen that she could not work out of a Dallas office and would not move to Dallas, as her family and husband's business were in the New York area. Rosen assured Bradley that she did not need to move to Dallas and that he wanted Bradley to stay in the New York area to be near the center of the private equity and investment banking community. In fact, Rosen preferred that Bradley stay in the New York area as it would alleviate the need for Rosen to come to New York as regularly.

52. Concerned by the risks of leaving her job to join a startup firm, Bradley told Rosen that the new fund needed initial closing of commitments from existing Hicks Muse investors of at least $125 million to have a chance of reaching the minimum viable fund size of $400 million. Rosen assured her that he could obtain at least $150 million of commitments from several major Hicks Muse investors, the largest of which would be Carson Private Capital.

B. Early on, Kainos struggles to secure the investor commitments required to launch its first fund.

53. Many of her former and current colleagues and investor contacts told Bradley that linking up with the Hicks Muse legacy would be "career suicide," but, relying on Rosen's assurances regarding the commitments he could secure, Bradley

agreed. In late 2010, Bradley joined Hicks Muse as a partner while it was winding down and before the spin-out of Kainos could be completed.

54. In April 2011, Bradley attended Hicks Muse's Annual Meeting where the plan to wind down Hicks Muse and spin out the food group was announced. Bradley officially joined Hicks Muse in September 2011, where, according to the firm's press release, she would "take a leadership role in raising a new private equity fund focused exclusively on the food and consumer products sector."

55. On Bradley's first day of work, Rosen shared a letter that Carson Private Capital—which he had earlier identified to Bradley as likely the largest initial investor in the new fund—had written to Hicks Muse saying that it was no longer supportive of Hicks Muse and would have no further business dealings with the firm or its principals. Although Rosen had guaranteed he could obtain $150 million in initial investments, the letter meant Kainos would have to find another way to raise the $125 million of initial commitments that Bradley had earlier identified as absolutely necessary for the fund to get off the ground. In addition, none of Sperry's investor relationships from Brynwood Partners were willing to invest in Kainos either.

56. Despite Rosen's failure to deliver the anchor investments he had promised and Sperry's failure to leverage his investor relationships, Bradley followed through on her commitment to make Kainos's launch successful. Working

tirelessly from the end of 2011 through 2012, she raised funds, drafted initial Private Placement Memorandum for Fund I, and helped prepare a data room for potential investors. Bradley also worked with an agency to create a logo, brand standards, presentations, marketing materials and website to support the launch of Fund I. And as Kainos began fundraising for Fund I in Summer 2012, Bradley met extensively with potential investors alongside co-founders Rosen and Sperry.

57. The Kainos team struggled to convince investors to back Fund I due to a lack of existing commitments and support from existing Hicks Muse investors and Hicks Muse's negative reputation. In fact, Fund I's first closing of an investor commitment in August 2012 totaled only $21 million, far short of the $125 million that Bradley told Rosen was needed to launch Fund I. Despite its bleak prospects, Bradley was still committed to Kainos's success and as required, personally invested in Fund I. Mortgaging her home to put together funds, Bradley contributed $1.5 million of her own money to Fund I to cover her portion of Kainos Managers' general partner commitment.

58. The initial investment commitments that Rosen had guaranteed never materialized and Kainos was in real danger of failing before it ever started. With their backs against the wall, Bradley put together a plan to keep alive the prospect that Kainos could still become a successful private equity firm.

59. Bradley approached a large pension fund, CPPIB, with her plan for it to both buy the legacy Hicks Muse portfolio companies **and** become the anchor investment in Fund I. Bradley reached out to her contact at CPPIB who put her in touch with the key decision makers. After walking CPPIB through her idea over the phone, they agreed to meet with Bradley and Rosen on October 9, 2012.

60. Following that meeting, CPPIB agreed to purchase a portfolio of food-related companies from Hicks Muse for $468 million and further agreed to commit $138 million to Fund I. In order to finalize the deal, Bradley coordinated all of the interested parties, including CPPIB, the Hicks Muse limited partner advisory committee, and all the existing Hicks Muse investors. Throughout those discussions CPPIB raised concerns about Rosen's integrity, but Bradley vouched for him and assuaged CPPIB's fears. Without Bradley's creation of the CPPIB investment structure and the relationships and trust she developed with investors, Kainos would not exist today.

61. In February 2013, Kainos closed the landmark investment with CPPIB in a deal that would later be considered the gold standard for that type of transaction. Often cited as a case study in industry conferences, it became a seminal transaction in the private equity fundraising marketplace.

62. With an anchor investor in place due to Bradley's ingenuity, Kainos closed Fund I in December 2013 with a final fund size of $475 million, exceeding

their $400 million target. Several of the other investors in Fund I resulted from Bradley's prior relationships.

C. The Parties agree to operate Kainos Manager pursuant to the terms of the LLC agreement.

63. Private equity managers like Kainos generate revenue by collecting management fees ("**Management Fees**"), typically based on the percentage of assets under management within a given fund. For example, Kainos Manager collected Management Fees of 1.9% from Fund I under the investment management agreement with Fund I. Investment managers also collect deal fees earned in connection with the Fund's acquisition of specific assets that are typically based on the size of the transaction ("**Transaction Fees**"). Additionally, investment managers can collect monitoring and oversight fees paid by portfolio companies for various consulting and advisory services ("**Monitoring Fees**").

64. Pursuant to the Kainos investment management agreements, the Management Fees, Transaction Fees, and Monitoring Fees are collected by the investment manager. Consistent with industry practice, Kainos also retains a share of the profits of each investment fund that it manages. This share of the profits is referred to as "**Carried Interest**." Unlike the fees described above, profits realized from Carried Interest are routed through an entity other than the investment manager.

65. In addition to her ownership interest in Kainos Manager, Bradley and Rosen agreed that she would be compensated as an employee through a combination

of base salary, performance bonuses, and a share of Carried Interest. As CPPIB prepared to close on its commitment in early 2013, Kainos began the process of formalizing its structure to reflect those arrangements.

66. On January 25, 2013, Knickel sent an email to Kainos's transactional counsel at Weil Gotshal requesting that the LLC agreement for the investment manager "be revised to reflect the following ownership: Andrew S. Rosen 42% Robert W. Sperry 33% Sarah A. Bradley 25%." Thus, in exchange for her initial cash commitment to Fund I and the cash investment in the SAV, as well as the critical role she played and tremendous risk undertaken in founding and launching Kainos, Bradley received a one-quarter interest in Kainos Manager.

67. On February 22, 2013, Knickel emailed Rosen, Sperry, and Bradley for their execution of an Assignment and Assumption Agreement, which Knickel described as "the agreement by which [Sperry] and [Bradley] officially become owners of Kainos." Rosen, Sperry, and Bradley entered into the Assignment and Assumption Agreement, dated February 28, 2013, but by its terms is effective as of January 1, 2013.[6]

68. Pursuant to the Assignment and Assumption Agreement, Rosen—who had originally formed Kainos Manager as its sole member in May 2011—assigned

[6] A true and correct copy of the Assignment and Assumption Agreement is attached as **Exhibit A**.

membership interests in that investment-manager entity, as agreed, to Defendant Sperry and Plaintiff Bradley. Consistent with Knickel's email to transactional counsel and the Assignment and Assumption Agreement, Rosen assigned Bradley a 25% interest in Kainos Manager. Each of the private placement memoranda ("**PPM**") issued by Kainos lists Bradley as a co-founder of Kainos.

69. In signing the Assignment and Assumption Agreement, Rosen and Sperry, and Bradley agreed to be bound by the terms of the limited liability company agreement of Kainos Manager, dated as of May 24, 2011 ("**LLC Agreement**").[7] Prior to the execution of the Assignment and Assumption Agreement, Rosen was the sole member of Kainos Manager. The LLC Agreement in place when Rosen was the sole member specified that Kainos Manager was to be member-managed. After Bradley and Sperry were admitted as members, the LLC Agreement was not amended to further define how the management powers would be delegated amongst the members. The LLC Agreement contemplates termination of a membership interest in Kainos Manager only in the event of a member's resignation following the voluntary assignment of the member's interest, or upon dissolution of the entity.

[7] A true and correct copy of the LLC Agreement is attached as **Exhibit B**.

D. "Love it, learn it, or leave it:" Fund I is a success, but Rosen's tyrannical and reckless behavior turns Kainos's culture toxic.

70. Thanks in no small part to Bradley's efforts, Fund I closed in December 2013 with a final fund size of $475 million.

71. But, beginning what would become a common theme at Kainos, the professionalism and quality of work reflected in the business side of the firm was not mirrored in its culture. Instead, Rosen created a frat-house-styled ethos of forced overconsumption of alcohol and general debauchery coupled with shaming and coercion if anyone tried to push back.

72. For example, at the 2013 Kainos holiday party that same month, Rosen and Sperry organized a drinking game where each Kainos employee was asked to choose a partner with whom they would drink a shot. As a result, Bradley was pressured to drink numerous shots of hard alcohol. Bradley, the only female executive, was told that she had to participate in the drinking game if she wanted to be "part of the team." Unfortunately, this was not an isolated event and irresponsible hazing with alcohol became a regular feature of the firm's culture.

73. Despite her concerns related to the firm's culture, Bradley worked throughout 2014 to find, analyze, and close acquisitions for Fund I's portfolio, in addition to performing her investor relations role. For example, Bradley was one of the contact points for Fund I's very first deal involving a company called InterHealth. After helping to push that deal through to close, Bradley served on

InterHealth's board. Similarly, Bradley worked up and helped to lead a deal involving a company called FemPro that closed in August 2014. Bradley also served on FemPro's board.

74. On the business side, Kainos was performing well and the outlook was positive. Kainos had consistent deal flow for new investments, promising returns, and increasing investor demand for future Kainos funds. But, as Kainos was taking off, inside the firm Rosen was creating a toxic and dangerous culture.

75. At Kainos's firm retreat in November 2014, the binge drinking that characterized the prior year's holiday party intensified. Rosen announced that the retreat's slogan was "Where the Great Ones Play Hurt," pressuring firm personnel to drink excessively and prove they could still perform the next day. After witnessing excessive drinking and several rounds of shots pushed by Sperry and Rosen on associates for several hours, Bradley expressed concern to Rosen about the excessive drinking. Rosen told her that she could "love it, learn it, or leave it."

76. The following morning, a Kainos associate was missing and was later found passed out drunk perilously close to a pool on the property. The dangerous levels of drinking persisted throughout the remainder of the retreat, and at one point Bradley was groped by a drunken Kainos executive. Following that incident, Bradley excused herself and returned to her room.

77. A week later, Rosen met with Bradley in Minneapolis before a board meeting and expressed anger that Bradley did not fully participate in the partying at the retreat. Bradley explained that she left the retreat an hour earlier than the others to catch a flight to a conference where she was scheduled to speak and meet with current and prospective investors. Rosen said that it was clear Bradley was not a part of the firm's "culture" and that he did not see a future for her if she did not change. At the same meeting, Rosen informed Bradley she would no longer be permitted to work on new deals. Rosen also told her that she had to apologize to the Kainos team the next time she was in Dallas at a firm meeting for not fully participating in the partying.

78. Rosen, unsurprisingly, ignored Bradley's concerns and he continued to build a frat-house culture at Kainos. The following year Rosen's approach again put Kainos employees in peril. At the November 2016 firm retreat, as they had in the past, Rosen and Sperry pushed excessive alcohol consumption. This time, one of Kainos's employees drank so much that she became unconscious and non-responsive, requiring EMTs to stabilize her and provide medical attention.

E. Rosen and Sperry begin their attempt to grab total control of Kainos and cheat Bradley out of her membership interest

79. Rosen's desire to control Kainos was not limited to compelling everyone to consume dangerous levels of alcohol. Rosen wanted control over all aspects of Kainos and would take whatever steps necessary to gain that control,

including trying to exploit Bradley's vulnerabilities. Rosen knew that Bradley's family was financially dependent on what she earned from Kainos. Bradley had mortgaged her home to make her required capital investment and much of her net worth was tied up in Kainos. Rosen knew Bradley was the major breadwinner for her family of six and he exploited her need to protect her family's financial health as leverage in an attempt to ensure his control of Kainos went unquestioned.

80. For example, at the meeting in Minneapolis following the 2015 firm retreat where Bradley left a few hours early, Rosen told Bradley that either she did what she was told, or she would be forced out and would lose all that she had invested at Kainos.

81. At the same meeting, Rosen also told Bradley he had decided he would be Kainos's "benevolent dictator," as Tom Hicks had been at Hicks Muse, and would therefore take over all managerial responsibilities. Rosen, of course, had no actual authority to anoint himself Kainos's dictator under to Kainos Manager's LLC Agreement. Instead, he was one of three member-managers and so owed fiduciary duties to Kainos Manager and to Bradley as a member. Disregarding those duties and limitations, Rosen told Bradley she would no longer be involved in any management decisions, including the hiring, termination, and compensation of professionals.

82. After that meeting, Rosen and Sperry began keeping Kainos Manager financials from Bradley, refusing to share any firm profit and loss reports. They also excluded her from management decisions in which she had previously participated and refused to put her on boards of Kainos's portfolio companies.

83. In December 2015, Rosen continued his attempt to squeeze Bradley out of the control and ownership of Kainos Manager. On December 17, 2015, Rosen sent an email to Bradley that indicated he intended to reduce her interest in the Kainos Manager to 12%. But, under the Kainos Manager LLC Agreement and Delaware law, Rosen did not have the power to unilaterally reduce her 25% interest. So, instead, Rosen attempted to strong-arm Bradley into voluntarily agreeing to the reduction with no compensation.

84. Bradley immediately responded and objected, refusing to give up over half of her share of Kainos Manager for nothing. Consistent with his view of himself as a dictator rather than one of three managing members in an LLC, Rosen responded: "Happy to discuss but don't see changing it." Despite Rosen's dictatorial decree, he could not lawfully reduce Bradley's LLC interest. and so she retained her 25% interest in Kainos Manager.

85. When Bradley followed up with a call to Rosen, he told her not to send any more emails on the subject or with respect to governance of the firm and told

her again that if she refused to raise Fund II, she would be terminated, and he and Sperry would make sure that her Carried Interest never vested.

86. Having refused to agree to Rosen's demand that she give away a substantial portion of her interest in Kainos Manager, Bradley turned to creating more value for Kainos and herself by raising Fund II and expanding its role in the market.

F. Defendants conspire to defraud Bradley by inducing her into consenting to the conversion of Kainos Manager to a limited partnership.

87. In January 2016, Bradley began the fundraising process for Fund II. Bradley's fundraising efforts were successful, and Fund II was ready for its first closing of investor commitments by April 2016. Meanwhile, Rosen was still searching for a way to reduce or eliminate Bradley's 25% membership interest in Kainos Manager, having been unsuccessful in bullying Bradley into agreeing to give up her ownership interest in late 2015.

88. Under the Kainos Manager LLC Agreement, however, there was no way to unilaterally reduce Bradley's interest. So, days before the scheduled first closing of Fund II, Rosen, Sperry, and Knickel—with the assistance of transactional counsel at Weil Gotshal— concocted a fraudulent scheme to forcibly and covertly extinguish Bradley's LLC interest and rights. Knickel then set out to execute the scheme.

1. Rosen, Sperry, and Knickel agree to mislead Bradley by telling her the only reason for the Consent was to provide the owners a tax benefit and that her interests would not materially change

89. On April 21, 2016, at 5:27 p.m. on the eve of the Fund II closing, Knickel, at Defendants' behest, sent Bradley an email with the subject line "Signatures Required for Closing."[8] Knickel attached two documents for Bradley's signature. The first was a securities compliance certification. According to Knickel, "[t]he second is a consent for the conversion of Kainos Capital from an LLC to an LP ***to take advantage of an exemption from self-employment tax for distributed shares of income***."

90. Telling Bradley that the Conversion was *solely* for tax purposes, Knickel conveyed that as an owner in the converted entity she would benefit from the tax advantage when she received her share of the distributions. There was no reference to extinguishing or decreasing Plaintiff's ownership rights nor any of the many other unacceptable and material features of the limited partnership that Bradley would later learn had been surreptitiously enacted. Instead, the implication of Knickel's statement, which he would later confirm, was the exact opposite: that following the conversion, Bradley would retain all the rights she had under the LLC agreement, including her 25% ownership, and receive an additional tax benefit upon distribution of her 25% share of the profits.

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[8] A true and correct copy of Knickel's April 21, 2016 email is attached as **Exhibit C**.

91. The Consent stated that the members of Kainos Manager (Rosen and Sperry, and Bradley) were agreeing to convert Kainos Capital, LLC to a Delaware limited partnership to be named Kainos Capital LP and admitting Kainos Capital, LLC as the sole general partner of Kainos Capital LP.[9] The document is otherwise silent regarding membership or partnership interests in either entity.

92. Based on Knickel's representation that the *sole* purpose of the conversion was to provide tax benefits to the investment manager's owners (including Bradley as a 25% owner), and Bradley's straightforward reading that the Kainos Manager would serve as the sole general partner of the new limited partnership, she understood that the conversion would not have any other impact her rights or interest as an owner.

93. Still, after receiving the Consent, Bradley followed up with a phone call to Knickel to confirm her understanding. On the call, Knickel reiterated the conversion was driven by tax considerations and told Bradley that she needed sign it immediately because if she did not, the closing for Fund II could not occur.

94. Knickel also told her that the new limited partnership agreement had not been drafted yet. Importantly, Knickel added she would have a chance to review and make comments once drafted, ***and confirmed that the new limited partnership***

[9] A true and correct copy of the version of the Consent that was included with Knickel's email is attached as **Exhibit D**.

agreement would not materially change the terms of the current agreement. Under the existing LLC agreement, Bradley was a 25% owner and managing member of Kainos Manager. Under time pressure to close Fund II and with an understanding that her management rights and ownership interest in the investment manager would not materially change, Bradley signed the Consent on the same day she received it—April 21, 2016.

2. Rosen, Sperry, and Knickel attempt to take Bradley's membership interest and managerial rights through the fraudulent conversion

95. The tax benefit that Knickel claimed as the purpose of the conversion was a pretext for a larger scheme to extinguish all of Bradley's ownership interest and her rights to participate in firm management, while granting Rosen and Sperry absolute control.

96. To ensure that their scheme worked, Rosen, Sperry, and Knickel had to make Bradley believe that the only purpose for the conversion was to get the owners a tax benefit. They could not let Bradley see the Kainos GP documentation or the LP Agreement, which purportedly provided the mechanisms to deprive Bradley of her ownership interest and give Rosen and Sperry unbridled managerial control over every aspect of the investment manager.

97. Carrying out the Defendants' scheme, Knickel provided the Consent to Bradley via email without the exhibits that were referenced therein: the LP Agreement and the Certificate of Conversion to Limited Partnership. He then told

her the LP Agreement *did not even exist*—and that it would not change her current arrangement materially—but insisted that she sign the Consent immediately or they would not be able to close Fund II.

98. The Kainos Capital LP Agreement that was referenced as Exhibit A to the Consent was dated April 21, 2016.[10] Pursuant to that LP Agreement, Kainos GP was admitted as the general partner and Knickel was admitted as the sole limited partner.

99. Exhibit B to the Consent was the Certificate of Conversion to Limited Partnership, dated as of April 21, 2016, that was "executed and filed by Kainos Capital, LLC, as general partner, to convert Kainos Capital, LLC (the "Other Entity") to Kainos Capital LP."[11]

100. As Bradley would later learn, the reason the April 21, 2016 Certificate of Conversion (unlike the Consent that Bradley signed) defined the converted Kainos Capital, LLC as the "Other Entity" because on the same day they purported to convert Kainos Capital LLC, to a limited partnership, Rosen and Sperry formed Kainos GP as a new Delaware limited liability company with the ***exact same name as Kainos Manager***—Kainos Capital, LLC—to act as Kainos Capital LP's general partner. Rosen and Sperry are the members of Kainos GP. Knickel, on behalf Kainos

[10] A true and correct copy of the LP Agreement is attached as **Exhibit E**.

[11] A true and correct copy of the Certificate of Conversion to Limited Partnership is attached as **Exhibit F**.

GP, signed the Certificate of Conversion that was filed with the Delaware Secretary of State. Knickel also signed the Certificate of Limited Partnership of Kainos Capital LP that was filed with the Delaware Secretary of State.

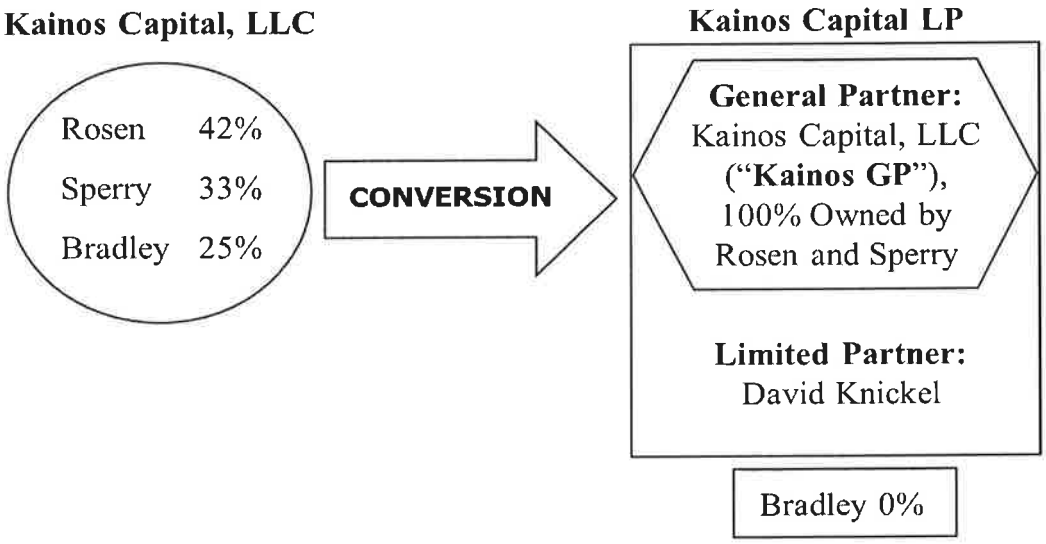
101. Upon information and belief, the reason that Rosen and Sperry formed the general partner of the new limited partnership with the same name as Kainos Manager was so that anyone who might look into the LP structure would conclude that the purported Conversion had not materially changed the LLC structure.

102. The Consent document references Kainos Capital, LLC as the entity being converted, and references Kainos Capital, LLC as the entity that would become the general partner of the newly formed Kainos Capital LP. But despite being drafted by sophisticated transactional counsel at Weil Gotshal, the Consent misleadingly makes no distinction between the two entities that would allow even a trained lawyer—let alone a layperson reading the document—to have any further understanding of these distinct entities with the same name. More importantly, this deliberate shell game with the Kainos entities had the intended effect of concealing the substantive changes to the LLC structure that Defendants were able to accomplish using the Consent as a Trojan Horse.

103. Given this confusing use of the various Kainos entities and Knickel's affirmative statement that the new LP agreement would not materially change Bradley's rights or interest, as Rosen and Sperry planned, Bradley signed the

Consent believing that she would maintain her 25% ownership interest and all her rights in the LLC following the Conversion to the LP.

104. The reality was quite different. The end product of the purported Conversion was Kainos Capital LP, a limited partnership with Knickel as the initial limited partner and the newly formed Kainos GP, in which Bradley would later learn that she had no ownership interest, serving as the general partner. In other words, before the Conversion, Bradley held a valuable 25% managing-membership interest in Kainos Manager. Afterwards, according to the transaction documents put together by Rosen, Sperry, and Knickel—with Weil Gotshal's help—she owned nothing. Accordingly, the purported Conversion was an effort to allowed Rosen, Sperry, and Knickel to deprive Bradley of her membership interest in Kainos Manager without providing her any consideration and to her of numerous rights without her informed consent. The Conversion is depicted in the chart below:



105. Rosen's, Sperry's, and Knickel's plan to use the same name for the new general partner as the original investment manager to hide their scheme from Bradley and Kainos's investors, however, tripped up their scheme. They could not create Kainos GP as "Kainos Capital, LLC" as long as Kainos Manager existed under that name. Consequently, they had to convert Kainos Manager to Kainos Capital LP before they could form Kainos GP, otherwise the name "Kainos Capital, LLC" would not be available. So, they had to file the Certificate of Conversion first, before they could file the certificate of formation for Kainos GP.

106. The entity that signed and filed the Certificate of Conversion, however, was Kainos GP, not Kainos Manager.[12] That document was filed on April 21, 2016 at 12:17 pm. They then filed the certificate of formation for Kainos GP at 12:20 pm on April 21, 2016.[13] Thus, the entity that purportedly took the action to convert Kainos Manager to Kainos Capital LP did not exist at that time and did not have the capacity to consummate the conversion of Kainos Manager to Kainos Capital LP.

107. Nonetheless, after failing to properly convert Kainos Manager into Kainos Capital LP, Rosen, Sperry, and Knickel proceeded to act as though the Conversion was effective. Later on April 21, 2016, Defendants Sperry and Rosen

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[12] *See* Exhibit F.

[13] A true and correct copy of Kainos GP's Certificate of Formation is attached as **Exhibit G**.

caused the newly formed Kainos GP to exercise its powers as the general partner of Kainos Capital LP to cause that partnership to adopt an Amended and Restated Limited Partnership Agreement (the "**Amended LP Agreement**").[14] As with the LP Agreement, Bradley did not see the Amended LP Agreement at the time of Conversion, and only saw it much later, well after the scheme to attempt to steal her part of her membership interest had been executed by Rosen, Sperry, and Knickel and months after the final close of Fund II.

108. The Amended LP Agreement, which Bradley has never signed and to which she never agreed, lists her as a limited partner with a 12% LP Interest in Kainos Capital LP. The Amended LP Agreement vests exclusive authority to manage, control, and direct the operations, business, and affairs of the partnership in the Rosen-and-Sperry-controlled general partner Kainos GP. Kainos GP also has sole discretion to remove Bradley from the Investment Committee upon twenty-four hours' notice.

109. Most importantly, the LP Agreement vested sole and exclusive power in the GP to determine—to raise or lower —the partnership interests going forward. Consequently, Defendants purported to grant themselves unilateral and unfettered rights to further reduce Bradley's interest.

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[14] A true and correct copy of the Amended LP Agreement is attached as **Exhibit H**.

110. Far from a fair substitute for Bradley's original ownership interests and contrary to Knickel's assurances, the Amended LP Agreement gave Bradley an interest that bore little resemblance to her original 25% membership interest. The Amended LP Agreement granted Bradley only a *revocable* 12% profit-sharing interest. It also granted Kainos GP (in other words, Rosen and Sperry) entirely new and extraordinary powers that were not disclosed to Bradley or Kainos's investors and to which she never agreed. These powers include the right to unilaterally change her limited partner percentage interest in the partnership "at any time in its sole discretion" and the right to unilaterally terminate any limited partner for any reason at any time.

111. This new termination right was patently unfair to Bradley because upon such termination, the limited partner would "immediately and automatically forfeit without consideration its entire Partnership interest" And there had been no such provision in the LLC Agreement. Adding insult to injury, the Amended LP Agreement includes draconian non-competition and non-solicitation clauses that purport to apply around the globe, even against limited partners whom Rosen and Sperry could (theoretically) terminate unilaterally without cause.

112. At no point before inducing Bradley into signing the Consent did Rosen, Sperry, or Knickel inform Bradley—to whom they owed fiduciary duties—of the litany of rights that she would lose under the LP Agreement or the Amended

LP Agreement. They also did not inform her of the broad and unchecked rights Rosen and Sperry would gain, including the unlimited right to reduce or eliminate Bradley's LP Interest for any reason, or for no reason whatsoever.

113. If Bradley had understood that the Conversion was intended to terminate her membership interest in Kainos Manager, she never would have signed the Consent and never would have raised Fund II. Rosen and Sperry knew that, and thus, took extensive steps to ensure that the documents were confusing, that they only shared small pieces of the entire picture with her, and, when asked direct questions, they lied.

G. After purporting to steal Bradley's membership interests, Rosen and Sperry use coercion and duress to force Bradley to handle fundraising and investor relations for Kainos.

114. After the Conversion and the first close of Fund II, Bradley continued her fundraising efforts. As with Fund I, those efforts for Fund II were successful. Fund II closed at the end of October 2016 with a final fund size of $895 million, meaning that Kainos's fee generation would effectively triple with Fund II under management.

115. Throughout 2017, Kainos invested the capital raised in Fund II and managed the investments in Fund I. Kainos's fee income again dramatically increased with both Fund I and Fund II under management for an entire year.

Bradley continued to perform her role in 2017, communicating with investors and reviewing and analyzing potential portfolio company investments.

116. At all times, Bradley was keenly aware of Rosen's and Sperry's consistent threats that if she were to step out of line with their expectations, they would terminate her and take her Carried Interest before it vested. If that happened, she would lose the majority of Carried Interest resulting from the capital she had invested with Kainos, and her family would be exposed to significant financial harm. Knowing that the threat of economic harm to Bradley's family allowed them to exploit her, at the end of 2017, Rosen and Sperry brazenly continued to cut Bradley's limited partnership interest in the investment manager without even notifying Bradley.

117. Specifically, Rosen and Sperry "allocated" a 7.48% profit-sharing interest to Bradley for 2017, further decreasing the 12% LP interest from 2016. So, rather than receive the minimum of $2.4 million in distributions that she was owed for 2017 based upon her 25% ownership interest, she received only received 7.48% of the profits, or $720,234. Moreover, upon information and belief, Rosen and Sperry manipulated the accounting for Kainos Capital LP by, among other things, paying themselves and their cronies excess salaries and bonuses, further driving down the profits distributable to Bradley at her reduced percentage.

118. Defendants reduced Bradley's LP interest to 7.48% without her consent. To the extent that Bradley sought to object to the unwarranted taking, Defendants, particularly Rosen, threatened her with elimination of all her rights, including her Carried Interest in Fund I and Fund II.

119. In 2018, Rosen continued to use intimidation to maintain control of Kainos and Bradley. As a result of that intimidation and to protect her substantial investment of time and money in Kainos, Bradley continued in her role, handling investor relations, including providing reports and updates on Kainos's portfolio companies and potential upcoming transactions. Bradley also sat on Kainos's investment committee throughout 2018, performing due diligence and analyzing potential investment opportunities for the deployment of the remaining capital in Fund II.

120. Kainos's business continued to be extremely profitable and maintained its upward trajectory. Kainos sold three portfolio companies in Fund I in 2018, realizing a substantial profit on those sales, and invested another 55% of Fund II in new and promising deals. Due to the success of Funds I and II, in the second half of 2018 it became apparent that there was market interest and therefore an opportunity for Kainos to raise a third fund in 2019. For Fund III, Kainos plans to raise $1.5 billion with a targeted closing date in May 2019.

121. To make plans for Fund III, Bradley met with Rosen and Sperry in October 2018. Shockingly, at that meeting, Rosen and Sperry dictated to Bradley that her LP Interest in Kainos Capital LP would be reduced again, this time to 5% (and that her Carried Interest in Fund III would also be decreased to 5%). Despite concerns of further retaliation, Bradley objected.

122. Rosen and Sperry expressed surprise that Bradley cared about her interest in the investment manager because according to them, there was "no value there." Of course, this was blatantly untrue because an interest in an investment manager of funds with assets under management of $1.3 billion poised to double in size is tremendously valuable. Further, Rosen and Sperry never would have gone to such extreme lengths of deception to strip Bradley of her rights in Kainos Manager if in fact her ownership of the investment manager was "worthless." Additionally, Rosen knew the investment manager had value as he had met with an investor interested in acquiring a stake in the management company earlier in 2018. That investor walked Rosen through the rising values and strong interest in private equity management companies like Kainos.

123. Bradley's concerns were not unfounded, and Rosen and Sperry continued their threats of economic harm to force Bradley to raise Fund III for them for even less. After Rosen departed the October 2018 meeting early, Defendant Sperry warned Bradley that Rosen would not renegotiate (his unilateral decision that

she would only be entitled to 5%) and that she needed to do whatever he says, or they would force her out and leave her with nothing.

124. Bradley left the October 2018 meeting terrified, yet again, that Rosen and Sperry would take what she had worked to build at Kainos. Mindful of her family's dependence on her investment in Kainos and protecting Kainos's investors, she pressed ahead and prepared to raise Fund III. She spent the next several months lining up potential investors and drafting the offering documents for Fund III. On January 14, 2019, Kainos provided the PPM to potential investors, targeting a fund size of $1.25 billion with an expected hard cap and final fund size of $1.5 billion for a close in the second quarter of 2019. That PPM identified Bradley along with Rosen and Sperry as the original founders of Kainos.

125. But, although she took all the necessary steps to get Fund III ready to launch, after this meeting, and for the first time, Bradley also obtained the majority of the organizational documents that Rosen, Sperry, and Knickel had kept from her and used to create their fiefdom. These documents allowed Bradley to uncover the nature of Defendants' scheme launched in April 2016 to wrongfully and secretly deprive her of her ownership in Kainos Manager.

H. Despite Rosen's, Sperry's, and Knickel's best efforts, in late 2018, Bradley finally gathered enough information to figure out the scheme they implemented against her to steal her property.

126. At the time of the Conversion, Bradley had relied on Knickel's representations that the only reason for the Conversion was to take advantage of a tax benefit and her interests would not materially change in the new GP/LP structure. As discussed above, Bradley did not see the LP Agreement, Amended LP Agreement, or the Certificate of Conversion at the time she signed the Consent to the Conversion.

127. Moreover, the Conversion also meant that the ultimate controlling entity for Fund I and Fund II was no longer Kainos Manager, where Bradley held membership rights, but was instead Kainos GP, where Bradley did not. This meant that through the Conversion, Rosen and Sperry had blocked Bradley's ability to obtain information regarding Fund I and Fund II that she previously had as a managing member of the ultimate controlling entity. By stopping this flow of information Rosen and Sperry further concealed the true nature of the Conversion, and how they were exercising their control after the Conversion, making it even more difficult for Bradley to uncover their fraud.

128. Eventually, Bradley received, but never signed, the Amended LP Agreement for Kainos Capital LP. In December 2016 and again in March 2017, Knickel emailed Bradley requesting her signature. Critically, both times Knickel,

played his role in the scheme as communicator of misleading information. In sending Bradley documentation on these occasions, Knickel omitted the schedules to the Amended LP Agreement, including Schedule 2, the only place where the limited partners' percentage interest is identified.

129. Bradley never saw a complete Amended LP Agreement until October 2018, when, for the first time, she saw that Rosen and Sperry had unilaterally decided to give her only a 12% profit share. Even then, Knickel was still not willing to be transparent; the version he shared with Bradley in October 2018 was not complete. Schedule 2 only showed Bradley's interest, the interest amounts of the other limited partners were redacted.

130. The selective materials that Knickel sent to Bradley in December 2016 and March 2017 were deceptive in other aspects as well. On their face, they gave the general partner expansive powers to control the limited partner, Kainos Capital LP, including the ability to reduce or extinguish a limited partner's interest at the general partner's sole discretion. The limited partner was identified as Kainos Capital, LLC. Unaware that Rosen and Sperry had created a new LLC with the identical name to the original Kainos Manager, Bradley reasonably believed that as a 25% owner of the GP, she would continue to have managerial rights of the investment manager. Rosen, Sperry and Knickel of course, had a contrary intention. They intended to extinguish her interest in Kainos Manager along with her under its LLC Agreement

and her ability to participate in the operations and distribution of interests in the investment manager.

131. Rosen, Sperry, and "company" counsel at Weil Gotshal easily could have identified the Kainos Capital, LLC acting as the general partner as a newly formed entity. In fact, they did distinguish between the two identically named entities in the Certificate of Conversion that was filed with the Delaware Secretary of State by defining Kainos Manager as the "Other Entity." But, on the document they provided to Bradley, they stayed silent, and let Bradley draw the same conclusion anyone would: that there was only one Kainos Capital, LLC, and she owned a 25% share of it.

132. Because Rosen, Sperry, and Knickel took extensive steps to draft misleading documents, and trickle out information in ways that made it impossible to connect the dots, it was only in late 2018 that Bradley fully realized the extent of the deception that Defendants had deployed in April 2016 to accomplish their scheme.

133. In fact, as late as October 2018, Knickel was still attempting to deceive Bradley to keep her from understanding Defendants' scheme. That month Bradley asked Knickel in writing to provide her with the original operating agreement for Kainos Manager. Knickel lied and told her it did not exist. Bradley, undeterred, obtained the agreement from Kainos's counsel at Weil Gotshal.

134. By late 2018, Bradley had collected enough of the data points to piece the story together. At that point, Bradley realized that she had been misled into signing the Consent and that Defendants had tricked her in an attempt to eliminate her rights in Kainos Manager.

135. Further, as the story materialized, Bradley began to realize that she had not been given entity level accounting data from which to determine how Defendants were even calculating the investment manager's profit and loss. Specifically, at no point in time had Rosen and Sperry shared any financial or accounting information for Kainos Capital LP at the entity level, only giving her access to her individual tax information, which only showed the profit share in Kainos Capital LP that they arbitrarily assigned to her.

136. Bradley now seeks to hold Defendants accountable for their deception and breaches of fiduciary duty and to seek this court's equitable powers to recover what was taken from her as a result of that scheme.

FIRST CAUSE OF ACTION: BREACH OF LLC AGREEMENT
(Against Defendants Andrew Rosen, Robert Sperry, and Kainos Capital LP)

137. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

138. On or about May 24, 2011, Rosen formed Kainos Manager as a member-managed LLC. As its sole member, Rosen adopted the LLC Agreement. On or about February 28, 2013, Bradley and Rosen and Sperry entered into an

Assignment and Assumption Agreement, whereby Rosen assigned Sperry a 33% managing member membership interest and Bradley a 25% managing-member membership interest in Kainos Manager and admitted both Defendant Sperry and Bradley as members subject to the terms of the LLC Agreement. The LLC Agreement remained the operative agreement for Kainos Manager.

139. Consideration for the LLC Agreement was valid and appropriate.

140. Bradley, Rosen, and Sperry have mutual obligations under the LLC Agreement.

141. Bradley has performed all conditions, covenants, and promises required from her in accordance with the terms and conditions of the LLC Agreement.

142. The Conversion, which Defendants attempted to carry out on or about April 21, 2016, purported to extinguish Bradley's 25% managing member membership interest in Kainos Manager without providing any compensation to Bradley.

143. Meanwhile, because the purported conversion of Kainos Manager to Kainos Capital LP was not lawfully affected, they have failed to honor their ongoing contractual obligations to Bradley since the purported Conversion.

144. Bradley is therefore entitled, to receive the compensation to which she has been at all points in time and remains contractually entitled.

145. Alternatively, if the Conversion were validly affected (which it was not) she is entitled to the fair value of her extinguished membership interest in Kainos Manager.

146. Nevertheless, Rosen, Sperry, and Kainos Capital LP ("**Contract Defendants**") in purporting to accomplish the Conversion, have failed to compensate Bradley for the fair value of her managing member membership interest within a reasonable time following the purported Conversion. Instead, Rosen and Sperry later purported to assign Bradley an illusory 12% LP Interest in the converted entity Kainos Capital LP. Unlike Bradley's 25% membership interest under the LLC Agreement, the purported 12% LP Interest could be reduced or eliminated altogether at any time, for any reason, and without compensation, in the sole discretion of the general partner Kainos GP, the newly formed entity controlled by Rosen and Sperry. That purported assignment of an illusory limited partnership interest does not constitute payment of "fair value" under Delaware law.

147. Accordingly, Contract Defendants breached the terms and conditions of the LLC Agreement.

148. As a direct and proximate result of Contract Defendants' breaches of contract, Bradley has suffered and will continue to suffer substantial damages. Should the Court determine that rescission is impracticable, Bradley seeks compensatory and/or rescissory damages in an amount to be proved at trial.

SECOND CAUSE OF ACTION:
BREACH OF DUTY OF GOOD FAITH AND FAIR DEALING
(Against Defendants Andrew Rosen, Robert Sperry, Kainos Capital LP)

149. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

150. The LLC Agreement contains an implied covenant of good faith and fair dealing. The implied covenant of good faith and fair dealing requires a contracting party to refrain from arbitrary and unreasonable conduct that would prevent the other party from receiving the benefit of their bargain.

151. If the Conversion were validly affected (which it was not) Contract Defendants breached the implied covenant of good faith and fair dealing by eliminating Plaintiff's Kainos Manager membership interests and/or converting them into a revocable passive limited partnership interests without consideration.

152. As a direct and proximate result of Contract Defendants' breach of the implied covenant of good faith and fair dealing in the LLC Agreement, Bradley has suffered and will continue to suffer substantial damages. Should the Court determine that rescission is impracticable, Bradley seeks compensatory and/or rescissory damages in an amount to be proved at trial.

THIRD CAUSE OF ACTION:
BREACH OF FIDUCIARY DUTIES
(Against Defendants Andrew Rosen, Robert Sperry, and David Knickel)

153. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

154. As member-managers of Kainos Manager and/or as officers who participated materially in the management of Kainos Manager, Rosen, Sperry, and Knickel owed Bradley the full extent of fiduciary duties recognized under Delaware law, including the duties of care and loyalty. Pursuant to those duties, as fiduciaries asking Bradley to make a discretionary decision, such as whether to sign the Consent, Rosen, Sperry, and Knickel were required to disclose all material facts bearing on the decision at issue and were required to refrain from acting disloyally.

155. The purported Conversion was a self-interested transaction, and Rosen, Sperry, and Knickel breached their fiduciary duties to Bradley by pursuing a bad faith course of conduct to enrich themselves at Bradley's expense. Because the Conversion was pursued through deception and without any compensation to Bradley for the purpose of wrongfully appropriate her Kainos Manager membership interests, the purported Conversion, if legally effective, was not entirely fair.

156. In further violation of their fiduciary duties under Delaware law, Rosen, Sperry, and Knickel failed to disclose all material facts bearing on Bradley's decision to sign the Consent. On April 21, 2016, Knickel sent Bradley an email with the subject line "Signatures Required for Closing," wherein Knickel falsely represented that the Conversion was designed only "to take advantage of an exemption from self-employment tax for distributed shares of income."

157. The version of the Consent attached to Knickel's email intentionally excluded the exhibits to the Consent that would have revealed the Conversion's true nature and purpose. After receiving Knickel's email, Bradley followed up with a phone call where Knickel reiterated the tax-based purpose for the Conversion and told Bradley that she needed sign the Consent immediately because if she did not, the closing for Fund II could not occur.

158. Knickel also told her that the new limited partnership agreement had not been drafted yet, but she would have a chance to review and make comments and that Bradley's rights and interest would not materially change. But Defendants failed to disclose to Bradley that the true purpose of the Conversion was to enable Defendants to potentially extinguish Bradley's 25% membership interest and concomitant management rights in Kainos Manager.

159. Rosen, Sperry, and Knickel also failed to disclose that Rosen and Sperry had formed Kainos GP to exclude Bradley from participation in the management decisions of Kainos Capital LP, the investment manager following the Conversion.

160. Bradley signed the Consent in justifiable reliance upon the only information she received from her fiduciaries regarding the Conversion.

161. Meanwhile, in spite of their ongoing fiduciary duties and Bradley's enduring 25% ownership interest, Defendants have been paying Bradley a fraction

of what she has been owed in terms of compensation based on nothing but their discretion.

162. As a direct and proximate result of Rosen's, Sperry's, and Knickel's breaches of their fiduciary duties, Bradley has suffered and will continue to suffer substantial damages. Should the Court determine that rescission is impracticable, Bradley seeks compensatory and/or rescissory damages in an amount to be proved at trial.

163. Bradley has no adequate remedy at law.

FOURTH CAUSE OF ACTION: COMMON-LAW FRAUD
(Against Defendant David Knickel)

164. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

165. On April 21, 2016, Knickel sent Bradley an email with the subject line "Signatures Required for Closing," and attached the Consent. In his email, Knickel falsely characterized that attachment exclusively as "a consent for the conversion of Kainos Capital from an LLC to an LP to take advantage of an exemption from self-employment tax for distributed shares of income," when the true purpose of the Conversion was to extinguish Plaintiff's 25% membership interest and concomitant management rights in Kainos Manager.

166. After receiving Knickel's email, Bradley followed up with a phone call where Knickel reiterated the tax-based purpose for the Conversion and told Bradley

that she needed sign the Consent immediately because if she did not, the closing for Fund II could not occur. Knickel also told her that the new limited partnership agreement had not been drafted yet, but she would have a chance to review and make comments and that Bradley's rights and interest would not materially change.

167. At the time he sent the April 21, 2016 email and spoke with Bradley on a follow-up call, Knickel knew or believed that his above-described communications to Bradley were false, or otherwise made them with reckless indifference to the truth.

168. Knickel made the above-described communications to Bradley with the intent to induce Bradley to sign the Consent so that the Conversion could be effectuated.

169. Bradley signed the Consent in justifiable reliance upon Knickel's misrepresentations despite the fact that he owed Bradley fiduciary duties as the CFO of Kainos Manager.

170. By signing the Consent in reliance on Knickel's false representations, Bradley has suffered and will continue to suffer substantial damages. Meanwhile, because she was fraudulent induced to sign the Consent, its legal effect should be invalidated (to the extent that the Conversion was otherwise valid). Should the Court determine that rescission is impracticable, Bradley seeks compensatory and/or rescissory damages in an amount to be proved at trial.

FIFTH CAUSE OF ACTION: EQUITABLE FRAUD
(Against Defendant David Knickel)

171. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

172. On April 21, 2016, Knickel sent Bradley an email with the subject line "Signatures Required for Closing," and attached the Consent. In his email, Knickel falsely characterized that attachment exclusively as "a consent for the conversion of Kainos Capital from an LLC to an LP to take advantage of an exemption from self-employment tax for distributed shares of income," when he knew that the true purpose of the Conversion was to extinguish Bradley's 25% membership interest and concomitant management rights in Kainos Manager.

173. After receiving Knickel's email, Bradley followed up with a phone call where Knickel reiterated the tax-based purpose for the Conversion and told Bradley that she needed sign the Consent immediately because if she did not, the closing for Fund II could not occur. Knickel also told her that the new limited partnership agreement had not been drafted yet, but she would have a chance to review and make comments and that Bradley's rights and interest would not materially change.

174. Knickel made the above-described statements to Bradley with the intent to induce Bradley to sign the Consent so that the Conversion could be effectuated.

175. Bradley signed the Consent in justifiable reliance upon the representations of Knickel, who owed Bradley fiduciary duties as the CFO of Kainos Manager.

176. By signing the Consent in reliance on Knickel's false representations, Bradley has suffered and will continue to suffer substantial damages. Meanwhile, because she was fraudulent induced to sign the Consent, its legal effect should be invalidated (to the extent that the Conversion was otherwise valid). Should the Court determine that rescission is impracticable, Bradley seeks compensatory and/or rescissory damages in an amount to be proved at trial.

SIXTH CAUSE OF ACTION: FRAUD (CIVIL CONSPIRACY)
(Against Defendants Andrew Rosen and Robert Sperry)

177. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

178. Rosen and Sperry entered into a conspiracy with Knickel to extinguish—through the unlawful means of fraud—Bradley's 25% membership interest and concomitant management rights in Kainos Manager.

179. Upon information and belief, the parties to the conspiracy came to an agreement to extinguish Bradley's membership interest and management rights by fraudulently inducing her to sign the Consent agreeing to the Conversion. The parties to the conspiracy agreed that Knickel would represent to Bradley that the Conversion

was being undertaken solely for tax purposes, while omitting the exhibits to the Consent that would have revealed the Conversion's true nature and purpose.

180. Knickel committed the unlawful, overt act of fraud by sending Plaintiff an April 21, 2016 email to Bradley with the subject line "Signatures Required for Closing," that attached the Consent, in which Knickel falsely represented that the Conversion was exclusively designed "to take advantage of an exemption from self-employment tax for distributed shares of income." After receiving Knickel's email, Bradley followed up with a phone call where Knickel reiterated the tax-based purpose for the Conversion and told Bradley that she needed to sign the Consent immediately because if she did not, the closing for Fund II could not occur. Knickel also told her that the new limited partnership agreement had not been drafted yet, but she would have a chance to review and make comments and that Bradley's rights and interest would not materially change. For their part, Rosen and Sperry committed an overt act in furtherance of the conspiracy by forming Kainos GP and signing the Consent in an attempt to affect the Conversion in bad faith.

181. Bradley signed the Consent in justifiable reliance upon the representations of Knickel, who owed Bradley fiduciary duties as the CFO of Kainos Manager.

182. By signing the Consent in reliance on Knickel's false representations, Bradley has suffered and will continue to suffer substantial damages. To the extent

that Bradley suffered injuries from Knickel's fraud in furtherance of the conspirators' common purpose of inducing Bradley to sign the Consent, Rosen and Sperry are jointly and severally liable for any damages attributable to that fraud. Should the Court determine that rescission is impracticable, Bradley seeks compensatory and/or rescissory damages in an amount to be proved at trial.

SEVENTH CAUSE OF ACTION:
DECLARATORY JUDGMENT – 10 *DEL. C.* § 6501
(Against All Defendants)

183. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

184. A clear controversy exists between Bradley and Defendants as to whether the Conversion was valid, first, because Bradley signature on the Consent was obtained though Rosen's, Sperry's, and Knickel's fraudulent inducement, coercion, and breaches of their fiduciary duties of loyalty and disclosure, and second, because the Certificate of Conversion was improperly filed by Kainos GP, an entity that did not yet exist, Thus, a clear controversy exists as to whether the Conversion of Kainos Manager into Kainos Capital LP was effective.

185. The controversy involves the rights or other legal relations of the Plaintiff and this action is asserted against persons and entities who have an interest in contesting the claim and have contested the claims.

186. The controversy is between parties whose interests are real and adverse, and the issues involved are ripe for judicial determination.

187. Plaintiff seeks a declaratory judgment that the purported Conversion of Kainos Manager to Kainos Capital LP was ineffective and invalid.

188. Plaintiff further seeks a declaration that because the Conversion was invalid, the Conversion is treated as though it did not occur, and thus Kainos Manager, and not Kainos Capital LP, is the active legal entity.

189. Plaintiff also seeks a declaration that the ownership of Kainos Manager remains the same as it was prior to the Conversion as stated in the Assignment and Assumption Agreement and that the governing documents for Kainos Manager are the LLC Agreement and the Assignment and Assumption Agreement.

190. Plaintiff seeks a declaration that because the Conversion was invalid, the Certificate of Conversion, LP Agreement, and Amended LP Agreement are invalid and unenforceable.

191. Plaintiff seeks a declaration that because Kainos Capital LP is not a legal entity, the benefits and obligations of all agreements entered into by Kainos Manager prior to the Conversion will flow to Kainos Manager.

192. Plaintiff seeks a declaration that because Kainos Capital LP is not a legal entity, the benefits and obligations of all agreements entered into by Kainos Capital LP since the Conversion will flow to Kainos Manager.

193. A declaratory judgment is necessary and proper in order to determine Bradley's rights and to determine the validity of the Conversion of Kainos Manager into Kainos Capital LP.

EIGHTH CAUSE OF ACTION:
EQUITABLE RESCISSION
(Against All Defendants)

194. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

195. If the Conversion were legally valid (which it was not), Bradley is entitled to rescission of the Conversion and related alterations to the investment manager's governance and ownership structure based on the grounds of fraud, misrepresentation, breach of fiduciary duties, unilateral mistake, unconscionability, duress, and breach of contract.

196. The Conversion was marred by fraud and misrepresentation because it was falsely represented to Bradley that the Conversion was designed *solely* "to take advantage of an exemption from self-employment tax for distributed shares of income." The version of the Consent sent to Bradley intentionally excluded the exhibits to the Consent that would have revealed the Conversion's true nature and purpose. Bradley was also told that the new limited partnership agreement had not been drafted yet, but that she would have a chance to review and make comments and that, in any event, Bradley's rights and interest would not materially change.

197. The Conversion was also marred by breaches of fiduciary duty. The Conversion was a self-interested transaction, and Rosen, Sperry, and Knickel breached their fiduciary duties to Bradley by pursuing a bad faith course of conduct to enrich themselves at Bradley's expense. Rosen, Sperry, and Knickel also breached their fiduciary duties to Bradley by failing to disclose that the true purpose of the Conversion was to extinguish Bradley's 25% membership interest and concomitant management rights in Kainos Manager. Rosen, Sperry, and Knickel similarly failed to disclose, in breach of their fiduciary duties to Bradley, that Rosen and Sperry had formed Defendant Kainos GP to exclude Bradley from participation in the management decisions of Kainos Capital LP, the investment manager following the Conversion.

198. The Conversion was further marred by Bradley's unilateral mistake that the Conversion would not materially change her rights and interest in the investment manager. Bradley exercised reasonable care in ascertaining the Conversion's purpose and impact, but her mistake was induced by representations from her fiduciaries regarding the Conversion's purpose and impact. Given the facts and equities here, it would be unconscionable for Defendants to retain the benefits of their deceptive and bad-faith conduct that induced Bradley's unilateral mistake.

199. The Conversion was also marred by duress. Bradley was told that she had to sign the Consent immediately because if she did not, the closing for Fund II

could not occur. Defendants also knew that Bradley had mortgaged her home to make the required capital investment in Kainos, that much of her net worth was in Kainos, and that she was the major breadwinner for her family of six. Aware that her family's financial dependence on Kainos made her particularly susceptible to a threat that put her Kainos investment at risk, Defendants later brazenly used it as leverage to ensure their continued control of Kainos. Bradley was repeatedly told to either do what she was told, or she would be forced to leave Kainos and would lose her investment in and future at Kainos.

200. Finally, the Conversion was marred by Defendants' unjustified failure to perform under the LLC Agreement, which pursuant to Delaware law required payment of the fair value of Bradley's managing member membership interest within a reasonable time following the Conversion. Defendants materially breached the LLC Agreement by failing to pay the fair value of Bradley's 25% managing member membership interest in Kainos Manager within a reasonable time following the Conversion.

201. Even assuming *arguendo* that Defendants technically satisfied their express obligations under the LLC Agreement despite failing to pay Plaintiff fair value for her membership interest following the Conversion, Defendants breached the implied covenant of good faith and fair dealing in the LLC Agreement by procuring Bradley's signature on the Consent under false pretenses for the sole

purpose of extinguishing her 25% membership interest in Kainos Manager, thus destroying Bradley's rights to receive the fruits of the LLC Agreement.

202. Bradley has no full and adequate remedy at law absent equitable rescission of the Conversion and related alterations to the investment manager's governance and ownership structure because an award of damages would not be adequate to restore Bradley to her original position. The parties can be restored to the *status quo ante* through (i) rescission of the Conversion and related alterations to the investment manager's governance and ownership structure; (ii) reinstatement of Bradley's membership interests in Kainos Manager as they existed just before the Conversion; and (iii) imposition of a constructive trust over all Management Fees, Transactional Fees, and Monitoring Fees paid to Kainos Capital LP by Fund I and Fund II, along with any distributions made by the investment manager following the Conversion.

NINTH CAUSE OF ACTION: UNJUST ENRICHMENT
(Against All Defendants Except Kainos Capital LP)

203. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

204. If the Conversion were legally valid (which it was not), Defendants received benefits as a result of the Conversion at Bradley's expense. Specifically, Rosen and Sperry consolidated management power over the post-Conversion investment manager Kainos Capital LP through their control of its general partner,

Kainos GP, including the ability to re-allocate limited partnership interests at will to protect their own interests while marginalizing Bradley. Rosen and Sperry have also received distributions from Kainos Capital LP on account of these ill-gotten interests. Upon information and belief, Knickel also received benefits for his bad-faith conduct in carrying out the Conversion scheme in the form of increased bonus payouts and a limited partnership interest in Kainos Capital LP.

205. It would be against equity and good conscience for Defendants to retain the benefits of their deceptive and bad-faith conduct. Accordingly, Bradley is entitled to recover the amount by which Defendants have been unjustly enriched, to be proven at trial.

TENTH CAUSE OF ACTION:
BREACH OF DUTY OF GOOD FAITH AND FAIR DEALING
(Against Defendant Kainos GP)

206. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

207. Alternatively, assuming *arguendo* that the Amended LP Agreement is effective despite the presence of fraud, mistake, and duress, the Amended LP Agreement contains an implied covenant of good faith and fair dealing. Where a contract contemplates that a party exercise discretion in performing its duties thereunder, the implied duty of good faith and fair dealing includes a promise that a party will not act in bad faith exercising that discretion.

208. The general partner of Kainos Capital LP under the Amended LP Agreement is Kainos GP, an entity controlled by Rosen and Sperry, who are themselves limited partners of Kainos Capital LP.

209. Section 3.6 of the Amended LP Agreement states: "The General Partner in its sole discretion determines the Percentage Interest of each Limited Partner. A Limited Partner's Percentage Interest may be reduced, and additional Percentage Interests may be issued, by the General Partner at any time in its sole discretion."

210. Kainos GP breached the implied covenant of good faith and fair dealing in the Amended LP Agreement by arbitrarily, capriciously, and unreasonably exercising their discretion to reduce Bradley's interest in the investment manager, destroying Bradley's right to receive the fruits of her bargain. And when Bradley asserted her right to an interest in the investment manager reflective of her status as a Kainos co-founder and vital fundraiser, Defendants Sperry and Rosen informed her of their retaliatory plan to use their control of Kainos GP to further reduce Bradley's interest, and are threatening to eliminate it altogether in an effort to cow Bradley into submission.

211. As a direct and proximate result of Kainos GP's breaches of the implied covenant of good faith and fair dealing in the Amended LP Agreement, Bradley has suffered and will continue to suffer substantial damages in an amount to be proven at trial.

ELEVENTH CAUSE OF ACTION: ACCOUNTING
(Against Defendant Kainos Capital LP)

212. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

213. Defendant Kainos Capital LP is in the best position to provide information related to the parties holding interests in the investment manager, as well as any distributions made on account of those interests since the Conversion.

214. Absent an accounting, Bradley is unable to ascertain the extent to which distributions that have been made since the Conversion accurately reflect the amounts that should have been distributed under operating agreements for the investment manager.

215. Despite requesting this information from Defendants, Defendants have refused to provide it. Any documents that Defendants were willing to provide have been redacted to remove any information that might identify other parties that may have received distributions from the investment manager since the Conversion.

216. Because Bradley has no adequate remedy at law without additional detail regarding all distributions made since the Conversion, Bradley is entitled to an accounting.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for relief as follows:

a. actual, compensatory, rescissory, restitutionary, consequential, and all other damages;

b. a declaration that the Conversion is ineffective and/or invalid;

c. a declaration that because the Conversion was ineffective and/or invalid, the Conversion is treated as though it did not occur, and thus Kainos Manager, and not Kainos Capital LP, is the active legal entity and that Bradley's 25% ownership interest remains intact;

d. a declaration that Kainos Manager remains entitled to all the contractual rights it once held and that the transfer of its contractual rights to the newly-formed Kainos Capital LP constituted both a fraud and a breach of fiduciary duty;

e. a declaration that the benefits and obligations of all agreements entered into by Kainos Capital LP since the Conversion are deemed to flow to Kainos Manager.

f. a declaration that the ownership of Kainos Manager remains the same as it was prior to the Conversion as stated in the Assignment and Assumption Agreement and that the governing documents for Kainos Manager are the Operating Agreement and the Assignment and Assumption Agreement;

g. a declaration that because the Conversion was ineffective and/or invalid, the Certificate of Conversion, LP Agreement, and Amended LP Agreement are invalid and unenforceable;

h. equitable and injunctive relief, including but not limited to rescission of the Conversion and related alterations to the investment manager's governance and ownership structure, reinstatement of Bradley's membership interests in Kainos Manager as they existed just before the Conversion, and imposition of a constructive trust over all Management Fees, Transactional Fees, and Monitoring Fees paid to Kainos Capital LP by Fund I and Fund II, along with any distributions made by the investment manager following the Conversion;

i. A constructive trust over any and all moneys Defendants improperly withheld and paid to themselves based on the purported Conversion;

j. pre-judgment and post-judgment interest at the highest rate allowed by law;

k. attorneys' fees;

l. costs of court; and

m. all such further relief to which Plaintiff is entitled at law and in equity.

ROSENTHAL, MONHAIT & GODDESS, P.A.

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January 25, 2019

CORRECTED: January 28, 2019

EXHIBIT A

Execution Version

KAINOS CAPITAL, LLC

ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT, dated as of February 28, 2013 (this "Agreement"), by and among ANDREW S. ROSEN (the "Assignor"), ROBERT W. SPERRY ("Assignee-1") and SARAH A. BRADLEY ("Assignee-2", and together with Assignee-1, the "Assignees" and each an "Assignee").

W I T N E S S E T H

WHEREAS, the Assignor is a party to the Limited Liability Company Agreement of Kainos Capital, LLC, a Delaware limited liability company (the "Company") dated as of May 24, 2011 (as the same may be amended from time to time, the "LLC Agreement"; capitalized terms used herein and not defined herein shall have the meanings set forth in the LLC Agreement);

WHEREAS, the Assignor owns one hundred percent (100%) of the outstanding membership interests in the Company and desires to assign and transfer to Assignee-1 thirty three percent (33%) of such interest (the "Assignee-1 Interest") and desires to assign and transfer to Assignee-2 twenty five percent (25%) the Assignor's interest (the "Assignee-2 Interest", and together with the Assignee-1 Interest, the "Assigned Interest"; the transfer of such Assigned Interest being referred to as the "Assignment");

WHEREAS, Assignee-1 desires to become a member of the Company and to assume and perform all of the liabilities and obligations of the Assignor with respect to the Assignee-1 Interest under the LLC Agreement and the other agreements, documents and materials that govern the rights and obligations of the Assignor as a member;

WHEREAS, Assignee-2 desires to become a member of the Company and to assume and perform all of the liabilities and obligations of the Assignor with respect to the Assignee-2 Interest under the LLC Agreement and the other agreements, documents and materials that govern the rights and obligations of the Assignor as a member; and

WHEREAS, Article VII of the LLC Agreement set forth the conditions under which an assignee or transferee may become a member.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Assignment. The Assignor assigns and transfers (a) to Assignee-1, the Assignee-1 Interest, and the Assignor's right, title and interest in, to and under the LLC Agreement to the extent of the Assignee-1 Interest and (b), to Assignee-2, the Assignee-2 Interest, and the Assignor's right, title and interest in, to and under the LLC Agreement to the extent of the Assignee-2 Interest. Each Assignee hereby accepts the Assignment to the extent of such Assignee's allocable interest in the Assigned Interest. The Assignment shall be effective as of January 1, 2013.

2. Assumption. Subject to Article VII of the LLC Agreement, (a) Assignee-1 assumes the Assignee-1 Interest and agrees to pay, perform and discharge any debts, liabilities and obligations of any kind of the Assignor under the LLC Agreement to the extent of the Assignee-1 Interest, whether now existing or hereafter arising, known or unknown, absolute or contingent, determined or speculative or otherwise and (b), Assignee-2 assumes the Assignee-2 Interest and agrees to pay, perform and discharge any debts, liabilities and obligations of any kind of the Assignor under the LLC Agreement to the extent of the Assignee-2 Interest, whether now existing or hereafter arising, known or unknown, absolute or contingent, determined or speculative or otherwise.

3. Representations and Warranties of the Assignee. Each Assignee represents and warrants to the Assignor as follows:

a. Authorization of Assumption, etc. Such Assignee has all requisite power and authority to execute and deliver this Agreement and the LLC Agreement and to receive the Assignment and to be a member with respect to such Assignee's allocable interest in the Assigned Interest in the Company. The Assignment, transfer and substitution and the Assignee's execution and delivery of this Agreement and the LLC Agreement have been duly and validly authorized by all necessary action on the Assignee's behalf, and this Agreement is, and the LLC Agreement upon execution and delivery of a counterpart signature page thereto by the Assignee, or on its behalf, will be, the Assignee's legal, valid and binding obligations, enforceable against it in accordance with their terms, except as such enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors' rights generally and general equitable principles (whether considered in a proceeding in equity or at law).

b. Compliance with Laws and Other Instruments. The execution and delivery of this Agreement and the LLC Agreement, the consummation of the transactions contemplated hereby and thereby and the performance of the Assignee's obligations hereunder and thereunder will not conflict with, or result in any violation of or default under, any provision of any governing instrument applicable to the Assignee, or any agreement or instrument to which the Assignee is a party or by which the Assignee or any of its properties are bound, or any permit, franchise, judgment, decree, statute, rule or regulation applicable to the Assignee or its business or properties; and the Assignee's investment in the Company is permitted under each of the foregoing. There is no action, investigation or proceeding pending, or, to Assignee's knowledge, threatened against Assignee which, if adversely determined, would materially adversely affect Assignee's business or financial condition or its ability to pay its capital commitments (if any) to the Company.

c. Evaluation of Risks. The Assignee has obtained from the Company all information requested by it regarding the Company and the Assigned Interest. The Assignee has such knowledge and experience in financial affairs that it is capable of evaluating the merits and risks of owning its allocable interest in the Assigned Interest, and it has not relied in connection with this investment upon any representations, warranties or agreements other than those set forth in this Agreement and the LLC Agreement.

4. Authorization of Assignment, etc. The Assignor has all requisite power and authority to execute and deliver this Agreement and to effect the Assignment with respect to the Assigned Interest in the Company. This Agreement is the Assignor's legal, valid and binding obligation, enforceable against it in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors' rights generally and general equitable principles (whether considered in a proceeding in equity or at law).

5. Compliance with Laws and Other Instruments. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby and the performance of the Assignor's obligations hereunder will not conflict with, or result in any violation of or default under any agreement or instrument to which the Assignor is a party or by which the Assignor or any of its properties are bound, or any permit, franchise, judgment, decree, statute, rule or regulation applicable to the Assignor or its business or properties.

6. Admission of each Assignee as a Member. Upon the effectiveness of this Agreement, (a) the Assignee shall become a substituted member in the Company in respect of the Assignee-1 Interest, effective as of January 1, 2013, and the provisions of the LLC Agreement shall apply to Assignee-1 in respect of the Assignee-1 Interest and (b), Assignee-2 shall become a substituted member in the Company in respect of the Assignee-2 Interest, effective as of January 1, 2013, and the provisions of the LLC Agreement shall apply to Assignee-2 in respect of the Assignee-2 Interest.

7. Miscellaneous.

a. Waiver of Partition. Each Assignee irrevocably waives during the term of the Company any right that such Assignee may have to maintain an action for partition with respect to the property of the Company.

b. Amendments and Waivers. Amendments or modifications to this Agreement may only be made, and compliance with any term, covenant, agreement, condition or provision set forth herein may only be omitted or waived (either generally or in a particular instance and either retroactively or prospectively), upon the written consent of the a majority of the members of the Company. This Agreement and the LLC Agreement constitutes the full and complete agreement of the parties with respect to the subject matter hereof.

c. Governing Law. This Agreement and all claims or causes of action (whether in contract or tort) that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement (including, without limitation, any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement) shall be governed by and construed in accordance with the domestic laws of the State of Delaware, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware.

d. Submission to Jurisdiction. The parties hereby irrevocably submit to the exclusive jurisdiction of the Court of Chancery located in the State of Delaware (or, solely in the event that said Court of Chancery determines that it lacks subject matter jurisdiction or otherwise declines to exercise such jurisdiction, the exclusive jurisdiction of any federal or state court sitting in the State of Delaware) over all claims or causes of action (whether in contract or tort or otherwise) that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution, performance, interpretation, construction, validity or enforcement of this Agreement (including, without limitation, any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement) and each party hereby irrevocably agrees not to assert, any defense in any action for the interpretation or enforcement of this Agreement, that it is not subject thereto or that such action may not be brought or is not maintainable in such courts or that this Agreement may not be enforced in or by such courts or that their property is exempt or immune from execution, that the action is brought in an inconvenient forum, or that the venue of the action is improper.

e. Waiver of Jury Trial. EACH OF THE PARTIES HERETO HEREBY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY ACTION CONTEMPLATED IN SECTION 7(d). EACH PARTY HERETO (i) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (ii) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 7(e).

f. Assignment; No Third Party Beneficiaries. This Agreement shall be binding upon and inure to the benefit of the Company, each Assignee and each of their respective successors and permitted assigns. This Agreement shall not be assignable by either Assignee without the prior written consent of the Assignor. No person or entity not a party to this Agreement shall be deemed to be a third party beneficiary hereunder or entitled to any rights hereunder.

g. Counterparts. This Agreement may be executed in two or more counterparts (any of which may be delivered by facsimile or other electronic transmission), each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

h. Headings. The article and section headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the parties and shall not affect in any way the meaning or interpretation of this Agreement.

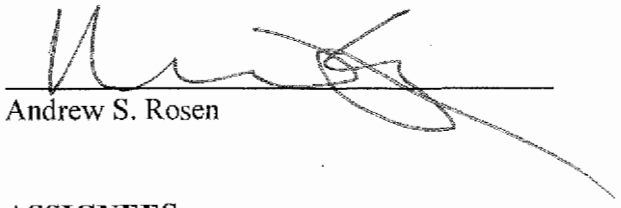
i. Severability. In case any provision in this Agreement shall be held invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect and the remaining provisions shall not in any way be affected or impaired thereby.

j. Waiver of Compliance. Any failure of the Company, the Assignor or the Assignees to comply with any obligation, covenant, agreement or condition contained herein may be waived in writing by the Assignor and the Assignees, respectively, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any other failure.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of February 28, 2013.

ASSIGNOR:



Andrew S. Rosen

ASSIGNEES:

_____

Robert W. Sperry

_____

Sarah A. Bradley

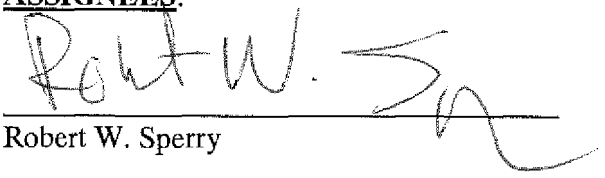
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of February 28, 2013.

ASSIGNOR:

_____

Andrew S. Rosen

ASSIGNEES:



Robert W. Sperry

_____

Sarah A. Bradley

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of February 28, 2013.

ASSIGNOR:

_____

Andrew S. Rosen

ASSIGNEES:

_____

Robert W. Sperry

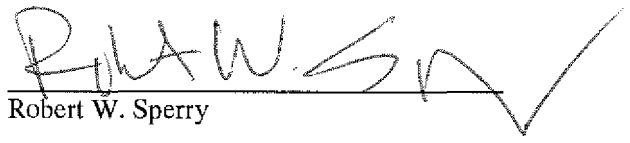
Sarah Bradley

_____

Sarah A. Bradley

COUNTERPART SIGNATURE PAGE
TO THE
LIMITED LIABILITY COMPANY AGREEMENT
OF
KAINOS CAPITAL, LLC

This signature page constitutes the signature page to the Limited Liability Company Agreement of Kainos Capital, LLC (the "Company") to which the undersigned shall be admitted as a member. Upon acceptance below by the Member (for itself and the Company), the undersigned shall be admitted as a member of the Company and hereby authorizes this signature page to be attached to a counterpart of such Limited Liability Company Agreement executed by the Member.



Robert W. Sperry

Accepted By:

MEMBER

Andrew S. Rosen

Date: February 28, 2013

COUNTERPART SIGNATURE PAGE
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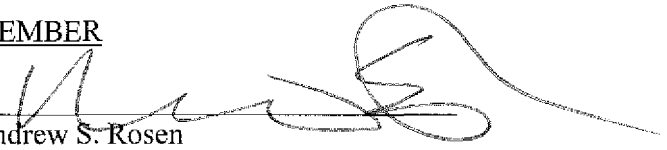
_____
Robert W. Sperry

Accepted By:

MEMBER



Andrew S. Rosen

Date: February 28, 2013

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Sarah A. Bradley

Accepted By:

MEMBER

Andrew S. Rosen

Date: February __, 2013

COUNTERPART SIGNATURE PAGE
TO THE
LIMITED LIABILITY COMPANY AGREEMENT
OF
KAINOS CAPITAL, LLC

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_____
Sarah A. Bradley

Accepted By:

MEMBER

Andrew S. Rosen

Date: February __, 2013

EXHIBIT B

KAINOS CAPITAL LLC

(A Delaware Limited Liability Company)

LIMITED LIABILITY COMPANY AGREEMENT

Dated as of May 24, 2011

LIMITED LIABILITY COMPANY AGREEMENT
OF
KAINOS CAPITAL LLC

LIMITED LIABILITY COMPANY AGREEMENT (this "Agreement") of Kainos Capital LLC (the "Company"), dated as of May 24, 2011, by Andrew S. Rosen, as the sole member of the Company (the "Member").

W I T N E S S E T H :

WHEREAS, the Member desires to enter into this Limited Liability Company Agreement to set forth the Member's rights and obligations and other matters with respect to the Company.

NOW, THEREFORE, in consideration of the promises and the covenants and provisions hereinafter contained, the Member hereby adopts the following:

ARTICLE I
ORGANIZATIONAL AND OTHER MATTERS

Section 1.1 Organization; Admission. The Company was organized as a limited liability company pursuant to Section 18-201 of the Delaware Limited Liability Company Act (the "DLLCA") by filing the Certificate of Formation (the "Certificate") with the Secretary of State of the State of Delaware on May 24, 2011. The sole member of the company is Andrew S. Rosen.

Section 1.2 Name. The name of the Company is Kainos Capital LLC, and the business of the Company is conducted under such name. The Member may, in its sole discretion, change the name of the Company from time to time. In any such event, the Member shall promptly file or caused to be filed in the office of the Secretary of State of Delaware an amendment to the Certificate reflecting such change of name.

Section 1.3 Limited Liability. Except as otherwise provided by the DLLCA, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be the debts, obligations and liabilities solely of the Company, and the Member shall not be obligated personally for any of such debts, obligations or liabilities solely by reason of being a member.

Section 1.4 Registered Office and Agent. The address of the Company's registered office (required by 18-104 of the DLLCA to be maintained in the State of Delaware) shall be Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801 and the name of the Company's registered agent at such address is The Corporation Trust Company. The Company's principal place of business shall be 200 Crescent Court, Suite 1600, Dallas, Texas 75201. The Member may change such registered office, registered agent, or principal place of business from time to time. The Company may from time to time have such other place or places of business within or without the State of Delaware as may be determined by the Member.

Section 1.5 Fiscal Year. The fiscal year of the Company shall end on December 31 of each calendar year unless, for United States federal income tax purposes, another fiscal year is

required. The Company shall have the same fiscal year for United States federal income tax purposes and for accounting purposes.

Section 1.6 No State-Law Partnership. The Company shall not be a partnership or a joint venture for any reason other than for United States federal income and state tax purposes, and no provision of this Agreement shall be construed otherwise.

ARTICLE II
PURPOSE AND POWERS

Section 2.1 Purpose of the Company. The purpose of the Company shall be to engage or participate in any lawful business activities in which a limited liability company formed in the State of Delaware may engage or participate.

Section 2.2 Powers of the Company. The Company shall have the power to do any and all acts reasonably necessary, appropriate, proper, advisable, incidental or convenient to or for the furtherance of the purpose and business described herein and for the protection and benefit of the Company.

ARTICLE III
CONTRIBUTIONS

Any investment in the Company will be made 100% by the Member. Notwithstanding anything in this Agreement to the contrary, no capital called by the Company (or by the Member) shall be deemed an asset of or contribution to the Company unless and until such capital is released from custodial or escrow accounts by the Member and is (i) invested by and for the account of the Company in stock or other securities that the Member designates as Company portfolio assets or (ii) used for Company expenses or other purposes that the Member expressly authorizes.

ARTICLE IV
DISTRIBUTIONS

The Member shall decide whether and in what amounts the proceeds received by the Company shall be distributed to the Member. All such proceeds distributed to the Member, if any, shall be distributed in proportion to the Member's funding contribution as provided above.

ARTICLE V
MANAGEMENT OF THE COMPANY

Section 5.1 Member-Managed. The management of the business and affairs of the Company shall be reserved to the Member, which shall have the power to do any and all acts necessary or convenient for the furtherance of the purpose of the Company described in this Agreement, including all powers, statutory or otherwise, possessed by members of a limited liability company under the DLLCA.

Section 5.2 Officers.

(a) Authority to Appoint. The Member may appoint, and remove with or without cause, such officers of the Company as the Member from time to time may determine, in its sole and absolute discretion to manage and control the business and affairs of the Company. Such officers need not be members, and shall have such duties, powers, responsibilities and authority as from time to time may be authorized by the Member.

(b) Term. Subject to any express term of any written agreement between the Company and any officer approved by the Member in writing, any officer so appointed by the Member shall serve in the capacity so appointed until (i) removed with or without cause by the Member, (ii) such officer's successor shall be duly elected and appointed by the Member or (iii) such officer's death, disability or resignation.

(c) Titles. To the extent appointed by the Member, the officers of the Company may be a Chief Executive Officer, a President, a Secretary, one or more Vice Presidents (any one or more of whom may be designated Executive Vice President or Senior Vice President), a Treasurer and such other officers as the Member may from time to time elect or appoint. Any number of offices may be held by the same person.

(d) Salaries. Subject to any express terms of any written agreement between the Company and any officer approved by the Member in writing, the salaries or other compensation of the officers and agents of the Company shall be fixed from time to time by the Member.

(e) Vacancies. Any vacancy occurring in any office of the Company may be filled by the Member.

(f) Powers and Duties of the Chief Executive Officer. The President shall be the chief executive officer of the Company unless the Member designates otherwise. Subject to the control of the Member, the chief executive officer shall have general executive charge, management and control of the properties, business and operations of the Company with all such powers as may be reasonably incident to such responsibilities; he may agree upon and execute all leases, contracts, evidences of indebtedness and other obligations in the name of the Company and may sign all certificates for membership interests of the Company; and shall have such other powers and duties as from time to time may be designated in this Agreement or assigned to him by the Member.

(g) Powers and Duties of the President. Unless the Member otherwise determines, the President shall have the authority to agree upon and execute all leases, contracts, evidences of indebtedness and other obligations in the name of the Company; and, he shall have such other powers and duties as from time to time may be designated in this Agreement or assigned to him by the Member.

(h) Powers and Duties of the Vice Presidents. In the absence of the President, or in the event of his inability or refusal to act, a Vice President designated by the Member shall perform the duties of the President, and when so acting shall have all the powers of and be subject to all the restrictions upon the President. In the absence of a designation by the Member

of a Vice President to perform the duties of the President, or in the event of his absence or inability or refusal to act, the Vice President who is present and who is senior in terms of time as a Vice President of the Company shall so act. The Vice Presidents shall have such other powers and duties as from time to time may be designated in this Agreement or assigned to him by the Member.

(i) Powers and Duties of the Chief Financial Officer. The Chief Financial Officer, if any, shall have responsibility for the general executive charge, management and control of the financial affairs and business of the Company and, jointly with the Treasurer (if one shall be appointed), shall have custody and control of all the funds and securities of the Company, and he shall have such other powers and duties as from time to time may be designated in this Agreement or assigned to him by the Member. He shall perform all acts incident to the position of Chief Financial Officer, subject to the control of the chief executive officer and the Member; and he shall, if required by the Member, give such bond for the faithful discharge of his duties in such form as the Member may require.

(j) Powers and Duties of the Chief Operating Officer. The Chief Operating Officer, if any, shall have responsibility for the operations of the Company, and he shall have such other powers and duties as from time to time may be designated in this Agreement or assigned to him by the Member. He shall perform all acts incident to the position of Chief Operating Officer, subject to the control of the chief executive officer and the Member; and he shall, if required by the Member, give such bond for the faithful discharge of his duties in such form as the Member may require.

(k) Powers and Duties of the Treasurer. The Treasurer, if any, jointly with the chief financial officer (if one shall be appointed), shall have responsibility for the custody and control of all the funds and securities of the Company, and he shall have such other powers and duties as from time to time may be designated in this Agreement or assigned to him by the Member. He shall perform all acts incident to the position of Treasurer, subject to the control of the chief executive officer and the Member; and he shall, if required by the Member, give such bond for the faithful discharge of his duties in such form as the Member may require.

(l) Powers and Duties of the Assistant Treasurers. Each Assistant Treasurer, if any, shall have the usual powers and duties pertaining to his office, together with such other powers and duties as from time to time may be designated in this Agreement or assigned to him by the chief executive officer or the Member. The Assistant Treasurers shall exercise the powers of the Treasurer during that officer's absence or inability or refusal to act.

(m) Powers and Duties of the Secretary. The Secretary shall keep the minutes of all actions or consents by the Member, in books provided for that purpose; he shall attend to the giving and serving of all notices; he may in the name of the Company affix the seal of the Company (if any) to all contracts of the Company and attest the affixation of the seal of the Company thereto; he may sign with the other appointed officers all certificates for membership interests of the Company; he shall have charge of the certificate books, transfer books and stock ledgers, and such other books and papers as the Member may direct, all of which shall at all reasonable times be open to inspection of any Member upon application at the office of the Company during business hours; he shall have such other powers and duties as designated in this

Agreement and as from time to time may be designated in this Agreement or assigned to him by the Member; and he shall in general perform all acts incident to the office of Secretary, subject to the control of the chief executive officer and the Member.

(n) Powers and Duties of the Assistant Secretaries. Each Assistant Secretary, if any, shall have the usual powers and duties pertaining to his office, together with such other powers and duties as from time to time may be designated in this Agreement or assigned to him by the chief executive officer or the Member. The Assistant Secretaries shall exercise the powers of the Secretary during that officer's absence or inability or refusal to act.

Section 5.3 Action with Respect to Securities of Other Entities. Unless otherwise directed by the Member, the chief executive officer, the President and each Vice President shall have power to vote and otherwise act on behalf of the Company, in person or by proxy, at any meeting of holders of voting securities or interests held by the Company of or with respect to any action of holders of voting securities or interests of any other corporation or other entity in which the Company may hold securities and otherwise to exercise any and all rights and powers which this Company may possess by reason of its ownership of voting securities or interest in such other corporation or other entity.

(a) Other Activities. Neither this Agreement nor any principle of law or equity shall preclude or limit, in any respect, the right of the Member to engage in or derive profit or compensation from any other activities or investments.

ARTICLE VI
INDEMNIFICATION

Section 6.1 The Company shall indemnify any person who was, is, or is threatened to be made a party to a Proceeding (as hereinafter defined) by reason of the fact that he or she (i) is or was a member or officer of the Company or an officer, director, stockholder, manager, member, or partner of the Member (each an "Indemnified Person") or, (ii) while an Indemnified Person, is or was serving at the request of the Company as a manager, director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan, or other enterprise (a "Subject Enterprise"), to the fullest extent permitted under the DLLCA, as the same now exists or may hereafter be amended. Such right shall be a contract right and as such shall run to the benefit of any Indemnified Person while this Article VI is in effect. Any repeal or amendment of this Article VI shall be prospective only and shall not limit the rights of any such Indemnified Person, or the obligations of the Company with respect to any claim arising from or related to the services of such Indemnified Person in any of the foregoing capacities prior to any such repeal or amendment to this Article VI. Such right shall include the right to be reimbursed by the Company for expenses incurred in investigating or defending any such proceeding in advance of its final disposition to the maximum extent permitted under the DLLCA, as the same now exists or may hereafter be amended. If a claim for indemnification or advancement of expenses hereunder is not paid in full by the Company within sixty (60) days after a written claim has been received by the Company, the claimant may at any time thereafter bring suit against the Company to recover the unpaid amount of the claim, and if successful in whole or in part, the claimant shall also be entitled to be paid the expenses of

prosecuting such claim. It shall be a defense to any such action that such indemnification or advancement of costs of defense is not permitted under the DLLCA, but the burden of proving such defense shall be on the Company. Neither the failure of the Company (including its members, independent legal counsel or officers) to have made its determination prior to the commencement of such action that indemnification of, or advancement of costs of defense to, the claimant is permissible in the circumstances nor an actual determination by the Company (including its members, independent legal counsel or officers) that such indemnification or advancement is not permissible shall be a defense to the action or create a presumption that such indemnification or advancement is not permissible. In the event of the death of any person having a right of indemnification under the foregoing provisions, such right shall inure to the benefit of his or her heirs, executors, administrators, and personal representatives. The rights conferred above shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, resolution of the Member or officers, agreement, or otherwise.

Section 6.2 The Company may additionally indemnify any employee or agent of the Company to the fullest extent permitted by law.

Section 6.3 As used herein, the term "Proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, arbitrative, or investigative, any appeal in such an action, suit, or proceeding, and any inquiry or investigation that could lead to such an action, suit, or proceeding.

Section 6.4 In the event the Company shall be obligated to indemnify any Indemnified Person pursuant to clause (ii) of the first sentence of Section 6.1, the Company shall be subrogated to all rights of such Indemnified Person against, or otherwise to receive indemnification from, each Subject Enterprise with respect to or on account of the Proceeding giving rise to the Company's obligation to indemnify such Indemnified Person pursuant to clause (ii) of the first sentence of Section 6.1, including without limitation any and all rights of such Indemnified Person to indemnification from such Subject Enterprise under the articles or certificate of incorporation, bylaws, regulations, limited liability company agreement, partnership agreement or other organizational documents of such Subject Enterprise or any agreement between such Indemnified Person and such Subject Enterprise.

ARTICLE VII
ASSIGNMENT OF MEMBERSHIP INTERESTS

The Member may assign all or any portion of such Member's interest in the Company at any time. Upon any such assignment, the assignee shall succeed to the rights and obligations of the Member in respect of its interests in the Company so transferred and (i) upon the assignment of 100% of the outstanding interest in the Company held by a single member to one or more assignees, each such assignee shall become a member of the Company; (ii) upon any other assignment of an interest in the Company, such assignee shall become a member in the Company upon the consent of all members other than the assigning member or, if the assigning member shall be the sole member immediately prior to such assignment, upon the consent of such assigning member. Notwithstanding anything to the contrary contained herein, no such transfer of a member's interest in the Company shall operate to dissolve the Company.

ARTICLE VIII
RESIGNATION

No member may resign from the Company except (i) with the prior written consent of all other members or (ii) upon an assignment by a member of its interest in the Company pursuant to clause (i) of the second sentence of Article VII, in which case such member may resign at any time upon or after the effectiveness of such assignment.

ARTICLE IX
DISSOLUTION AND LIQUIDATION

Section 9.1 Dissolution. The Company shall be dissolved upon the occurrence of any dissolution event specified in the DLLCA; provided, that notwithstanding the foregoing, the Company shall not dissolve upon the occurrence of any of the events described in Section 18-801(a)(4) of the DLLCA (including, without limitation, the death or bankruptcy of the Member).

Section 9.2 Effect of Dissolution. Upon dissolution, the Company shall cease carrying on its business but shall not terminate until the winding up of the affairs of the Company is completed, the assets of the Company shall have been distributed as provided below and a Certificate of Cancellation of the Company under the DLLCA have been filed in the office of the Secretary of State of the State of Delaware.

Section 9.3 Liquidation Upon Dissolution. Upon the dissolution of the Company, sole and plenary authority to effectuate the liquidation of the assets of the Company shall be vested in the Member, which shall have full power and authority to sell, assign and encumber any and all of the Company's assets and to wind up and liquidate the affairs of the Company in an orderly and business-like manner. The proceeds of liquidation of the assets of the Company distributable upon a dissolution and winding up of the Company shall be applied in the following order of priority:

(a) first, to the creditors of the Company, including creditors who are members, in the order of priority provided by law, in satisfaction of all liabilities and obligations of the Company (of any nature whatsoever, including, without limitation, fixed or contingent, matured or unmatured, legal or equitable, secured or unsecured), whether by payment or the making of reasonable provision for payment thereof; and

(b) thereafter, to the Member.

Section 9.4 Winding Up and Certificate of Cancellation. The winding up of the Company shall be completed when all of its debts, liabilities, and obligations have been paid and discharged or reasonably adequate provision therefor has been made, and all of the remaining property and assets of the Company have been distributed to the Member. Upon the completion of the winding up of the Company, a Certificate of Cancellation of the Company shall be filed in the office of the Secretary of State of the State of Delaware.

ARTICLE X
AMENDMENT

This Agreement may be amended or modified only by a written instrument executed by the members holding a majority of the outstanding interest in the Company. In addition, the terms or conditions hereof may be waived by a written instrument executed by the party waiving compliance.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the undersigned has entered into this Agreement as of the date first written above.

Andrew S. Rosen

EXHIBIT C

From: Dave Knickel <dknickel@kainoscapital.com>
Sent: Thursday, April 21, 2016 6:27 PM
To: Sarah Bradley
Cc: Kerry Welch; Lindy Ostrander
Subject: Signatures Required for Closing
Attachments: 2968_001.pdf; 2978_001.pdf

Sarah –

I have attached two documents for your signature. One is a Rule 506(d) certification that WGM has requested be completed by Andrew, Jerry, you and me. The second is a consent for the conversion of Kainos Capital from an LLC to an LP to take advantage of an exemption from self-employment tax for distributed shares of income.

Please let me know if you have any questions.

Thanks.

Dave

Dave Knickel

KAINOS
KAINOS CAPITAL, LLC

Chief Financial Officer
Kainos Capital, LLC
2100 McKinney Avenue, Suite 1600
Dallas, TX 75201
p: 214.740.7331
dknickel@kainoscapital.com

WRITTEN CONSENT OF THE MEMBERS OF

KAINOS CAPITAL, LLC

April [ ], 2016

The undersigned, as the members of Kainos Capital, LLC, a Delaware limited liability company (the "Company"), hereby adopt the following resolutions:

WHEREAS, the Members deem it advisable to cause the conversion of the Company (the "Conversion") to a Delaware limited partnership to be named "Kainos Capital LP" (the "Partnership"); and

WHEREAS, in connection with the Conversion, the Members desire that Kainos Capital, LLC be admitted to the Partnership as the sole general partner of the Partnership.

NOW, THEREFORE, BE IT RESOLVED, that the Members hereby approve of the Conversion pursuant to Section 18-216 of the Delaware Limited Liability Company Act (6 Del. C. § 18-101, et seq.) and Section 17-217 of the Delaware Revised Uniform Limited Partnership Act (6 Del. C. § 17-101, et seq.).

RESOLVED, FURTHER, that the Members hereby approve of the Agreement of Limited Partnership of the Partnership in the form attached hereto as Exhibit A, pursuant to which Kainos Capital, LLC shall be admitted to the Partnership as the sole general partner of the Partnership.

RESOLVED, FURTHER, that Kainos Capital, LLC in its capacity as the general partner of the Partnership, shall execute and file with the Secretary of State of the State of Delaware a Certificate of Conversion to Limited Partnership of the Company to the Partnership in the form attached hereto as Exhibit B and a Certificate of Limited Partnership of the Partnership in the form attached hereto as Exhibit C, each to be effective upon filing.

RESOLVED, FURTHER, that the Company, and any Member or any officer of the Company, on behalf of the Company, acting individually or jointly, are hereby authorized to take all actions necessary, incidental or convenient to accomplishing the foregoing resolutions.

RESOLVED, FURTHER, that any and all actions heretofore taken by the Members and the officers of the Company with respect to the matters described in these resolutions be, and hereby are, approved, ratified and confirmed in all respects.

* * * * * *

IN WITNESS WHEREOF, the members of the Company have executed this Written Consent as of the date first written above.

Andrew S. Rosen

Robert W. Sperry

Sarah A. Bradley

IN WITNESS WHEREOF, the members of the Company have executed this Written Consent as of the date first written above.

Andrew S. Rosen

Robert W. Sperry

Sarah A. Bradley

EXHIBIT A

[Agreement of Limited Partnership of the Partnership]

EXHIBIT B

[Certificate of Conversion to Limited Partnership]

EXHIBIT C

[Certificate of Limited Partnership of the Partnership]

Kainos Capital Partners II LP (the "Partnership")

Rule 506(d) Certification

Executive Officers, Principals or Officers of Kainos Capital, LLC

As determined by KCP II GP LP (the "General Partner"), you, as an Executive Officer, Principal or Officer of Kainos Capital, LLC, the general partner of the investment manager of the Partnership, that is participating in the offering of the Partnership, must complete this Rule 506(d) Certification. The information required below is necessary for the General Partner to determine if the Partnership can rely on the private placement provisions of Rule 506 of Regulation D under the U.S. Securities Act of 1933, as amended (the "Securities Act"). For additional information, please contact the General Partner.

Please answer all questions listed below:

1. Have you been convicted by any U.S. court of competent jurisdiction, within the past ten years, of any felony or misdemeanor:

	Yes	No
a. in connection with the purchase or sale of any security;	☐	☐
b. involving the making of any false filing with the U.S. Securities and Exchange Commission (the "SEC"); or	☐	☐
c. arising out of the conduct of the business of an underwriter, broker, dealer, municipal securities dealer, investment adviser or paid solicitor of purchasers of securities?	☐	☐

2. Are you subject to any order, judgment or decree of any U.S. court of competent jurisdiction, entered within the past five years, that restrains or enjoins you from engaging or continuing to engage in any conduct or practice:

	Yes	No
a. in connection with the purchase or sale of any security;	☐	☐
b. involving the making of any false filing with the SEC; or	☐	☐
c. arising out of the conduct of the business of an underwriter, broker, dealer, municipal securities dealer, investment adviser or paid solicitor of purchasers of securities?	☐	☐

3. Are you subject to a final order[1] of (a) a U.S. state securities commission (or an agency or officer of a U.S. state performing like functions), (b) a U.S. state authority that supervises or examines banks, savings associations, or credit unions, (c) a U.S. state insurance commission (or an agency or officer of a state performing like functions), (d) an appropriate U.S. federal banking agency, (e) the U.S. Commodity Futures Trading Commission or (f) the National Credit Union Administration that:

   a. bars you from:

	Yes	No
i. association with an entity regulated by such commission, authority, agency, or officer;	☐	☐
ii. engaging in the business of securities, insurance or banking; or	☐	☐
iii. engaging in savings association or credit union activities; or	☐	☐
b. constitutes a final order based on a violation of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct entered during the past ten years?	☐	☐

4. Are you subject to an SEC order entered pursuant to Section 15(b) or Section 15B(c) of the U.S. Securities Exchange Act of 1934 (the "Exchange Act") or Section 203(e) or (f) of the U.S. Investment Advisers Act of 1940 (the "Advisers Act") that:

	Yes	No
a. suspends or revokes your registration as a broker, dealer, municipal securities dealer or investment adviser;	☐	☐
b. places limitations on your activities, functions or operations; or	☐	☐
c. bars you from being associated with any entity or from participating in the offering of any penny stock?	☐	☐

5. Are you subject to an SEC order entered within the past five years that orders you to cease and desist from committing or causing a violation or future violation of:

	Yes	No

[1] "Final order" is defined as a written directive or declaratory statement by one of the federal or state agencies referred to above that (a) is issued under applicable statutory authority that provides for notice and an opportunity for a hearing and (b) constitutes a final disposition or action by that agency.

a. any scienter-based anti-fraud provision of the U.S. federal securities laws, including, without limitation, Section 17(a)(1) of the Securities Act, Section 10(b) of the Exchange Act and/or Rule 10b-5 thereunder, Section 15(c)(1) of the Exchange Act and Section 206(1) of the Advisers Act, or any other rule or regulation thereunder; or ☐ ☐

b. Section 5 of the Securities Act? ☐ ☐

6. Have you been suspended or expelled from membership in, or suspended or barred from association with a member of, a registered U.S. national securities exchange or a registered U.S. national or affiliated securities association for any act or omission to act constituting conduct inconsistent with just and equitable principles of trade?

Yes	No
☐	☐

7. Have you filed (in each case, as a registrant or issuer), or have or have been named as an underwriter in, any registration statement or Regulation A offering statement filed with the SEC that, within the past five years, was the subject of a refusal order, stop order, or order suspending the Regulation A exemption, or is currently the subject of an investigation or proceeding to determine whether a stop order or suspension order should be issued?

Yes	No
☐	☐

8. Are you subject to a United States Postal Service false representation order entered within the past five years, or are you currently subject to a temporary restraining order or preliminary injunction with respect to conduct alleged by the United States Postal Service to constitute a scheme or device for obtaining money or property through the mail by means of false representations?

Yes	No
☐	☐

Any of the events described in 1 through 8 above are hereinafter referred to as a "Disqualifying Event."

9. **If you have answered "yes" to any of the questions above, please include a detailed description of the Disqualifying Event.** Please include a description of any actions taken by any non-U.S. based courts and regulators with respect to any Disqualifying Event.

_____

10. If you have answered "yes" to any of questions 1 through 9 above, did the Disqualifying Event occur on or after September 23, 2013?

Yes	No
☐	☐

SIGNATURE PAGE TO RULE 506(d) CERTIFICATION

You hereby represent that the information contained herein is complete and accurate and may be relied upon by the Partnership and the General Partner. You further undertake to notify the General Partner immediately if any of the answers contained herein become inaccurate in any respect.

IN WITNESS WHEREOF, you have executed this Rule 506(d) Certification this 21st day of April, 2016.

Sarah A. Bradley
Name (print or type)

By: _____
(Signature)

EXHIBIT D

WRITTEN CONSENT OF THE MEMBERS OF

KAINOS CAPITAL, LLC

April [ ], 2016

The undersigned, as the members of Kainos Capital, LLC, a Delaware limited liability company (the "Company"), hereby adopt the following resolutions:

WHEREAS, the Members deem it advisable to cause the conversion of the Company (the "Conversion") to a Delaware limited partnership to be named "Kainos Capital LP" (the "Partnership"); and

WHEREAS, in connection with the Conversion, the Members desire that Kainos Capital, LLC be admitted to the Partnership as the sole general partner of the Partnership.

NOW, THEREFORE, BE IT RESOLVED, that the Members hereby approve of the Conversion pursuant to Section 18-216 of the Delaware Limited Liability Company Act (6 Del. C. § 18-101, et seq.) and Section 17-217 of the Delaware Revised Uniform Limited Partnership Act (6 Del. C. § 17-101, et seq.).

RESOLVED, FURTHER, that the Members hereby approve of the Agreement of Limited Partnership of the Partnership in the form attached hereto as Exhibit A, pursuant to which Kainos Capital, LLC shall be admitted to the Partnership as the sole general partner of the Partnership.

RESOLVED, FURTHER, that Kainos Capital, LLC in its capacity as the general partner of the Partnership, shall execute and file with the Secretary of State of the State of Delaware a Certificate of Conversion to Limited Partnership of the Company to the Partnership in the form attached hereto as Exhibit B and a Certificate of Limited Partnership of the Partnership in the form attached hereto as Exhibit C, each to be effective upon filing.

RESOLVED, FURTHER, that the Company, and any Member or any officer of the Company, on behalf of the Company, acting individually or jointly, are hereby authorized to take all actions necessary, incidental or convenient to accomplishing the foregoing resolutions.

RESOLVED, FURTHER, that any and all actions heretofore taken by the Members and the officers of the Company with respect to the matters described in these resolutions be, and hereby are, approved, ratified and confirmed in all respects.

* * * * * *

IN WITNESS WHEREOF, the members of the Company have executed this Written Consent as of the date first written above.

Andrew S. Rosen

Robert W. Sperry

Sarah A. Bradley

IN WITNESS WHEREOF, the members of the Company have executed this Written Consent as of the date first written above.

Andrew S. Rosen

Robert W. Sperry

Sarah A. Bradley

EXHIBIT A

[Agreement of Limited Partnership of the Partnership]

EXHIBIT B

[Certificate of Conversion to Limited Partnership]

EXHIBIT C

[Certificate of Limited Partnership of the Partnership]

EXHIBIT E

LIMITED PARTNERSHIP AGREEMENT

OF

KAINOS CAPITAL LP

This Limited Partnership Agreement (this "Agreement") of Kainos Capital LP is entered into this 21 day of April, 2016 by Kainos Capital, LLC, as general partner (the "General Partner"), and David W. Knickel, as limited partner (the "Limited Partner" and, collectively with the General Partner, the "Partners") pursuant to and in accordance with the Delaware Revised Uniform Limited Partnership Act (6 Del.C. § 17-101, et seq.), as amended from time to time (the "Act").

1. Name. The name of the limited partnership governed hereby is Kainos Capital LP (the "Partnership").

2. Certificate of Limited Partnership. The General Partner has filed a Certificate of Limited Partnership for the Partnership with the Secretary of State of the State of Delaware, and the Partners shall take such further actions as shall be appropriate to comply with all requirements of law for the formation and operation of a limited partnership in the State of Delaware, and all other counties and states where the Partnership may elect to do business.

3. Purpose. The Partnership is formed for the object and purpose of, and the nature of the business to be conducted and promoted by the Partnership is, engaging in all lawful activities for which limited partnerships may be formed under the Act.

4. Powers. The Partnership shall have the power to do any and all acts reasonably necessary, appropriate, proper, advisable, incidental or convenient to or for the furtherance of the purpose and business described herein and for the protection and benefit of the Partnership and shall have, without limitation, any and all of the powers that may be exercised on behalf of the Partnership by the General Partner pursuant to this Agreement, including Section 16.

5. Principal Business Office. The principal place of business and office of the Partnership shall be located at, and the Partnership's business shall be conducted from, such place or places as may hereafter be determined by the General Partner.

6. Registered Office. The address of the registered office of the Partnership in the State of Delaware is c/o Corporation Trust Center, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801.

7. Registered Agent. The name and address of the registered agent of the Partnership for service of process on the Partnership in the State of Delaware are

Corporation Trust Company, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801.

8. Mailing Addressees of the Partners. The names and the business, residence or mailing addresses of the General Partner and the Limited Partner are as follows:

General Partner:

Kainos Capital, LLC	c/o Kainos 2100 McKinney Avenue Suite 1600 Dallas TX, 75201

Limited Partner:

David W. Knickel	c/o Kainos Capital LLC 2100 McKinney Avenue Suite 1600 Dallas TX, 75201

9. Term. The term of the Partnership commenced on the date of filing of the Certificate of Limited Partnership of the Partnership in accordance with the Act and shall continue until dissolution of the Partnership in accordance with Section 22 of this Agreement.

10. Limitation on Liabilities of Limited Partners. Notwithstanding any provision of this Agreement, the Limited Partners shall not be liable for any of the losses, debts or liabilities of the Partnership in excess of their respective capital contributions, except as required by the Act.

11. Capital Contributions. Each Partner is deemed admitted as a partner of the Partnership upon his or its execution and delivery of this Agreement. The initial contributions of the Partners consist of the assets set forth on Schedule A attached hereto. The total capital of a Partner in the Partnership from time to time shall be referred to as such Partner's "Capital."

12. Additional Contributions. The Partners are not required to make additional capital contributions to the Partnership.

13. Capital Accounts. Separate capital accounts ("Capital Accounts") shall be maintained for each Partner on the books of the Partnership, which Capital Accounts shall set forth the Capital of such Partner in the Partnership. Each Capital Account shall be adjusted to reflect such Partner's shares of allocations and distributions as provided in Section 15 of this Agreement, and any additional Capital contributions to the Partnership or withdrawals of Capital from the Partnership. Such Capital Accounts shall further be adjusted to conform to the Treasury Regulations under Section 704(b) of

the Internal Revenue Code of 1986, as amended (the "Code"), as interpreted in good faith by the General Partner.

14. Profits and Losses. The Profits or Losses incurred by the Partnership for each taxable year shall be determined on an annual basis. For each taxable year in which the Partnership realizes Profits or Losses, such Profits or Losses, respectively, shall be allocated to each Partner in accordance with the ratio which such Partner's Capital in the Partnership bears to the total Capital of all Partners in the Partnership at the time of such allocation. As used herein, "Profits" and "Losses" mean, for each fiscal year or other period, an amount equal to the Partnership's taxable income or loss for such year or period, determined in accordance with Section 703(a) of the Code (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Section 703(a)(1) of the Code shall be included in taxable income or loss), with the following adjustments:

(i) Any income of the Partnership that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses shall be added to such taxable income or loss; or

(ii) Any expenditures of the Partnership described in Section 705(a)(2)(B) of the Code or treated as Section 705(a)(2)(B) of the Code expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits or Losses shall be subtracted from such taxable income or loss.

15. Allocations and Distributions.

a. Allocations of Profit and Loss. Whenever a proportionate part of the Partnership's Profit and Loss is allocated to a Partner, every item of income, gain, loss, deduction and credit entering into the computation of such Profit or Loss applicable to the period during which such Profit or Loss was realized, shall be allocated to such Partner in the same proportion.

b. Distributions. Distributions shall be made to the Partners at such times and in such amounts as may be determined in the sole discretion of the General Partner. Distributions shall be shared among the Partners in accordance with their capital contributions. Notwithstanding any provision to the contrary contained in this Agreement, the Partnership shall not make a distribution to the Partners on account of their interest in the Partnership if such distribution would violate Section 17-607 of the Act or other applicable law.

16. Management.

a. The business and affairs of the Partnership shall be managed by the General Partner. Subject to the express limitations contained in any provision of this Agreement, the General Partner shall have complete and absolute control of the affairs

and business of the Partnership, and shall possess all powers necessary, convenient or appropriate to carrying out the purposes and business of the Partnership, including, without limitation, doing all things and taking all actions necessary to carrying out the terms and provisions of this Agreement. Notwithstanding any other provision of this Agreement, the General Partner is authorized to execute and deliver any document on behalf of the Partnership without any vote or consent of any other Partner.

b. Subject to the rights and powers of the General Partner and the limitations thereon contained herein, the General Partner may delegate to any person any or all of its powers, rights and obligations under this Agreement and may appoint, contract or otherwise deal with any person to perform any acts or services for the Partnership as the General Partner may reasonably determine.

c. No Partner (other than the General Partner) shall participate in the management or control of the business of, or shall have any rights or powers with respect to, the Partnership except those expressly granted to it by the terms of this Agreement, or those conferred on it by law.

d. The General Partner shall not be compensated for its services as the general partner of the Partnership without the consent of a majority of the Partners.

17. Officers. The General Partner may, from time to time as it deems advisable, appoint officers of the Partnership (the "Officers") and assign in writing titles (including, without limitation, President, Vice President, Secretary and Treasurer) to any such person. Unless the General Partner decides otherwise, if the title is one commonly used for officers of a business corporation formed under the Delaware General Corporation Law, the assignment of such title shall constitute the delegation to such person of the authorities and duties that are normally associated with that office. Any delegation pursuant to this Section 17 may be revoked at any time by the General Partner.

18. Other Business. The Partners may engage in or possess an interest in other business ventures (unconnected with the Partnership) of every kind and description, independently or with others. The Partnership shall not have any rights in or to such independent ventures or the income or profits therefrom by virtue of this Agreement.

19. Liability of General Partner.

a. The General Partner shall not be liable, responsible or accountable in damages to the Limited Partners or the Partnership for (x) any act or omission on behalf of the Partnership performed or omitted to be taken by it in good faith and in a manner reasonably believed by it to be within the scope of the authority granted to it by this Agreement and in, or not opposed to, the best interests of the Partnership, provided that the General Partner is not guilty of gross negligence or willful misconduct, (y) any action or omission taken or suffered by any other Partner or (z) any mistake, negligence, dishonesty or bad faith of any broker or other agent of the Partnership selected by the

General Partner with reasonable care. To the extent that, at law or in equity, the General Partner has duties (including fiduciary duties) and liabilities relating thereto to the Partnership or to another Partner, the General Partner acting under this Agreement shall not be liable to the Partnership or such other Partner for its good faith reliance on the provisions of this Agreement. The provisions of this Agreement, to the extent that they expand or restrict or eliminate the duties and liabilities of the General Partner otherwise existing at law or in equity, are agreed by the Partners to modify to that extent such other duties and liabilities of the General Partner. To the fullest extent permitted by law, the Partnership shall indemnify the General Partner against any loss, damage or expense (including amounts paid in satisfaction of judgments, in settlements, as fines and penalties and legal and other costs and expenses of investigation or defense) incurred by it by reason of any act or omission so performed or omitted by it (and not involving gross negligence or willful misconduct) and any such amount shall be paid by the Partnership to the extent assets are available, but the Limited Partners shall not have any personal liability to the General Partner or the Partnership on account of such loss, damage or expense.

b. The General Partner may consult with legal counsel, accountants and other professional experts selected by it and any act or omission suffered or taken by it on behalf of the Partnership or in furtherance of the interests of the Partnership in good faith in reliance upon and in accordance with the advice of such counsel, accountants or other professional experts shall be full justification for any such act or omission, and the General Partner shall be fully protected in so acting or omitting to act, provided such counsel, accountants or other professional experts were selected with reasonable care.

c. To the fullest extent permitted by law, expenses incurred by the General Partner in defense or settlement of any claim that may, at the determination of the General Partner, be subject to a right of indemnification hereunder may be paid by the Partnership in advance of the final disposition thereof upon receipt of an undertaking by or on behalf of the General Partner to repay such amount to the Partnership if it shall be determined, by a court of competent jurisdiction pursuant to a final non-appealable judgment, order or decree, that the General Partner is not entitled to be indemnified hereunder.

20. Admission of Additional Partners. One (1) or more additional persons may be admitted to the Partnership as Partners with the written consent of the General Partner.

21. Assignments. A Partner may not transfer, assign, pledge or hypothecate, in whole or in part, his or its partnership interest without the prior written consent of the General Partner.

22. Dissolution.

a. The Partnership shall dissolve, and its affairs shall be wound up upon the first to occur of the following: (i) the decision of the General Partner, (ii) the

termination, dissolution, bankruptcy or other event of withdrawal of the General Partner or at any time there are no limited partners, unless the business of the Partnership is continued in accordance with the Act and (iii) the entry of a decree of judicial dissolution under Section 17-802 of the Act.

b. In the event of dissolution, the Partnership shall conduct only such activities as are necessary to wind up its affairs (including the sale of the assets of the Partnership in an orderly manner) and the assets of the Partnership shall be applied in the manner, and in the order of priority, set forth in Section 17-804 of the Act.

23. Tax Matters Partner. The General Partner shall be the tax matters partner within the meaning of Section 6231(a)(7) of the Code. All expenses incurred by the tax matters partner in connection with its duties as tax matters partner shall be expenses of the Partnership.

24. Elections. The General Partner shall determine the accounting methods and conventions under the tax laws of any and all applicable jurisdictions as to the treatment of income, gain, loss, deduction and credit of the Partnership or any other method or procedure related to the preparation of such tax returns. The General Partner may cause the Partnership to make or refrain from making any and all elections permitted by such tax laws, and the General Partner shall not be liable for any consequences to any previously admitted or subsequently admitted Partners resulting from their making or failing to make any such elections.

25. Separability of Provisions. Each provision of this Agreement shall be considered separable and if for any reason any provision or provisions herein are determined to be invalid, unenforceable or illegal under any existing or future law, such invalidity, unenforceability or illegality shall not impair the operation of or affect those portions of this Agreement which are valid, enforceable and legal.

26. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original of this Agreement.

27. Entire Agreement. This Agreement constitutes the entire agreement of the Partners with respect to the subject matter hereof.

28. Governing Law. This Agreement shall be governed by, and construed under, the laws of the State of Delaware (without regard to conflict of laws principles thereof), and all rights and remedies shall be governed by such laws.

29. Amendments. This Agreement may not be modified, altered, supplemented or amended except pursuant to a written agreement executed and delivered by the Partners.

IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, have duly executed this Agreement as of the date first written above.

GENERAL PARTNER:

Kainos Capital, LLC

By: _____
Name: David W. Knickel
Title: Vice President

LIMITED PARTNER:

_____
David W. Knickel

Schedule A

Name	Capital Contribution
General Partner:	
Kainos Capital, LLC	$1
Limited Partner:	
David W. Knickel	$99

EXHIBIT F

CERTIFICATE OF CONVERSION TO LIMITED PARTNERSHIP
OF
KAINOS CAPITAL, LLC
TO
KAINOS CAPITAL LP

This Certificate of Conversion to Limited Partnership, dated as of April 21, 2016, is being duly executed and filed by Kainos Capital, LLC, as general partner, to convert Kainos Capital, LLC (the "Other Entity"), to Kainos Capital LP, a Delaware limited partnership (the "Limited Partnership"), under the Delaware Revised Uniform Limited Partnership Act (6 Del. C. § 17-101, et seq.).

1. The Other Entity was first formed on May 24, 2011. The jurisdiction of the Other Entity at the time it was first formed was Delaware.

2. The Other Entity's name immediately prior to the filing of this Certificate of Conversion to Limited Partnership was Kainos Capital, LLC.

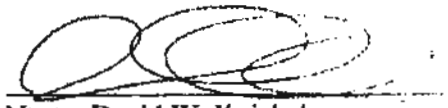
3. The name of the Limited Partnership as set forth in its certificate of limited partnership is Kainos Capital LP.

4. The conversion of the Other Entity to the Limited Partnership shall be effective upon the filing of this Certificate of Conversion to Limited Partnership and a certificate of limited partnership with the Secretary of State of the State of Delaware.

State of Delaware
Secretary of State
Division of Corporations
Delivered 12:17 PM 04 21 2016
FILED 12:17 PM 04 21 2016
SR 20162455594 - File Number 4987350

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Conversion to Limited Partnership as of the date first-above written.

Kainos Capital, LLC, as general partner

By: 

Name: David W. Knickel
Title: Authorized Signatory

EXHIBIT G

State of Delaware
Secretary of State
Division of Corporations
Delivered 12:20 PM 04 21 2016
FILED 12:20 PM 04 21 2016
SR 20162455603 - File Number 6022801

CERTIFICATE OF FORMATION

OF

KAINOS CAPITAL, LLC

This Certificate of Formation of Kainos Capital, LLC (the "LLC") is being duly executed and filed by David W. Knickel, as an authorized person, to form a limited liability company under the Delaware Limited Liability Company Act (6 Del.C. § 18-101, et seq.).

FIRST: The name of the limited liability company formed hereby is Kainos Capital, LLC

SECOND: The address of the registered office of the LLC in the State of Delaware is Corporation Trust Center, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801 and the name and address of the registered agent for service of process on the LLC in the State of Delaware are The Corporation Trust Company, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801.

THIRD: This Certificate of Formation shall be effective on the date of filing.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Formation this 21 day of April, 2016.

By: _____
Name: David W. Knickel
Title: Authorized Signatory

EXHIBIT H

AMENDED AND RESTATED
AGREEMENT OF LIMITED PARTNERSHIP
OF
KAINOS CAPITAL LP

This Amended and Restated Agreement of Limited Partnership ("Agreement") of Kainos Capital LP (f/k/a, Kainos Capital, LLC), a Delaware limited partnership (the "Partnership"), is entered into effective as of April 21, 2016 (the "Effective Date"), by and among Kainos Capital, LLC, a Delaware limited liability company, as the sole general partner ("General Partner") and the Persons listed on Schedule II as limited partners and any Additional Limited Partners and substituted Limited Partners from time to time admitted to the Partnership pursuant to the terms of this Agreement (the "Limited Partners"). The General Partner and the Limited Partners are herein collectively referred to as the "Partners."

WHEREAS, the Partnership was originally formed as a limited liability company under the Delaware Limited Liability Company Act (6 Del. C. § 18-101 et seq.), as amended from time to time, under the name Kainos Capital, LLC, pursuant to a Certificate of Formation dated as of May 24, 2011 and a Limited Liability Company Agreement also dated as of May 24, 2011 (the "Original Agreement");

WHEREAS, effective as of the date hereof, upon the filing of a Certificate of Conversion and the Certificate of Limited Partnership of the Partnership (collectively, the "Certificate") in the Office of the Secretary of the State of Delaware, Kainos Capital, LLC has been converted to a Delaware limited partnership as the Partnership;

WHEREAS, this Agreement provides for the governance of the affairs of, and the conduct of the business of, a limited partnership formed pursuant to the provisions of the Delaware Revised Uniform Limited Partnership Act, codified in the Delaware Code Annotated, Title 6, Section 17-101 et seq., as the same may he amended from time to time (the "Act"); and

WHEREAS, the parties hereto are entering into this Agreement for the purposes, among others, of (i) reflecting the conversion of Kainos Capital, LLC to a Delaware limited partnership, (ii) amending and restating the Original Agreement so as to reflect such conversion, (iii) admitting Daniel J. Hopkin, Nirav B. Shah and Kevin E. Elliott as Limited Partners; and (iv) amending certain other provisions of the Original Agreement.

NOW THEREFORE, in consideration of the mutual promises of the parties hereinafter set forth and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned parties agree as follows:

ARTICLE 1
Organization

1.1 Continuation. Pursuant to the Act, Andrew S. Rosen (the "Initial Member") formed Kainos Capital, LLC pursuant to a certificate of formation filed with the Secretary of State of the State of Delaware on May 24, 2011 and, on such date, entered into the Original Agreement to form a limited liability company in his capacity as the Initial Member. The Initial

Member, owning one hundred percent (100%) of the outstanding membership interests in Kainos Capital, LLC, assigned and transferred a portion of such interests to Robert W. Sperry and another portion of such interests to Sarah A. Bradley, upon which each of Robert W. Sperry and Sarah A. Bradley became members of Kainos Capital, LLC. Effective as of the date hereof, Kainos Capital, LLC has been converted from a Delaware limited liability company to a Delaware limited partnership upon the filing of the Certificate and, in connection with such conversion, the General Partner has been admitted as the general partner of the Partnership and all members of Kainos Capital, LLC have become Limited Partners. For the avoidance of doubt, and notwithstanding anything to contrary contained herein, any action taken by Kainos Capital, LLC or the members of Kainos Capital, LLC in accordance with the Original Agreement prior to the date hereof is hereby ratified. The rights and liabilities of the Partners shall be determined pursuant to the Act, except as expressly set forth herein. In the event of any inconsistency between any terms and conditions contained in this Agreement and any provisions of the Act, the compliance with which is not mandatory, the terms and conditions of this Agreement shall control.

1.2 Name. The name of the Partnership is "Kainos Capital LP". The business of the Partnership shall be conducted under such name or under such other names as the General Partner may deem appropriate upon written notice to the Partners. No value shall be placed upon the name or the goodwill attached thereto for the purpose of determining the Fair Market Value of any Partner's capital account or interest in the Partnership.

1.3 Purpose and Scope. The purposes of the business to be conducted by the Partnership shall be to provide investment management services to each Fund and to engage in all transactions reasonably necessary or incidental to the foregoing including, without limitation, financial and valuation analysis, advice on the identification, structuring and negotiation of investment and divestment transactions, providing management or advisory services to portfolio companies in which investments are made by each Fund and receiving management fees, transaction fees, break-up fees, directors' fees, monitoring fees and other similar fees. In addition, the Partnership may do everything necessary or desirable for the accomplishment of the above purposes or the furtherance of any of the powers set forth herein or in any Investment Management Agreements and do anything reasonably incidental or necessary with respect to the foregoing.

1.4 Registered Office and Agent. The address of the Partnership's registered office in Delaware is c/o Corporation Trust Company, 1209 Orange Street, Wilmington, Delaware 19801. The name and address of the registered agent in Delaware for service of process are Corporation Trust Company, 1209 Orange Street, Wilmington, Delaware 19801. The General Partner may change the registered office and the registered agent of the Partnership in its discretion. The Partnership's principal place of business and office(s) shall be at 2100 McKinney Avenue, Suite 1600, Dallas, Texas 75201. The General Partner shall provide prompt written notice to the Limited Partners of any change in the Partnership's principal place of business and/or office(s).

1.5 Fiscal Year. The fiscal year of the Partnership shall end on December 31 of each calendar year unless, for United States Federal income tax purposes, another fiscal year is required (the "Fiscal Year"). The Partnership shall have the same Fiscal Year for United States Federal income tax purposes and for accounting purposes.

1.6 Definitions. The following terms have the meanings respectively ascribed to them:

"Act" has the meaning set forth in the recitals.

"Additional Fund" means any investment fund (other than MSG SAV LP, Earthbound SAV LP, Fund I and Fund II) or similar vehicle sponsored, formed or managed by the Partners, the General Partner, any Fund General Partner, the Partnership or any of their respective Affiliates (which such Affiliate is controlled by the Partners) commencing on or after April 21, 2016 (including any Parallel Fund, Alternative Investment Vehicle or Holding Vehicle related thereto).

"Additional Limited Partner" has the meaning set forth in Section 6.1(a).

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

(a) Credit to such Capital Account any amounts which such Partner is obligated to restore pursuant to any provision of this Agreement or is deemed obligated to restore pursuant to the penultimate sentences of Regulations Section 1.704-2(g)(1) and 1.704-2(i)(5); and

(b) Debit from such Capital Account the items described in Sections 1.704 - l(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), and 1.704-1(b)(2)(ii)(d)(6) of the Regulations.

The foregoing definition of "Adjusted Capital Account Deficit" is intended to comply with the provisions of Section 1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted consistently therewith.

"Affiliate" means, with respect to a specified Person, any Person that directly or indirectly controls, is controlled by, or is under common control with, the specified Person. As used in this definition, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

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

"Alternative Investment Vehicle" has, with respect to a Fund, the meaning set forth in the applicable Fund Agreement.

"Assignment" has the meaning set forth in Section 6.3(a).

"Associated Person" means, with respect to any Limited Partner that is an Entity, the individual, if any, whose name is set forth on Schedule II hereto as the Associated Person of such Limited Partner.

"Attorney" has the meaning set forth in Section 11.9.

"Authorized Representative" has the meaning set forth in Section 10.3(a).

"Capital Account" means, with respect to any Partner, the Capital Account maintained for such Partner in accordance with the following provisions:

(a) To each Partner's Capital Account, there shall be credited such Partner's capital contributions to the Partnership, such Partner's distributive share of Net Income (or items of income or gain) allocated pursuant to Section 5.2 or any item in the nature of income or gain which is specially allocated pursuant to Section 5.3 and the amount of any Partnership liabilities assumed by such Partner or which are secured by any property distributed to such Partner;

(b) From each Partner's Capital Account, there shall be debited the amount of cash and the Gross Asset Value of any property distributed to such Partner pursuant to any provision of this Agreement, such Partner's distributive share of Net Loss (or items of expense or loss) allocated pursuant to Section 5.2 or any item in the nature of expense or loss which is specially allocated pursuant to Section 5.3 and the amount of any liabilities of such Partner assumed by the Partnership or which are secured by any property contributed by such Partner to the Partnership;

(c) If all or a portion of an interest in the Partnership is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent that it relates to the transferred interest; and

(d) In determining the amount of any liability for purposes of subparagraphs (a) and (b), there shall be taken into account Section 752(c) of the Code and any other applicable provisions of the Code and the Regulations.

The foregoing provision and other provisions of this Agreement relatiug to the maintenance of Capital Accounts are intended to comply with Regulations Section 1.704-1(b) and shall be interpreted and applied in a manner consistent with such Regulations.

"Cause" has the meaning set forth in the Fund General Partner Agreement of the Fund General Partner of the Current Fund.

"Certificate" has the meaning set forth in the recitals.

"Code" means the Internal Revenue Code of 1986, as amended.

"Competing Business" means any private equity firm or similar program or other investment fund which makes or proposes to make Covered Investments principally in Canada and the United States.

"Covered Investment" means a private equity or equity-linked investment in food and/or consumer products companies.

"Current Fund" means, as of any date of determination, the Fund that has most recently held a closing admitting investors.

"Disability" means, with respect to any Limited Partner (or its Associated Person), the determination by the General Partner after consultation with at least two qualified independent physicians (and, in the case of any difference in opinion between such two physicians, a third physician) selected by the General Partner that such Limited Partner (or its Associated Person) has for a period of more than six (6) consecutive months or more than six (6) months in any 12-month period been incapable, with reasonable accommodation, of substantially fulfilling the positions, duties, responsibilities and obligations of such Limited Partner's position with the Partnership because of physical, mental or emotional incapacity resulting from injury, sickness or disease.

"Effective Date" has the meaning set forth in the preamble.

"Entity" means any general partnership, limited partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative, association or other entity.

"Fair Market Value" has the meaning set forth in Section 5.1(b).

"FATCA" means Sections 1471 through 1474 of the Code (or any successor thereof), any other legislation enacted by any jurisdiction which serves a similar purpose thereto (including any enabling legislation to adopt the Common Reporting Standard or any derivative thereof developed by the Organization for Economic Co-operation and Development), any applicable intergovernmental agreement entered into in respect of the foregoing, and any rules, legislation, regulations or other guidance issued under or with respect to any of the foregoing.

"Fiscal Year" has the meaning set forth in Section 1.5.

"Fund" means each of MSG SAV LP, Earthbound SAV LP, Fund I, Fund II and any Additional Fund.

"Fund Agreement" means, with respect to any Fund, the limited partnership agreement (or other constituent document) of such Fund, as the same may be amended from time to time.

"Fund General Partner" means each of (a) KCP II GP LP, a Delaware limited partnership, the general partner of Fund II, (b) Kainos Capital Partners GP, L.P., a Delaware limited partnership, the general partner of Fund I, (c) HMK GP LP, a Delaware limited partnership, the general partner of MSG SAV LP and Earthbound SAV LP, and (d) any Affiliate of the Partnership that is a general partner (or similar vehicle) of any Additional Fund.

"Fund General Partner Agreement" means, with respect to any Fund General Partner, the Limited Partnership Agreement (or other constituent document) of such Fund General Partner, as the same may be amended from time to time.

"Fund I" means Kainos Capital Partners, L.P., a Delaware limited partnership (including, where applicable, any Parallel Fund, Alternative Investment Vehicle or Holding Vehicle related thereto).

"Fund II" means Kainos Capital Partners II LP, a Delaware limited partnership (including, where applicable, any Parallel Fund, Alternative Investment Vehicle or Holding Vehicle related thereto).

"Fund Indemnitor" has the meaning set forth in Section 4.2(e).

"General Partner" means Kainos Capital, LLC, a Delaware limited liability company, or any successor thereto or assignee thereof.

"Gross Asset Value" means, with respect to any asset, the asset's adjusted basis for Federal income tax purposes, except as follows:

(a) The Gross Asset Value of any asset contributed by a Partner to the Partnership is the gross Fair Market Value of such asset as determined by the General Partner at the time of contribution;

(b) The Gross Asset Value of all Partnership assets may be adjusted to equal their respective gross Fair Market Values, as determined by the General Partner, as of the following times: (i) the acquisition of any additional interest in the Partnership by any new or existing Partner in exchange for more than a *de minimis* capital contribution; (ii) the distribution by the Partnership to the Partner of more than a *de minimis* amount of property as consideration for an interest in the Partnership; (iii) the grant of an interest in the Partnership (other than a *de minimis* interest) as consideration for the provision of services to or for the benefit of the Partnership by an existing Partner acting in a Partner capacity, or by a new Partner acting in a Partner capacity or in anticipation of becoming a Partner; and (iv) the liquidation of the Partnership within the meaning of Regulation Section 1.704-1(b)(2)(ii)(g); provided, however, that the adjustments pursuant to clauses (i), (ii) and (iii) above shall be made only if the General Partner reasonably determines that such adjustments are necessary or appropriate to reflect the relative economic interests of the Partners in the Partnership; and

(c) The Gross Asset Value of any Partnership asset distributed to any Partner shall be adjusted to equal the gross Fair Market Value of such asset on the date of distribution as determined by the General Partner.

If the Gross Asset Value of a Partnership asset has been determined or adjusted pursuant to clause (a) or (b) above, such Gross Asset Value shall thereafter be adjusted by depreciation (as provided in Regulations Section 1.704-1(b)(2)(iv)(g)) taken into account with respect to such asset for purposes of computing Net Income or Net Loss.

"Holding Vehicle" has, with respect to a Fund, the meaning set forth in the applicable Fund Agreement.

"Indemnified Party" has the meaning set forth in Section 4.1.

"Investment Committee" has the meaning set forth in Section 3.5.

"Investment Management Agreement" means, with respect to each Fund, the management agreement between such Fund and the Partnership.

"Limited Partners" means the Persons listed on Schedule II hereto as limited partners, each of whom has an ownership interest in the Partnership.

"Liquidator" has the meaning set forth in Section 9.2(b).

"Majority in Interest of all Limited Partners" and derivatives thereof mean Limited Partners whose Percentage Interests represent at least the specified percentage of the Percentage Interests of all Limited Partners.

"Name and Mark" means the "Kainos," "Kainos Capital" or "Kainos Capital Partners" names or mark or any associated Internet address, including, without limitation, any similar Uniform Resource Locator or other Internet address with a similar name.

"Net Income" and "Net Loss" means, for each fiscal year or other period, an amount equal to the Partnership's taxable income or loss for such fiscal year or period, determined in accordance with Section 703(a) of the Code (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Section 703(a)(1) of the Code shall be included in taxable income or loss) with the following adjustments:

(a) Any income of the Partnership that is exempt from Federal income tax, and to the extent not otherwise taken into account in computing Net Income or Net Loss pursuant to this paragraph, shall be added to such taxable income or loss;

(b) Any expenditures of the Partnership described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and to the extent not otherwise taken into account in computing Net Income or Net Loss pursuant to this paragraph, shall be subtracted from such taxable income or loss;

(c) In the event the Gross Asset Value of any Partnership asset is adjusted pursuant to subparagraphs (b) or (c) of the definition of "Gross Asset Value" herein, the amount of such adjustment shall be taken into account as gain or loss from the disposition of such asset for purposes of computing Net Income or Net Loss;

(d) Gain or loss resulting from any disposition of Partnership property with respect to which gain or loss is recognized for Federal income tax purposes shall be computed by reference to the Gross Asset Value of the property disposed of, notwithstanding that the adjusted tax basis of such property differs from its Gross Asset Value;

(e) In lieu of depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account depreciation for such fiscal year computed in accordance with Regulations Section 1.704-1(b)(2)(iv)(g)); and

(f) Any items which are specially allocated pursuant to the provisions of Section 5.3 hereof shall not be taken into account in computing Net Income or Net Loss.

"Nonrecourse Deductions" has the meaning set forth in Regulations Sections 1.704-2(b)(1) and 1.704-2(c).

"Nonrecourse Liability" has the meaning set forth in Regulations Section 1.752-1(a)(2).

"Notice Period" has the meaning set forth in Section 6.2(d).

"Original Agreement" has the meaning set forth in the recitals.

"Parallel Fund" has, with respect to a Fund, the meaning set forth in the applicable Fund Agreement.

"Partner Nonrecourse Debt" has the meaning set forth in Regulations Section 1.704-2(b)(4).

"Partner Nonrecourse Debt Minimum Gain" means an amount, with respect to each Partner Nonrecourse Debt, equal to the Partnership Minimum Gain that would result if the Partner Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Regulations Section 1.704-2(i)(3).

"Partner Nonrecourse Deductions" has the meaning set forth in Regulations Sections 1.704-2(i)(1) and 1.704-2(i)(2).

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

"Partnership" has the meaning set forth in the preamble.

"Partnership Expenses" has the meaning set forth in Section 3.7.

"Partnership Minimum Gain" has the meaning set forth in Regulations Sections 1.704-2(b)(2) and 1.704-2(d).

"Partnership Termination Date" has the meaning set forth in Section 9.1.

"Percentage Interest" means the interest of a Partner expressed as a percentage, as shown initially on Schedule II hereto, as the same may be updated from time to time thereafter.

"Person" means any individual or entity and, where the context so permits, the legal representatives, successors in interest and permitted assigns of such Person.

"Portfolio Company" has, with respect to a Fund, the meaning set forth in the applicable Fund Agreement.

"Portfolio Company Indemnitor" has the meaning set forth in Section 4.2(e).

"Portfolio Investment" has, with respect to a Fund, the meaning set forth in the applicable Fund Agreement.

"Proceeding" has the meaning set forth in Section 4.2(f).

"Regulations" means the income tax regulations promulgated under the Code, as amended from time to time.

"Separated Partner" means any Limited Partner that has been Terminated.

"Separation Date" means, with respect to any Separated Partner, the date on which such Separated Partner was designated as such by the General Partner.

"Tax Matters Representative" has the meaning set forth in Section 7.3.

"Termination" has the meaning set forth in Section 6.2(a) hereof; "Terminate" has a correlative meaning.

1.7 Other Terms. All references to "Articles," "Sections," and "Schedules" contained in this Agreement are, unless specifically indicated otherwise, references to articles, sections, schedules, and other provisions of this Agreement. Whenever in this Agreement the singular number is used, the same includes the plural where appropriate (and vice versa), and words of any gender include each other gender where appropriate. As used in this Agreement, the following words or phrases have the meanings indicated: (i) "or" means "and/or"; (ii) "day" means a calendar day; (iii) "include" and derivatives thereof mean "including without limitation"; (iv) "law" or "laws" means statutes, regulations, rules, judicial orders, and other legal pronouncements having the effect of law; (v) "Federal" refers to the U.S. Federal government; and (vi) "person" means any individual, corporation, partnership, limited liability company, trust, government, or other entity. Whenever any provision of this Agreement requires or permits the General Partner to take or omit to take any action, or make or omit to make any decision, unless the context clearly requires otherwise, such provision shall be interpreted to authorize an action taken or omitted, or a decision made or omitted, by the General Partner acting alone and in good faith.

ARTICLE 2
Capital Contributions

2.1 Capital Contributions.

(a) The Partners shall not be required to make additional capital contributions to the capital of the Partnership; provided, however, that notwithstanding any other provision of this Agreement to the contrary, no Partner shall be eligible, without the consent of the General Partner, to contribute capital to, or receive distributions from, the Partnership other than in accordance with this Section 2.1 and Section 5.1(a), respectively.

(b) The capital contribution commitments of the Partners (if any, and whether now or hereafter made) are solely for the benefit of the Partners, as among themselves, and may not be enforced by any creditor, receiver, or trustee of the Partnership or by any other person. Any contribution calculation made by the General Partner shall be final and conclusive and shall be binding on all Partners unless, within 30 days after the applicable contribution is required to be paid to the Partnership, a Partner objects to and demonstrates the error in such calculation.

2.2 No Return of Capital Contributions. Except as explicitly provided elsewhere herein, no Partner shall have any right (a) to withdraw as a Partner from the Partnership, (b) to withdraw from the Partnership all or any part of such Partner's capital contributions, (c) to receive property other than cash in return for such Partner's capital contributions or (d) to receive any distribution from the Partnership.

2.3 No Interest. No Partner shall be entitled to interest on its capital contributions, and any interest actually received by reason of investment of any part of the Partnership's funds shall be included in the Partnership's property.

2.4 General Partner Loans. If the Partnership shall have insufficient cash to pay its obligations, the General Partner, in its sole discretion, may advance such funds for the Partnership on such terms and conditions as it may determine; provided, however, that any such advance shall be subject to terms and conditions no less favorable to the Partnership than if such advance had been obtained in an arm's length transaction. Each advance shall constitute a loan from the General Partner to the Partnership and shall not constitute a capital contribution.

2.5 Return of Distributions. Except as required by the Act, other applicable law or as otherwise expressly set forth herein, no Partner shall be required to repay to the Partnership, any other Partner or any creditor of the Partnership all or any part of the distributions made to such Partner pursuant hereto.

ARTICLE 3
Rights and Obligations of Partners

3.1 Management of Partnership.

(a) The management, control, and direction of the Partnership and its operations, business, and affairs shall be vested exclusively in the General Partner, which shall have the right, power, and authority, acting solely by itself and without the necessity of approval by any Limited Partner or any other person, to carry out any and all of the purposes of the Partnership (including without limitation to open, maintain and close bank accounts and draw checks or other orders for the payment of money and open, maintain and close brokerage, money market fund and other similar accounts) and to perform or refrain from performing any and all acts that the General Partner may deem necessary, desirable, appropriate, or incidental thereto as provided in and under the Act.

(b) No Limited Partner shall participate in the management, control, or direction of the Partnership's operations, business, or affairs, transact any business for the Partnership, or have the power to act for or on behalf of or to bind the Partnership, such powers being vested solely and exclusively in the General Partner. Notwithstanding anything to the contrary contained herein, the Limited Partners shall not be deemed to be participating in the control of the business of the Partnership within the meaning of the Act as a result of any actions taken hereunder by a Limited Partner. The Limited Partners hereby consent to the exercise by the General Partner of the powers conferred upon the General Partner by this Agreement.

(c) The General Partner, in its discretion, is authorized to appoint any Person as an officer of the Partnership who shall have such powers and perform such duties incident to

such Person's office as may from time to time be conferred upon or assigned to it by the General Partner. In addition, the General Partner is authorized to employ, engage and dismiss, on behalf of the Partnership, any Person, including an Affiliate of any Partner, to perform services for, or furnish goods to, the Partnership; provided, however, that any such services performed by or goods furnished from a Partner or an Affiliate of any Partner shall be subject to terms and conditions no less favorable to the Partnership than if such services or goods had been obtained in an arm's length transaction.

3.2 Liability of Partners. The General Partner shall not be personally liable for the debts or obligations of the Partnership unless (but solely to the extent) expressly required by applicable law; provided, however, that all Partnership debts and obligations shall be paid or discharged first with the property of the Partnership (including insurance proceeds) before the General Partner shall be obligated to pay or discharge any such debt or obligation with its personal assets. Notwithstanding the preceding sentence, the General Partner shall not be personally liable for any debts or obligations which are nonrecourse or which, under the terms thereof, do not create or impose such liability. No Limited Partner shall be personally liable for any of the debts or obligations of the Partnership.

3.3 Other Activities of Partners. Subject to any limitations provided in any Fund Agreement or Fund General Partner Agreement, neither this Agreement nor any principle of law or equity shall preclude or limit, in any respect, the right of any Partner (or its Associated Person) or any Affiliate thereof to engage in or derive profit or compensation from any activities or investments, nor give any other Partner any right to participate or share in such activities or investments or any profit or compensation derived therefrom.

3.4 Consents and Limited Voting Rights. Any Partner whose consent, vote, or approval is expressly required or permitted under any provision of this Agreement may give or withhold such consent, vote, or approval in the sole discretion of such Partner, whether reasonably or unreasonably. The Limited Partners (whether individually or in any combination) shall not be entitled to consent to, vote on, or approve any matter for which the action of such Limited Partners is not expressly required by either the Act or this Agreement, or is not requested by the General Partner. In the case of any matter for which the action of the Limited Partners is expressly required by either the Act or this Agreement, or is requested by the General Partner, such action shall (unless a different percentage is otherwise specified by the foregoing) be effective against and binding on all Partners and the Partnership if taken with the consent of the General Partner and the consent, vote, or approval of Limited Partners then representing a Majority in Interest of all Limited Partners.

3.5 Investment Committee.

(a) The Partnership shall have a committee to review investment opportunities and approve investment decisions on behalf of each Fund (the "Investment Committee"), including, but not limited to, origination, amendment or liquidation of all Portfolio Investments, in each case, in accordance with the applicable Fund Agreement. As of the date hereof, the members of the Investment Committee shall be Andrew S. Rosen, Robert W. Sperry, Sarah A. Bradley, Daniel J. Hopkin, Nirav B. Shah and Kevin E. Elliott. Additional Investment Committee members may be designated by the General Partner, and any Investment Committee

member may be removed from the Investment Committee by the General Partner upon 24 hours' written notice from the General Partner and such Investment Committee member shall be deemed to have been removed upon the expiration of such 24-hour period.

(b) Subject to the provisions of this Agreement and to the final approval of the General Partner, the Investment Committee shall have the power on behalf and in the name of the Partnership to:

(i) review, approve and administer on behalf of each Fund any Portfolio Investments, including any investment, administrative or disposition decision with respect to any Portfolio Investment;

(ii) hire, for reasonable compensation, investment bankers, attorneys, accountants, appraisers, consultants, custodians, contractors and other agents in connection with the review, approval and administration of any Portfolio Investment; and

(iii) enter into, make and perform, on behalf of the Partnership or any Fund, such contracts, agreements and other undertakings, and any and all such other acts required of the Partnership with respect to such Fund's interests in any Portfolio Investment, including, but not limited to, entering into agreements with respect to such interests, which agreements may contain such terms, conditions and provisions as the Investment Committee shall approve;

provided, however, that none of the foregoing acts shall affect the limited liability of any Partner as set forth in Section 3.2 hereof.

(c) All decisions which this Agreement provides be made by the Investment Committee shall be made only by the majority consent of the members of the Investment Committee; provided, however, that the decision by the Investment Committee to (i) make a Portfolio Investment on behalf of a Fund shall require the unanimous consent of the Investment Committee members and (ii) dispose of a Portfolio Investment of a Fund shall require the affirmative vote of one less than the total number of members on the Investment Committee. The investment decision made by each member of the Investment Committee shall be made in such member's sole discretion. The Investment Committee may adopt written operating rules and policies. The Partnership shall retain such written rules or policies in its records, and any action taken or omission suffered after the adoption of and in accordance with such rules and policies shall be considered for all purposes of this Agreement to have been taken or suffered with the majority consent of the members of the Investment Committee.

3.6 Percentage Interests. The General Partner in its sole discretion determines the Percentage Interest of each Limited Partner. A Limited Partner's Percentage Interest may be reduced, and additional Percentage Interests may be issued, by the General Partner at any time at its sole discretion.

3.7 Expenses. The Partnership shall pay for any and all expenses, costs and liabilities incurred in the conduct of the business of the Partnership and its subsidiaries in accordance with the provisions hereof (collectively, "Partnership Expenses"). Partnership Expenses shall include, by way of example and not limitation:

(a) all routine administrative and overhead expenses of the Partnership, including fees of auditors, attorneys and other professionals, and expenses associated with the maintenance of books and records of the Partnership and communications with the Limited Partners;

(b) all salaries and benefits of employees and Limited Partners of the Partnership;

(c) all expenses incurred in connection with the conversion of the Partnership and the registration or qualification of the Partnership under any applicable laws;

(d) all expenses incurred in connection with any litigation involving the Partnership and the amount of any judgment or settlement paid in connection therewith;

(e) all expenses for indemnity or contribution payable by the Partnership to any Person, whether payable under this Agreement or otherwise and whether payable in connection with any litigation involving the Partnership, any Fund or otherwise;

(f) all expenses incurred in connection with any indebtedness of the Partnership;

(g) all expenses incurred in connection with the dissolution and liquidation of the Partnership; and

(h) all taxes, fees and other governmental charges payable by the Partnership, except to the extent that such amounts are (i) allocable to, or indemnifiable by, a Partner and (ii) actually borne or paid by such Partner, all expenses incurred by the Tax Matters Representative in such capacity, as provided under Section 7.3 hereof and all expenses incurred in connection with any tax filing, tax audit, investigation, settlement or review of the Partnership.

ARTICLE 4
Exculpation and Indemnity

4.1 Exculpation. To the fullest extent permitted by applicable law, neither the General Partner nor any Affiliate of the General Partner, nor any officer, director, manager, member, employee, stockholder, partner, agent or associate of the General Partner or any of its Affiliates (each such Person, an "Indemnified Party"), shall be liable, responsible, or accountable in damages or otherwise to the Partnership or any Partner by reason of, arising from, or relating to the operations, business, or affairs of or any action taken or failure to act on behalf of the Partnership, the General Partner, or any of their respective Affiliates, except to the extent that any of the foregoing is determined, by a final, nonappealable order of a court of competent jurisdiction, to have been primarily caused by the gross negligence, willful misconduct, or bad faith of the person claiming exculpation. The provisions of this Agreement, to the extent that they expressly restrict or eliminate the duties (including fiduciary duties) and liabilities of an Indemnified Party otherwise existing at law or in equity, are agreed by the Partners to replace such other duties and liabilities of such Indemnified Party.

4.2 Indemnity.

(a) To the fullest extent permitted by applicable law, the Partnership shall indemnify each Indemnified Party against any claim, loss, damage, liability, or expense (including reasonable attorneys' fees, court costs, and costs of investigation and appeal) suffered or incurred by any such indemnitee by reason of, arising from, or relating to the operations, business, or affairs of or any action taken or failure to act on behalf of the Partnership, the General Partner, or any of their respective Affiliates, except to the extent any of the foregoing (i) is determined by final, nonappealable order of a court of competent jurisdiction to have been primarily caused by the gross negligence, willful misconduct (including a willful violation of law or of this Agreement), bad faith, or criminal activity of such indemnitee, or (ii) is suffered or incurred as a result of any claim (other than a claim for indemnification under this Agreement) asserted by the indemnitee as plaintiff against the Partnership. Unless a determination has been made (by final, nonappealable order of a court of competent jurisdiction) that indemnification is not required, the Partnership shall, upon the request of any indemnitee, advance or promptly reimburse such indemnitee's reasonable costs of investigation, litigation, or appeal, including reasonable attorneys' fees; provided, however, that as a condition of an indemnitee's right to receive such advances and reimbursements, the affected indemnitee shall undertake in writing to repay promptly the Partnership for all such advancements or reimbursements if a court of competent jurisdiction determines that such indemnitee is not then entitled to indemnification under this Section 4.2(a). No Partner shall be required to contribute capital in respect of any indemnification claim under this Section 4.2(a) unless otherwise provided in any other written agreement to which such Partner is a party.

(b) The satisfaction of any indemnification obligation pursuant to Section 4.2(a) shall be from and limited to Partnership assets (including insurance and any agreements pursuant to which the Partnership, its officers or employees are entitled to indemnification) and no Limited Partner, in such capacity, shall be subject to personal liability on account thereof.

(c) Expenses reasonably incurred by an Indemnified Party in defense or settlement of any claim that may be subject to a right of indemnification hereunder shall be advanced by the Partnership prior to the final disposition thereof only upon receipt of a written undertaking by or on behalf of such Indemnified Party to repay such amount to the extent that it shall be determined upon final adjudication after all possible appeals have been exhausted that such Indemnified Party is not entitled to be indemnified hereunder.

(d) The Partnership may purchase and maintain insurance on behalf of one or more Indemnified Parties and other Persons against any liability which may be asserted against, or expense which may be incurred by, any such Person in connection with the Partnership's activities, whether or not the Partnership would have the power to indemnify such Person against such liability under the provisions of this Agreement.

(e) Notwithstanding anything to the contrary in this Section 4.2, to the maximum extent permitted by applicable law, to the extent that an Indemnified Party is also entitled to be indemnified by, or receive advancement of expenses from (i) any potential, current or former Portfolio Company (a "Portfolio Company Indemnitor") at which such Indemnified

Party is, was or will be serving as a director, officer, employee, partner, manager, member, trustee, agent, independent contractor or advisor at the request of a Fund, a Fund General Partner, the Partnership or any of their respective Affiliates, (ii) any Fund (a "Fund Indemnitor"), in each case with regards to any such claim for indemnification, it is intended that (x) such Portfolio Company Indemnitor, if any, shall be the indemnitor of first resort, such Fund Indemnitor, if any, shall be the indemnitor of second resort and the Partnership shall be the indemnitor of final resort; (y) the Partnership's obligation, if any, to indemnify or advance expenses to any Indemnified Party shall be reduced by any amount that such Indemnified Party collects as indemnification or advancement from a Portfolio Company Indemnitor or Fund Indemnitor; and (z) if the Partnership pays or causes to be paid, for any reason, any amounts that should have been paid by a Portfolio Company Indemnitor or a Fund Indemnitor, then (i) the Partnership shall be fully subrogated to all rights of the relevant Indemnified Party with respect to such payment, and (ii) each relevant Indemnified Party shall assign to the Partnership all of the Indemnified Party's rights to advancement or indemnification with respect to such payment from or with respect to such Portfolio Company Indemnitor and/or Fund Indemnitor.

(f) Promptly after receipt by an Indemnified Party of notice of the commencement of any legal actions, suits, investigations or proceedings by or before any court, arbitrator, governmental body or other agency (each a "Proceeding"), such Indemnified Party shall, if a claim for indemnification in respect thereof is to be made against the Partnership, give written notice to the Partnership of the commencement of such Proceeding; provided, however, that the failure of any Indemnified Party to give notice as provided herein shall not relieve the Partnership of its obligations under this Section 4.2, except to the extent that the Partnership is actually prejudiced by such failure to give notice. In case any such Proceeding is brought against an Indemnified Party (other than a derivative suit in right of the Partnership), the Partnership will be entitled to participate in and to assume the defeuse thereof to the extent that the Partnership may wish, with counsel reasonably satisfactory to such Indemnified Party. After notice from the Partnership to such Indemnified Party of the Partnership's election to assume the defense of such Proceeding, the Partnership will not be liable for expenses subsequently incurred by such Indemnified Party in connection with the defense thereof. The Partnership will not conseut to entry of any judgment or enter into any settlement of such Proceeding that does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnified Party of a release from all liability in respect to such Proceeding and the related claim. The right of any Indemnified Party to the indemnification provided herein shall be cumulative with, and in addition to, any and all rights to which such Indemnified Party may otherwise be entitled by contract or as a matter of law or equity and sball extend to such Indemnified Party's successors, assigns and legal representatives.

4.3 Other Activities of Limited Partners. Each Limited Partner hereby agrees that any new investment opportunity identified by such Limited Partner that such Limited Partner determines in good faith to be suitable and appropriate for any Fund and consistent with the investment objectives of such Fund will be offered by such Limited Partner to the Partnership for the benefit of such Fund before being pursued by such Limited Partner or offered to any other Person.

ARTICLE 5
Distributions and Allocations

5.1 Distributions.

(a) Distributions Generally. All cash of the Partnership (other than cash resulting from capital contributions) and any or all other Partnership property shall be distributed at such time or times if, as, and when determined by the General Partner in its sole discretion, in each case subject to any limitations imposed on such distribution by law or contract; provided, however, that distributions of cash or other property of the Partnership shall be made only in amounts which exceed any reserves (allocated among the Partners in accordance with their respective distributive interests in the cash or property to which such reserves relate) that the General Partner from time to time determines are required or are reasonably appropriate to be retained to meet any accrued or foreseeable expenses, expenditures, liabilities, or other obligations of the Partnership. Any such distributions shall be made to the Partners, *pro rata*, in accordance with the Partners' respective Percentage Interests.

(b) Fair Market Value Defined.

(i) To the extent that the valuation of Partnership property is required under this Agreement, such valuation shall be at "Fair Market Value" as determined in good faith by the General Partner (consistent with any determination of Fair Market Value by the General Partner for like property distributed by the applicable Fund). Except as may be required under applicable Regulations, no value shall be placed on the goodwill or the name of the Partnership in determining the value of the interest of any Partner or in any accounting among the Partners. The following criteria shall be used for determining Fair Market Value:

(A) Marketable Securities:

(1) If traded on one (1) or more securities exchanges, the value shall be deemed to be the average of the securities' average closing price on such exchange(s) or system during the eleven (11) trading day period starting on the fifth day prior to such valuation date and ending on the fifth day following such valuation date.

(2) If actively traded over-the-counter, the value shall be deemed to be the average closing bid price of such securities during the eleven (11) trading day period starting on the fifth day prior to such valuation date and ending on the fifth day following such valuation date.

(3) If there is no active public market, the value shall be the Fair Market Value thereof, as determined by the General Partner, taking into consideration the purchase price of the securities, developments concerning the Portfolio Company subsequent to the acquisition of the securities, any financial data and projections of the Portfolio Company provided to the General Partner, the determination of Fair Market Value by the General Partner for like property distributed by the applicable Fund, and such other factor or factors as the General Partner may deem relevant.

(B) An appropriate adjustment may be made for any control premiums associated with the securities.

(C) Any other Partnership property shall be valued at the market value as of the valuation date as reasonably determined by the General Partner, taking into consideration the determination of Fair Market Value by the General Partner for like property distributed by the applicable Fund. If the General Partner in good faith determines that, because of special circumstances, the valuation methods set forth in this Section 5.1(b) do not fairly determine the value of Partnership property, the General Partner shall make such adjustments or use such alternative valuation methods, taking into consideration the determination of Fair Market Value by the General Partner for like property distributed by the applicable Fund, as it deems appropriate.

5.2 General Application. The rules set forth below in this Section 5.2 shall apply for the purpose of determining each Partner's allocable share of the items of income, gain, loss and expense of the Partnership comprising Net Income or Net Loss of the Partnership for each fiscal year, determining special allocations of other items of income, gain, loss and expense, and adjusting the balance of each Partner's Capital Account to reflect the aforementioned general and special allocations. For each fiscal year, the special allocations in Section 5.3 hereof shall be made immediately prior to the general allocations of Section 5.2 hereof.

(a) Hypothetical Liquidation. The items of income, expense, gain and loss of the Partnership comprising Net Income or Net Loss for a fiscal year shall be allocated among the Persons who were Partners during such fiscal year in a manner that shall, as nearly as possible, cause the Capital Account balance of each Partner at the end of such fiscal year to equal the excess (which may be negative) of:

(i) the amount of the hypothetical distribution (if any) that such Partuer would receive if, on the last day of the fiscal year, (A) all Partnership assets were sold for cash equal to their Gross Asset Values, taking into account any adjustments thereto for such fiscal year, (B) all Partnership liabilities were satisfied in cash according to their terms (limited, with respect to each Nonrecourse Liability or any Partner Nonrecourse Debt in respect of such Partner, to the Gross Asset Values of the assets securing such liability), and (C) the net proceeds thereof (after satisfaction of such liabilities) were distributed in full pursuant to Sections 5.1(a) and 9.2 hereof over

(ii) the sum of (A) the amount, if any, without duplication, that such Partner would be obligated to contribute to the capital of the Partnership, (B) such Partner's share of Partnership Minimum Gain determined pursuant to Regulations Section 1.704-2(g), and (C) such Partner's share of Partner Nonrecourse Debt Minimum Gain determined pursuant to Regulations Section 1.704-2(i)(5), all computed as of the hypothetical sale described in Section 5.2(a)(i) hereof.

(b) Loss Limitation. Notwithstanding anything to the contrary contained in this Section 5.2, the amount of items of Partnership expense and loss allocated pursuant to this Section 5.2 to any Partner shall not exceed the maximum amount of such items that can be so allocated without causing such Partner (other than the General Partner) to have an Adjusted

Capital Account Deficit at the end of any fiscal year. All such items in excess of the limitation set forth in this Section 5.2(b) shall be allocated first to Partners who would not have an Adjusted Capital Account Deficit, *pro rata*, in proportion to their Capital Accounts, adjusted as provided in clauses (a) and (b) of the definition of "Adjusted Capital Account Deficit", until no Partner would be entitled to any further allocation, and thereafter to the General Partner.

(c) No Deficit Restoration Obligation. Except as otherwise expressly provided for in this Agreement, at no time during the term of the Partnership or upon dissolution and liquidation thereof shall a Partner with a negative balance in its Capital Account have any obligation to the Partnership or the other Partners to restore such negative balance, except as may be required by law or in respect of any negative balance resulting from a withdrawal of capital or dissolution in contravention of this Agreement.

(d) Initial Allocation of Loss Related to Contribution of Working Capital. Notwithstanding any provision in this Agreement to the contrary, the Partners agree that by applying the provisions of Section 5.2(a) above, Andrew S. Rosen, Robert W. Sperry, and Sarah A. Bradley shall be allocated items of expense and loss equal to the net working capital of the Partnership on the date the Certificate of Conversion was filed in accordance with the Percentage Interests reflected on Schedule I hereto to reflect that such net working capital was created prior to the date the Certificate of Conversion was filed and will be used to pay Partnership Expenses pursuant to Section 3.7 prior to any other sources of funds will be used to pay Partnership Expenses.

5.3 Special Allocations. The following special allocations shall be made in the following order:

(a) Minimum Gain Chargeback. If there is a net decrease during a fiscal year in either Partnership Minimum Gain or Partner Nonrecourse Debt Minimum Gain, then notwithstanding any other provision of Section 5.2 or Section 5.3, each Partner shall receive such special allocations of items of Partnership income and gain as are required to conform to Regulations Section 1.704-2.

(b) Qualified Income Offset. Subject to Section 5.3(a) hereof, but notwithstanding any other provision of Section 5.2 or 5.3, items of income and gain shall be specially allocated to the Partners in a manner that complies with the "qualified income offset" requirement of Regulations Section 1.704-1(b)(2)(ii)(d)(3).

(c) Deficit Capital Accounts Generally. If a Partner has a deficit Capital Account balance at the end of any fiscal year which is in excess of the sum of (i) the amount such Partner is then obligated to restore pursuant to this Agreement, and (ii) the amount such Partner is then deemed to be obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5), respectively, such Partner shall be specially allocated items of Partnership income and gain (consisting of a *pro rata* portion of each item of income and gain of the Partnership for such fiscal year in accordance with Regulations Section 1.704-1(b)(2)(ii)(d)) in the amount of such excess as quickly as possible, provided that any allocation under this Section 5.3(c) shall be made only if and to the extent that a Partner would have a deficit Capital Account balance in excess of such sum after all allocations provided

for in Section 5.2 and Section 5.3 have been tentatively made as if this Section 5.3(c) was not in this Agreement.

(d) Deductions Attributable to Partner Nonrecourse Debt. Partner Nonrecourse Deductions shall be specially allocated to the Partners in the manner in which they share the economic risk of loss (as defined in Regulations Section 1.752-2) for such Partner Nonrecourse Debt.

(e) Allocation of Nonrecourse Deductions. Each Nonrecourse Deduction of the Partnership shall be specially allocated to all Limited Partners *pro rata* in in accordance with their Percentage Interests reflected on Schedule II hereof.

The allocations pursuant to Sections 5.3(a), (b) and (c) hereof shall be comprised of a proportionate share of each of the Partnership's items of income and gain. The amounts of any Partnership income, gain, loss or deduction available to be specially allocated pursuant to this Section 5.3 shall be determined by applying rules analogous to those set forth in subparagraphs (a) through (e) of the definition of Net Income and Net Loss.

5.4 Allocation of Nonrecourse Liabilities. For purposes of determining each Partner's share of Nonrecourse Liabilities, if any, of the Partnership in accordance with Regulations Section 1.752-3(a)(3), the Partners' interests in Partnership profits shall be determined in the same manner as prescribed by Section 5.3(e) hereof.

5.5 Tax Allocations.

(a) Section 704(b) Allocations. Subject to Section 5.5(b) hereof, each item of income, gain, loss, or deduction for Federal income tax purposes that corresponds to an item of income, gain, loss or expense that is either taken into account in computing Net Income or Net Loss or is specially allocated pursuant to Section 5.3 hereof (a "Book Item") shall be allocated among the Partners in the same proportion as the corresponding Book Item is allocated among them pursuant to Section 5.2 or 5.3 hereof.

(b) Section 704(c) Allocations. In the event any property of the Partnership is credited to the Capital Account of a Partner at a value other than its tax basis (whether as a result of a contribution of such property or a revaluation of such property pursuant to clause (b) of the definition of "Gross Asset Value"), then allocations of taxable income, gain, loss and deductions with respect to such property shall be made in a manner which will comply with Sections 704(b) and 704(c) of the Code and the Regulations thereunder. The Partnership, in the discretion of the General Partner, may make, or not make, "curative" or "remedial" allocations (within the meaning of the Regulations under Section 704(c) of the Code) including, but not limited to:

(i) "curative" allocations which offset the effect of the "ceiling rule" for a prior fiscal year (within the meaning of Regulations Section 1.704-3(c)(3)(ii)); and

(ii) "curative" allocations from dispositions of contributed property (within the meaning of Regulations Section 1.704-3(c)(3)(iii)(B)).

The tax allocations made pursuant to this Section 5.5 shall be solely for tax purposes and shall not affect any Partner's Capital Account or share of non-tax allocations or distributions under this Agreement.

5.6 Withholding Taxes.

(a) Withholding. The General Partner shall be entitled to withhold or cause to be withheld from any Limited Partner's distributions from the Partnership or any allocable share of Partnership income, or to pay in respect of a Partner, such amounts, if any, as are required by applicable law.

(b) Recoupment. If the Partnership or the General Partner itself pays (i) any withholding obligation imposed by applicable law or (ii) any amount (including any tax, penalty, or interest) in respect of any Limited Partner as required by applicable law, in either case, such Limited Partner shall on demand reimburse the Partnership or the General Partner (as the case may be) for the amount of such payment plus interest thereon (accruing from the date such payment was made by the person entitled to reimbursement) at a floating rate per annum (which shall change from time to time in accordance with the prime rate specified below as the prime rate changes) equal to the lesser of (A) the highest lawful rate of interest or (B) the prime rate of interest (as established by JPMorgan Chase Bank or its successor from time to time, regardless of whether such rate is designated by such bank as its "prime" rate, "reference" rate, "base" rate, or some other nomenclature) plus 2%. Each person paying an amount (including any taxes, penalties, and interest) in respect of a Limited Partner's tax shall have a security interest in the Partnership interest of any Limited Partner who owes money to such paying person pursuant to this Section 5.6(b) and, in addition to all other rights and remedies of such paying person with respect to such security interest or otherwise available at law or in equity, the General Partner shall have the right to offset, or cause to be offset, against any such Limited Partner's distributions under this Agreement all amounts owed by such Limited Partner to such paying Person pursuant to this Section 5.6(b). The rights and obligations set forth in this Section 5.6 shall survive the dissolution, liquidation, and termination of the Partnership until the expiration of all statutes of limitation applicable to such rights and obligations.

(c) Payments to the Partnership. If the Partnership receives proceeds in respect of which a tax has been withheld or paid, the Partnership shall be treated as having received cash in an amount equal to such proceeds plus the amount of such tax, and, for all purposes of this Agreement, each such Partner shall be treated as having received a distribution pursuant to Section 5.1(a) hereof equal to such Partner's portion of such proceeds plus the portion of the tax allocable to such Partner, as determined by the General Partner in its reasonable discretion.

(d) Deemed Distributions. Any amounts withheld, paid or offset by the General Partner in accordance with Section 5.6(a), 5.6(b) or 5.6(c) shall nevertheless, for purposes of this Agreement, be deemed to have been distributed to the Limited Partner in respect of which they are withheld or paid.

5.7 Other Limited Partner Obligations. Promptly upon request, each Limited Partner shall provide the General Partner with any information, representations, certifications or forms

related to such Partner (including information regarding such Partner's direct or indirect owners) that the General Partner determines in its discretion are necessary (a) to allow the Partnership to comply with any tax reporting, tax withholding or tax payment obligations of the Partnership, (b) to establish the Partnership's legal entitlement to an exemption from, or reduction of, withholding or any other taxes or similar payments or (c) for any Fund entity (including (i) the Partnership and any Fund, (ii) any entity in which the Partnership or any Fund hold any direct or indirect interest, and (iii) any member of any "expanded affiliated group" (within the meaning of FATCA) of an entity described in (i) or (ii)) to (x) enter into, maintain or otherwise comply with the agreement contemplated by Section 1471(b) of the Code or similar provisions under FATCA or (y) comply with any requirement imposed under FATCA (including any withholding upon any payments to such Partner under this Agreement). In addition, each Partner shall take such actions (including execution of any and all documents, opinions, instruments and certificates) as the General Partner may reasonably request in connection with the foregoing. If any Partner fails to provide any of the information, representations, certificates or forms (or undertake any of the actions) required under this Section 5.7, the General Partner shall have full authority to take any steps as the General Partner determines in its sole discretion are necessary or appropriate to mitigate the consequences of such Partner's failure to comply with this Section 5.7 on the Partnership, any Fund entities and the other Partners. Notwithstanding the foregoing, the General Partner shall have no liability to the Partnership or any Limited Partner (xx) for failure to request or obtain such information from, or to withhold and remit in respect of, any Limited Partner who has not furnished such information to the General Partner or (yy) as a result of any assessments against the Partnership that are allocable to any Partner, as determined in the General Partner's discretion.

ARTICLE 6
Admissions, Transfers, and Withdrawals

6.1 Admission of Additional Limited Partners.

(a) Additional Limited Partners may be admitted to the Partnership and issued Percentage Interests only with the consent of the General Partner (each such newly admitted Limited Partner, an "Additional Limited Partner"). Substituted Partners shall not be deemed Additional Limited Partners for purposes of this Section 6.1(a).

(b) The name of each Limited Partner shall be listed on Schedule II attached hereto. The Limited Partners shall cause Schedule II to be updated from time to time as necessary to accurately reflect the information required to be included therein. In connection with the admission of any Additional Limited Partner, the General Partner may amend Schedule II to reflect the admission of such Additional Limited Partner and the issuance of the applicable Percentage Interests. Any amendment or revision to Schedule II made in accordance with this Agreement shall not be deemed an amendment to this Agreement. Any reference in this Agreement to Schedule II shall be deemed to be a reference to such Schedule as amended and in effect from time to time.

(c) Each Additional Limited Partner shall execute and deliver a written instrument satisfactory to the Partnership, whereby such Additional Limited Partner shall become a party to this Agreement, as well as any other documents required by the Partnership.

Upon execution and delivery of a counterpart of this Agreement and acceptance thereof by the Partnership, such Person shall be admitted as a Limited Partner. Each such Additional Limited Partner shall thereafter be entitled to all the rights and subject to all the obligations of a Limited Partner as set forth herein.

6.2 Termination of Limited Partners.

(a) Generally. The termination of a Limited Partner's tenure with the Partnership shall occur upon (i) subject to Section 6.2(d), the voluntary resignation of such Limited Partner (or, in the case of a Limited Partner that is not a natural Person, the voluntary resignation of its Associated Person's employment with the Partnership), (ii) the death, Disability, incompetence, insolvency, bankruptcy, dissolution or liquidation of such Limited Partner (or such Associated Person) or (iii) the removal of such Limited Partner by the General Partner (any of (i), (ii) or (iii), a "Termination"). If any Limited Partner is Terminated for any reason, the General Partner shall designate such Limited Partner a "Separated Partner". Such Separated Partner hereby agrees to continue to be bound by Sections 10.1, 10.2 and 10.3 hereof following such Limited Partner's Termination.

(b) General Effects of "Separated Partner" Designation. Upon the designation of a Limited Partner as a Separated Partner due to (x) the removal of such Limited Partner by the General Partner or (y) the voluntary resignation of such Limited Partner from the Partnership, such Separated Partner shall, subject to Section 6.2(d), immediately and automatically forfeit without consideration its entire Partnership interest and such Separated Partner shall thereafter be removed by the General Partner as a Limited Partner of the Partnership. In connection with the removal of the Separated Partner as a Limited Partner of the Partnership pursuant to this Section 6.2(b), the General Partner shall amend Schedule II, as applicable, to reflect the forfeiture of the Partnership interest and the removal of the Separated Partner as a limited partner of the Partnership.

(c) Death, Disability, Bankruptcy, etc. Upon the designation of a Limited Partner as a Separated Partner due to the death, Disability, incompetence, insolvency, bankruptcy, dissolution or liquidation of such Limited Partner (or such Associated Person), the Partnership shall not be terminated or dissolved, and the General Partner shall continue the Partnership and its operations, business, and affairs until the dissolution thereof as provided in Section 9.1; provided, however, that, upon any such designation of a Limited Partner, the General Partner may, in its sole discretion, apply the provisions of Section 6.2(b) as if such Separated Partner was removed by the General Partner pursuant to clause (iii) of Section 6.2(a).

(d) Notice Period. Each Limited Partner agrees that if such Limited Partner decides to resign his or her position with the Partnership for any reason (or, in the case of a Limited Partner that is not a natural Person, the Associated Person of such Limited Partner decides to resign his or her employment with the Partnership for any reason), such Limited Partner will provide the Partnership with 60 days' advance written notice of such resignation (such 60 day period, the "Notice Period"). During the Notice Period, such Limited Partner (or such Associated Person) will remain with the Firm and be eligible for any benefits applicable to such Limited Partner (or such Associated Person). During the Notice Period, such Limited Partner (or such Associated Person) will be required to undertake such duties and responsibilities

as are assigned to such Limited Partner by the Partnership, including duties to assist the Partnership in such Limited Partner's (or such Associated Person's) transition from the Partnership and maintaining the Partnership's business, business relationships, and goodwill. In addition, such Limited Partner (or such Associated Person) will continue to be bound by all responsibilities, fiduciary duties and obligations owed to the Firm and required to comply with all Firm policies. The General Partner, in its discretion, may waive all or any portion of the Notice Period of a Limited Partner.

6.3 Assignments of Partners' Interests.

(a) No Assignment Without Consent. No Partner may assign, transfer, encumber and/or convey (each an "Assignment") all or any portion of such Partner's interest in the Partnership without the prior written consent of the General Partner, which consent may be given or withheld by the General Partner in its discretion (but, for the avoidance of doubt, not including any Assignment by a Limited Partner to such Limited Partner's former spouse, separated spouse or other person resulting from a division of marital property as contemplated by Section 11.14 hereof).

(i) Each Partner agrees, upon request of the General Partner, to execute such certificates or other documents and perform such acts as the General Partner deems appropriate to preserve the status of the Partnership as a limited partnership after the completion of any Assignment of an interest in the Partnership of such Partner under the laws of the jurisdiction in which the Partnership is conducting its operations. For purposes of this Article 6, any Assignment of an interest in the Partnership of a Limited Partner, in whole or in part, whether voluntary or by operation of law, shall be considered an Assignment for all purposes hereunder.

(ii) Each assigning Partner agrees to pay, prior to the time the General Partner consents to such an Assignment, all expenses, including attorneys' fees, incurred by the Partnership in connection with such Assignment.

(iii) Notwithstanding anything herein to the contrary, no Assignment shall be given effect unless the Assignee delivers to the Partnership the representations set forth in Exhibit A hereto.

6.4 Transfer of Beneficial Ownership of Limited Partner. Each Limited Partner that has an Associated Person hereby agrees and acknowledges that, in its governing documents or otherwise, it shall provide that (i) such Associated Person shall, at all times, control such Limited Partner, (ii) such Associated Person (and his/her spouse, lineal descendants or estate if none of the foregoing exists) shall, at all times, beneficially own one hundred percent (100%) of the interests in such Limited Partner and (iii) such Associated Person shall not assign any portion of its interests in such Limited Partner (other than to his/her spouse or lineal descendants) without the prior written consent of the General Partner.

6.5 Substituted Partners. A transferee of any General or Limited Partner interest in the Partnership may become a substituted General or Limited Partner (as the case may be), as to the interest in the Partnership transferred, in place of the transferor only upon the consent of the

General Partner, which consent may be given or withheld by the General Partner in its discretion. The General Partner or its Affiliates shall have the right to be a Limited Partner or to become a substituted Limited Partner. Unless a transferee of any Partnership interest of a Partner becomes a substituted General Partner or substituted Limited Partner in accordance with the provisions of this Agreement, such transferee shall not be entitled to any of the rights granted to a Partner hereunder other than the right to receive all or part of the share of the income, gains, losses, deductions, expenses, credits, distributions, or returns of capital to which its transferor would otherwise be entitled with respect to the Partnership interest so transferred.

6.6 Withdrawal of Partners. Except as permitted by Section 6.2(b), Section 6.3 and this Section 6.6, no Partner shall have any right to withdraw or resign from the Partnership unless such Partner transfers its entire Partnership interest to one or more transferees who are admitted as substituted General or Limited Partners (as the case may be) in accordance with Section 6.5. The General Partner may not be removed, suspended, or (except as provided in the Act) replaced without its consent.

6.7 Publicly Traded Partnership. Notwithstanding anything to the contrary contained herein, no Limited Partner shall assign any portion of such Limited Partner's interest in the Partnership if the General Partner determines that such Assignment or attempted Assignment could cause the Partnership to be treated as a "publicly traded partnership" within the meaning of Section 7704 of the Code.

ARTICLE 7
General Accounting Provisions and Reports

7.1 Books of Account; Tax Returns. At the expense of the Partnership, the General Partner shall prepare and file, or shall cause to be prepared and filed, all United States Federal, state, local, and foreign income and other tax returns required to be filed by the Partnership and shall keep or cause to be kept complete and appropriate records and books of account in which shall be entered all such transactions and other matters relative to the Partnership's operations, business, and affairs as are usually entered into records and books of account that are maintained by persons engaged in business of like character or are required by the Act. At the discretion of the General Partner, such books and records shall be maintained in accordance with U.S. generally accepted accounting principles or the basis utilized in preparing the Partnership's United States Federal income tax returns, which returns, if allowed by applicable law, may in the discretion of the General Partner be prepared on either a cash basis or accrual basis.

7.2 Place Kept; Inspection. The books and records shall be maintained at the principal place of business of the Partnership or the Partnership's third party administrator, and all such books and records (excluding those that do not relate to or reflect information in respect of the requesting Partner's interest in the Partnership) shall be available for inspection and copying at the reasonable request, and at the expense, of any Partner during the ordinary business hours of the Partnership. For the avoidance of doubt, each Limited Partner agrees and acknowledges that unless the General Partner determines otherwise in its sole discretion, with respect to Schedule II and the information contained therein, such Limited Partner shall only be entitled to inspect and copy that portion of Schedule II that relates to such Limited Partner's

interest in the Partnership and shall have no right to inspect or copy that portion of Schedule II that relates to any other Partner's interest in the Partnership.

7.3 Tax Matters Representative. The General Partner or its designee is hereby designated the "Tax Matters Representative" and shall serve as the "tax matters partner", "partnership representative" or any similar role, as applicable within the meaning of the Code and is authorized and required to represent the Partnership in connection with all examinations of the Partnership's affairs by tax authorities, including resulting administrative and judicial proceedings. In the event that the Partnership is not subject to the consolidated audit rules of Sections 6221 through 6234 of the Code during any fiscal year, each Person who was a Partner at any time during such fiscal year hereby agrees to sign an election pursuant to Section 6231(a)(1)(B)(ii) of the Code and Regulations Section 301.6231(a)(1)-1(b)(2) to be filed with the Partnership's Federal income tax return for such fiscal year to have such consolidated audit rules apply to the Partnership. If any state or local tax law provides for a tax matters partner or person having similar rights, powers, authority or obligations, the Tax Matters Representative shall serve in such capacity. In all other cases, the Tax Matters Representative shall represent the Partnership in all tax matters to the extent allowed by law. Expenses incurred by the Tax Matters Representative in its role as the Tax Matters Representative or in a similar capacity as set forth in this Section 7.3 shall be borne by the Partnership as Partnership Expenses. Such expenses shall include, without limitation, fees of attorneys and other tax professionals, accountants, appraisers and experts, filing fees and reasonable out of pocket costs. Each Partner agrees that any action taken by the Tax Matters Representative in connection with audits of the Partnership shall be binding upon such Partners and each such Partner further agrees that such Partner shall not treat any Partnership item inconsistently on such Partner's income tax return with the treatment of the item on the Partnership's return and that such Partner shall not independently act with respect to tax audits or tax litigation involving the Partnership (but not a Partner individually), unless previously authorized to do so in writing by the Tax Matters Representative, which authorization may be withheld by the Tax Matters Representative in its sole and absolute discretion.

7.4 Tax Elections.

(a) Elections by Partnership. The General Partner shall have the discretion to make decisions as to all tax and accounting matters, including any tax election provided under the Code, or any provision of state, local or foreign tax law, and the General Partner shall, to the fullest extent permitted by law, be absolved from all liability for any and all consequences to any previously admitted or subsequently admitted Partners resulting from its making or failing to make any such election. All decisions and other matters concerning the computation and allocation of items of income, gain, loss, deduction and credits among the Partners, and accounting procedures not specifically and expressly provided for by the terms of this Agreement shall be determined by the General Partner in its discretion. Any determination made pursuant to this Section 7.4 by the General Partner shall be conclusive and binding on all Partners.

(b) Elections by Partners. If any Partner makes any tax election that requires the Partnership to furnish information to such Partner to enable such Partner to compute its own tax liability, or requires the Partnership to file any tax return or report with any tax authority, or adjust the basis of Partnership property, in any case that would not be required in the absence of

such election made by such Partner, the General Partner may, as a condition to furnishing such information, or filing such return or report, or making such basis adjustment, require such Partner to pay to the Partnership any incremental expenses incurred in connection therewith.

ARTICLE 8
Amendments and Waivers

8.1 Without Limited Partner Consent. The General Partner may, whether with or without the consent or vote of any Limited Partner, amend or waive any provision of this Agreement which merely (i) reflects the transfer of a Partnership interest or the admission or withdrawal of one or more new or substituted Limited or General Partners in accordance with this Agreement, (ii) corrects an error or clarifies an ambiguity in this Agreement, (iii) does not adversely affect the economic rights, entitlements and obligations of any Limited Partner hereunder in any material respect, (iv) changes Schedules I and II to reflect the names, addresses, and Percentage Interests of the Partners as from time to time amended in accordance with this Agreement, (v) enables the Partnership to avoid violating any law which (in the absence of such amendment or waiver) would have, or may reasonably be expected to have, a material adverse effect on the Partnership or its operations, business, or affairs, or (vi) changes any other provision on which the consent, vote, or approval of the affected Limited Partners is not required by law or this Agreement; provided, however, that notwithstanding any other provision of this Agreement to the contrary, no such amendment or waiver effected by the General Partner shall adversely affect the economic rights, entitlements or obligations of any Limited Partner hereunder without the consent of such Limited Partner so affected.

8.2 With Majority Limited Partner Consent. Except as provided in Section 8.1 or 8.3, this Agreement may be modified or amended, or any provision hereof waived, only with the consent of the General Partner and the consent or vote of Limited Partners then representing a Majority in Interest of all Limited Partners.

8.3 Certain Other Amendments. No amendment to or waiver of any provision of this Agreement shall be effective against a given Partner without the consent or vote of such Partner if such amendment or waiver would (i) cause the Partnership to fail to be treated as a limited partnership under the Act or cause a Limited Partner to become liable as a general partner of the Partnership, (ii) change Section 2.1 to increase a Partner's obligations to contribute to the capital of the Partnership, (iii) change Section 4.1 or 4.2 to affect adversely any Partner's rights to exculpation or indemnification, (iv) change Sections 5.1(a), 5.2, 8.1, 9.2(c), or 11.9(c) to affect adversely the participation of such Partner in the income, gains, losses, deductions, expenses, credits, capital, or distributions of the Partnership or (v) change the percentage of Partners necessary for any consent or vote required to take any action specified in Section 8.2 or this Section 8.3.

ARTICLE 9
Dissolution, Liquidation, and Termination

9.1 Dissolution. The Partnership shall be dissolved and its affairs wound up on a date determined by the General Partner in its reasonable judgment (the "Partnership Termination Date"); provided, however, that, notwithstanding anything to the contrary contained herein, the

Partnership shall sooner be dissolved and its affairs shall be wound up upon the occurrence of any event sufficient under the Act to cause the dissolution of the Partnership prior to the Partnership Termination Date.

9.2 Liquidation.

(a) Dissolution of the Partnership shall be effective as of the date on which the event occurs giving rise to the dissolution and all Partners shall be given prompt notice thereof in accordance with Section 11.4 hereof, but the Partnership shall not terminate until the assets of the Partnership have been distributed as provided for in Section 9.2(c) hereof and a Certificate of Cancellation of the Certificate has been filed with the Delaware Secretary of State. Notwithstanding the dissolution of the Partnership, prior to the termination of the Partnership, the business, assets and affairs of the Partnership shall continue to be governed by this Agreement.

(b) Upon the dissolution of the Partnership, the General Partner, or, if the General Partner cannot or elects not to act, a person selected by the General Partner, or, if there is no General Partner, a person selected by a majority of the members of the General Partner, shall act as the liquidator (the "Liquidator") of the Partnership to wind up the Partnership. The Liquidator shall have full power and authority to sell, assign and encumber any or all of the Partnership's assets and to wind up and liquidate the affairs of the Partnership in an orderly and business-like manner.

(c) The Liquidator shall distribute all proceeds from liquidation in the following order of priority:

(i) first, to creditors of the Partnership (including creditors who are Partners) in satisfaction of the liabilities of the Partnership (whether by payment or the making of reasonable provision for payment thereof); and

(ii) thereafter, to the Partners in the same manner in which non-liquidating distributions are made pursuant to Article 5 hereof.

(d) The Liquidator shall determine whether any assets of the Partnership shall be liquidated through sale or shall be distributed in kind. A distribution in kind of an asset to a Partner shall be considered, for the purposes of this Article 9, a distribution in an amount equal to the Fair Market Value of the asset so distributed as determined by the Liquidator in its discretion.

9.3 Cancellation of Certificate. Upon the completion of the distribution of Partnership assets as provided in Section 9.2 hereof, the person acting as Liquidator shall cause the cancellation of the Certificate and shall take such other actions as may be necessary or appropriate to terminate the Partnership.

9.4 No Negative Capital Account Obligation. Notwithstanding any other provision of this Agreement to the contrary, in no event shall any Partner who has a negative capital account upon final distribution of all cash and other property of the Partnership be required to restore such negative account to zero.

9.5 No Other Cause of Dissolution. The Partnership shall not be dissolved, or its legal existence terminated, for any reason whatsoever except as provided in this Article 9.

ARTICLE 10
Competing Activities; Non-Solicitation; Confidentiality

10.1 Non-Competition.

(a) Each Limited Partner agrees that, at all times prior to the first anniversary of such Limited Partner becoming a Separated Partner for any reason, such Limited Partner shall not, directly or indirectly (whether for compensation or not), solicit any Person who has invested in any Fund (or any Affiliate of such Person) to invest in a fund managed by a Competing Business.

(b) Notwithstanding the foregoing, the terms of Section 10.1(a) or (c) shall not be deemed to be breached as a result of a Limited Partner acting in his or her capacity as a director, officer, employee, manager, member, partner, stockholder, trustee, agent or other representative of the Partnership or any of its Affiliates, or by acting as a director, officer, employee, manager, member, partner, stockholder, trustee, agent or other representative of any Portfolio Company at the request of the Partnership or its Affiliates.

(c) Each Limited Partner agrees that, at all times prior to the 18-month anniversary of such Limited Partner becoming a Separated Partner (in the case of clause (i) below) and at all times prior to the 6-month anniversary of such Limited Partner becoming a Separated Partner (in the case of clause (ii) below), such Limited Partner shall not, directly or indirectly (whether for compensation or not) acquire or seek to acquire, or assist, advise or encourage any other Person (other than the Partnership or any Fund) in acquiring or seeking to acquire, any company, business or assets which to such Limited Partner's knowledge was the subject of a potential investment by any Fund (i) as of the date such Limited Partner became a Separated Partner or (ii) during the 1-year period prior to such Limited Partner becoming a Separated Partner.

(d) Each Limited Partner acknowledges and agrees that, in the event of a breach of the provisions of either Section 10.1(a) or Section 10.1(c), the damage or imminent damage to the value and goodwill of the Partnership and its Affiliates would be inestimable and that therefore money damages and/or any other remedy under applicable law would be inadequate. Accordingly, the parties hereto agree that, in addition to any losses or other damages incurred or suffered by the Partnership or its Affiliates, the Partnership and its Affiliates shall be entitled (without the necessity of posting any bond or other security) to injunctive relief, including specific performance, against a Limited Partner with respect to any breach of the terms of either Section 10.1(a) or Section 10.1(c) by such Limited Partner. The duration of the restrictions set forth in this Section 10.1 shall be extended by the period of time equal to the number of days, if any, during which a Limited Partner or one of his or her Affiliates is in breach of this covenant.

(e) In addition, each Limited Partner further acknowledges and agrees that, notwithstanding any other provision of this Agreement to the contrary, in the event such Limited

Partner willfully breaches the terms of Section 10.1(a) or Section 10.1(c) at any time prior to such Limited Partner becoming a Separated Partner, such Limited Partner shall immediately and automatically forfeit without consideration his or her entire Partnership interest.

(f) Each Limited Partner believes that he or she has received and will receive sufficient consideration and other benefits as a Limited Partner of the Partnership and as otherwise provided hereunder or as described in the recitals hereto to clearly justify the restrictions in Section 10.1(a) and Section 10.1(c) which, in any event (given their education, skills and ability), each Limited Partner does not believe would prevent them from otherwise earning a living. Each Limited Partner acknowledges that he or she also is agreeing to such restrictions in order to induce other Limited Partners to agree to such restrictions. Each Limited Partner further acknowledges that other Limited Partners may be receiving more or different consideration for their respective agreements to be bound by such restrictions, and consents thereto. Each Limited Partner has carefully considered the nature and extent of the restrictions placed upon them by this Agreement, and hereby acknowledges and agrees that the same are reasonable in time and territory and do not confer a benefit upon the Partnership and its Affiliates disproportionate to the detriment of the Limited Partner.

(g) The parties hereto intend that the covenants contained in this Section 10.1 shall be construed as a series of separate covenants, one for each state within the United States and each country outside the United States. Except for geographic coverage, each such separate covenant shall be deemed identical in terms to the covenants contained in this Section 10.1. If, in any judicial proceeding, a court shall refuse to enforce any of the separate covenants deemed included in this Section 10.1, then such unenforceable covenant shall be deemed reduced in scope or, if necessary, eliminated from these provisions for the purpose of those proceedings to the extent necessary to permit the remaining separate covenants to be enforced and the other covenants set forth in this Section 10.1 shall remain in effect as if the provision had been executed without the invalid covenants. The parties hereby declare that they intend that the remaining covenants of the provision continue to be effective without any covenants that have been declared invalid.

10.2 Non-Solicitation.

(a) Each Limited Partner agrees that, at all times prior to the later of (1) the first anniversary of such Limited Partner becoming a Separated Partner and (2) the date on which such Limited Partner ceases to hold an interest in any Fund General Partner or other Affiliate of the Partnership, such Limited Partner shall not, directly or indirectly (whether for compensation or not), (i) solicit, recruit or otherwise induce, or attempt to solicit, recruit or otherwise induce, (x) any investment professional, officer, senior manager, consultant (including any "operating partner" or similar role) or other employee of the Partnership, any Fund General Partner or any Fund, or (y) any officer or senior manager of any Portfolio Company to leave, as applicable, the Partnership, such Fund General Partner, such Fund or such Portfolio Company, (ii) hire, employ or partner with (x) any investment professional, officer, senior manager, consultant (including any "operating partner" or similar role) or other employee of the Partnership, any Fund General Partner or any Fund (or any person that was such an investment professional, officer, senior manager, consultant or employee during the 1-year period prior to such Limited Partner becoming a Separated Partner), or (y) any officer or senior manager of any Portfolio Company

(or any person that was such an officer or senior manager during the 1-year period prior to such Limited Partner becoming a Separated Partner) or (iii) otherwise interfere with the employment or other professional relationship of (x) any investment professional, officer, senior manager, consultant (including any "operating partner" or similar role) or other employee of the Partnership, any Fund General Partner or any Fund, or (y) any officer or senior manager of any Portfolio Company. Solely for purposes of this Section 10.2(a), "Portfolio Company", with respect to a Separated Partner, shall be deemed to include any Entity that was a Portfolio Company as of the date of such Separated Partner's Termination, irrespective of whether such Portfolio Company was the subject of a sale or other transaction subsequent to such Termination.

(b) Each Limited Partner acknowledges and agrees that, in the event of a breach of the provisions of Section 10.2(a), the damage or imminent damage to the value and goodwill of the Partnership and its Affiliates would be inestimable and that therefore money damages and/or any other remedy under applicable law would be inadequate. Accordingly, the parties hereto agree that, in addition to any losses or other damages incurred or suffered by the Partnership or its Affiliates, the Partnership and its Affiliates shall be entitled (without the necessity of posting any bond or other security) to injunctive relief, including specific performance, against a Limited Partner with respect to any breach of the terms of Section 10.2(a) by such Limited Partner. The duration of the restrictions set forth in this Section 10.2 shall be extended by the period of time equal to the number of days, if any, during which a Limited Partner or one of his or her Affiliates is in breach of this covenant.

(c) In addition, each Limited Partner further acknowledges and agrees that, notwithstanding any other provision of this Agreement to the contrary, in the event such Limited Partner willfully breaches the terms of Section 10.2(a) at any time prior to such Limited Partner becoming a Separated Partner, such Limited Partner shall immediately and automatically forfeit without consideration his or her entire Partnership interest.

10.3 Confidentiality.

(a) Each Limited Partner agrees to keep confidential, and not to disclose to any Person, any matter relating to the Partnership, the General Partner, each Fund General Partner, each Fund and any of their respective Affiliates or their respective affairs, including any matter related to the business, financial results, clients or affairs of the Partnership (including, for the avoidance of doubt, any "track record" information of the Partnership or any Fund or investment thereof, which such "track record" shall belong exclusively to the Partnership and its Affiliates) or to any Portfolio Investment or Portfolio Company (other than disclosure to such Limited Partner's agents, accountants, legal counsel, advisors or representatives responsible for matters relating to the Partnership and who need to know such information to perform such responsibilities (each such Person being hereinafter referred to as an "Authorized Representative")); provided, however, that such Limited Partner or any of its Authorized Representatives may make such disclosure to the extent that (i) the information being disclosed is in connection with such Limited Partner's tax returns or financial statements, (ii) the information being disclosed is otherwise generally available to the public, (iii) such disclosure is requested by any governmental body, agency, official or authority having jurisdiction over such Limited Partner, (iv) such disclosure, in the written opinion of legal counsel of such Limited Partner or Authorized Representative, is otherwise required by law or (v) such disclosure is

required in the ordinary course of business of the Partnership or any Fund; provided, further, to the extent reasonably practicable, such Limited Partner shall notify the General Partner prior to any such disclosure. No Limited Partner shall make any disclosure described in clause (ii) of this Section 10.3 to the media without the prior consent of the General Partner. Prior to making any disclosure described in clause (iv) of this Section 10.3, each Limited Partner shall notify the General Partner of such disclosure and deliver to the General Partner a copy of the opinion referred to in such clause (iv). Each Limited Partner shall use its best efforts to cause each of its Authorized Representatives to comply with the obligations of such Limited Partner under this Section 10.3. In connection with any disclosure described in clause (iii) above, the disclosing Limited Partner shall promptly notify the Partnership and the General Partner of such disclosure and cooperate with the Partnership and the General Partner in seeking any protective order or other appropriate arrangement as the General Partner may request. Notwithstanding anything to the contrary contained in this Section 10.3(a), nothing in this Agreement shall (x) prohibit any Limited Partner from making good faith reports of possible violations of Federal law or regulation to, or to participate in any investigation or proceeding that may be conducted by, any governmental body, agency, official or authority in accordance with the provisions of and rules promulgated under Section 21F of the Securities Exchange Act of 1934 or of any other whistleblower protection provisions of state or federal law or regulation, or (y) require notification or prior approval by the Partnership of any reporting described in the foregoing clause (x).

(b) Each Limited Partner acknowledges and agrees that, in the event of a breach of the provisions of Section 10.3(a), the damage or imminent damage to the value and goodwill of the Partnership and its Affiliates would be inestimable and that therefore money damages and/or any other remedy under applicable law would be inadequate. Accordingly, the parties hereto agree that, in addition to any losses or other damages incurred or suffered by the Partnership or its Affiliates, the Partnership and its Affiliates shall be entitled (without the necessity of posting any bond or other security) to injunctive relief, including specific performance, against a Limited Partner with respect to any breach of the terms of Section 10.3(a) by such Limited Partner. The duration of the restrictions set forth in this Section 10.3 shall be extended by the period of time equal to the number of days, if any, during which a Limited Partner or one of his or her Affiliates is in breach of this covenant.

(c) In addition, each Limited Partner further acknowledges and agrees that, notwithstanding any other provision of this Agreement to the contrary, in the event such Limited Partner willfully breaches the terms of Section 10.3(a) at any time prior to such Limited Partner becoming a Separated Partner, such Limited Partner shall immediately and automatically forfeit without consideration his or her entire Partnership interest.

(d) Each Limited Partner acknowledges that the Partnership holds a sublicensable, royalty-free license to use the Name and Mark, and that no other Limited Partner shall have, by virtue of its ownership of an interest in the Partnership or any of its Affiliates, any rights in respect of, or interest in, the Name and Mark or the goodwill or similar value associated therewith.

10.4 Non-Disparagement. Each Limited Partner agrees, both prior to and after such time, if any, as such Limited Partner becomes a Separated Partner, not to criticize, denigrate or

disparage (a) the Partnership, (b) any of the Partnership's Affiliates, (c) any investment professional, officer, senior manager, consultant (including any "operating partner" or similar role) or other employee of the Partnership, any Fund General Partner or any Fund, or (d) any officer or senior manager of any Portfolio Company.

10.5 Other Agreements. Each Limited Partner agrees that, notwithstanding any other provision in this Agreement to the contrary, such Limited Partner shall not take any action contrary to any non-solicitation, non-disparagement, non-competition or any similar provision contained in any definitive agreement to which the Partnership or any of its Affiliates is subject.

10.6 Separated Partners. For the avoidance of doubt, the provisions of this Article 10, to the extent they expressly extend beyond a Limited Partner's Separation Date, shall apply to a Separated Partner (and each reference to a Limited Partner shall be deemed to also be a reference to a Separated Partner).

ARTICLE 11
Miscellaneous

11.1 Waiver of Partition. To the fullest extent permitted by law, each of the Partners irrevocably waives during the term of the Partnership any right that such Partner may have to maintain an action for partition with respect to the property of the Partnership.

11.2 Entire Agreement. This Agreement constitutes the entire agreement among the Partners with respect to the subject matter hereof and supersedes any prior agreement or understanding among them with respect to such subject matter.

11.3 Severability. If any term or provision of this Agreement or the application thereof to any Person or circumstances shall be held invalid or unenforceable, the remaining terms and provisions hereof and the application of such term or provision to Persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby.

11.4 Notices and Other Communications. All notices, requests, demands, and other communications hereunder shall be in writing, including facsimile, electronic mail (including, for the avoidance of doubt, by electronic mail containing an electronic link to a communication or a notification that such communication is electronically accessible) or similar writing, and shall be given, if to a Partner, at its address, electronic mail address or facsimile number set forth in the records of the Partnership and, if to the Partnership, at the address of its principal place of business specified in Section 1.4, or to such other address as the Partnership or any Partner shall have last designated by notice to the Partnership and all other parties hereto in accordance with this Section 11.4. Each such notice, request or other communication shall be effective (i) if given by facsimile, when such facsimile is transmitted to the facsimile number specified pursuant to this Section 11.4, (ii) if given by mail, 72 hours after such communication is deposited in the mail with first class postage prepaid, addressed to the address specified pursuant to this Section 11.4, (iii) if given by electronic mail, when such electronic mail is sent to the electronic mail address specified pursuant to this Section 11.4, (iv) if given by overnight courier, 24 hours after being sent (or 48 hours if being sent between the U.S. and any other country) to the address

specified pursuant to this Section 11.4 or (v) if given by any other means, when delivered at the address specified pursuant to this Section 11.4.

11.5 Governing Law. This Agreement, all questions concerning the construction, interpretation and validity of this Agreement, all claims or causes of action that may be based upon, arise out of or related to this Agreement and the negotiation, execution or performance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement) shall be governed by and construed and enforced in accordance with the laws of the State of Texas, without giving effect to any choice or conflict of law provision or rule (whether in Texas or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than Texas. In furtherance of the foregoing, the laws of the State of Texas will control even if under such jurisdiction's choice of law or conflict of law analysis, the substantive law of some other jurisdiction would ordinarily or necessarily apply.

11.6 Successors and Assigns. All of the terms and provisions of this Agreement shall inure to the benefit of and be binding upon each of the parties hereto and its respective permitted transferees, if any; provided, however, no party hereto may sell, assign, hypothecate, transfer or otherwise dispose of (or cause or permit to be created or existing any lien or encumbrance on), directly or indirectly, its interest in the Partnership (or any portion thereof or any beneficial interest therein) or its rights, interests or obligations hereunder except in accordance with the terms of this Agreement.

11.7 Counterparts. This Agreement may be executed in two or more counterparts, all of which shall constitute one and the same instrument.

11.8 Construction; Headings. The section and article headings in this Agreement are for convenience of reference only and shall not be deemed to alter the meaning or interpretation of any provision hereof. It is the intention of the parties that every covenant, term, and provision of this Agreement shall be construed simply according to its fair meaning and not strictly for or against any party (notwithstanding any rule of law requiring an Agreement to be strictly construed against the drafting party), it being understood that the parties to this Agreement are sophisticated and have had adequate opportunity and means to retain counsel to represent their interests and to otherwise negotiate the provisions of this Agreement.

11.9 Power of Attorney. By execution of this Agreement, each Limited Partner hereby makes, constitutes, and appoints the General Partner, with full power of substitution and re-substitution in the General Partner (in its sole discretion), such Limited Partner's true and lawful attorney-in-fact ("Attorney") for and in such Limited Partner's name, place, and stead and for its use and benefit, to prepare, execute, certify, acknowledge, swear to, file, deliver, or record any one or more of the following:

(a) the Partnership's Certificate or any other agreement, certificate, report, consent, instrument, filing, or writing made by or relating to the Partnership that the Attorney deems necessary, desirable, or appropriate for any lawful purpose, including (i) organizing the Partnership under the Act, (ii) admitting or changing Partners or substituted Partners with respect

to the Partnership, in either case pursuant to the respective terms of this Agreement, (iii) qualifying the Partnership to do business in any jurisdiction, and (iv) complying with any law, agreement, or obligation applicable to the Partnership;

(b) any agreement, certificate, report, consent, instrument, filing, or writing made by or relating to the Partnership that the Attorney deems necessary, desirable, or appropriate to effectuate the business purposes of or the dissolution, liquidation, or termination of the Partnership pursuant to applicable law or the respective terms of this Agreement; and

(c) any amendment to or modification or restatement of this Agreement, the Partnership's certificate of limited partnership, or any other agreement, certificate, report, consent, instrument, filing, or writing of any type described in clause (a) of this Section 11.9, provided that any amendment of or modification to this Agreement shall first have been adopted in accordance with Article 8.

11.10 [Intentionally omitted].

11.11 Parties in Interest. Except as expressly provided in the Act and Article IV hereof, nothing in this Agreement shall confer any rights or remedies under or by reason of this Agreement on any persons other than the Partners and their respective transferees, successors and assigns nor shall anything in this Agreement relieve or discharge the obligation or liability of any third person to any party to this Agreement, nor shall any provision give any third person any right of subrogation or action over or against any party to this Agreement.

11.12 Reliance on Authority of Person Signing Agreement. If a Partner is not a natural Person, neither the Partnership nor any Partner shall (a) be required to determine the authority of the individual signing this Agreement to make any commitment or undertaking on behalf of such entity or to determine any fact or circumstance bearing upon the existence of the authority of such individual or (b) be responsible for the application of distribution of proceeds paid or credited to individuals signing this Agreement on behalf of such entity.

11.13 Representations. Unless otherwise specified in a notice delivered to the General Partner, each Partner represents and warrants as of the date hereof and as of each date on which such Partner holds an interest in the Partnership as follows:

(a) The Partner is an accredited investor as defined in Regulation D, promulgated under the U.S. Securities Act of 1933, as amended, and that the interest in the Partnership will be owned by such Partner as the sole beneficial owner and is not being acquired for distribution in violation of such law.

(b) The Partner is either or both (i) a Qualified Purchaser as defined in Section 2a-51 of the U.S. Investment Company Act of 1940, as amended and/or (ii) a Knowledgeable Employee as defined in Rule 3c-5 of the U.S. Investment Company Act of 1940, as amended.

(c) The Partner (i) has acquired interests in the Partnership for its own account, for investment only and not with a view to the distribution thereof, (ii) recognizes that an investment in the Partnership is speculative and involves certain risks, and (iii) acknowledges that none of the Partnership, the General Partner or any Affiliate thereof has made any guarantee

or representation upon which such Partner has relied concerning the possibility or probability of profit or loss or the realization of any tax benefits as a result of its acquisition of any interest in the Partnership.

(d) The Partner's knowledge and experience in financial and business matters are such that it is capable of evaluating the risks of owning an interest in the Partnership.

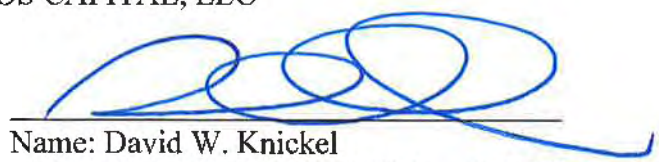
11.14 Division of Property. In the event of a property settlement or separation agreement between a Limited Partner (or, in the case of a Limited Partner that is not a natural Person, its Associated Person) and his or her spouse, such Limited Partner (or such Associated Person) agrees that he or she shall use his or her reasonable best efforts to retain all of such Limited Partner's interest in the Partnership and shall reimburse his or her spouse out of funds, assets or proceeds separate and distinct from such Limited Partner's interest in the Partnership or any of its Affiliates. To the extent that such Limited Partner (or such Associated Person) is unable, despite his or her exercise of reasonable best efforts, to retain all of such Limited Partner's interest in the Partnership, such Limited Partner (or such Associated Person) shall use reasonable best efforts to assign to his or her spouse only the right to share in profits and losses, to receive distributions, and to receive allocations of income, gain, loss, deduction or credit or similar items to which the assigning Limited Partner was entitled, to the extent assigned, with the assigning Limited Partner remaining entitled to exercise all rights and powers of a Limited Partner hereunder; provided, however, that any purported assignment shall be an Assignment subject to the provisions of Article 6 of this Agreement. Notwithstanding the foregoing, if a spouse or former spouse of a Limited Partner (or, in the case of a Limited Partner that is not a natural Person, its Associated Person) acquires an interest in the Partnership as a Limited Partner as a result of any such proposed settlement or separation agreement or is otherwise assigned an interest in the Partnership, such spouse or former spouse hereby grants an irrevocable power of attorney (which shall be coupled with an interest) to the assigning Limited Partner to vote or to give or withhold such approval as such assigning Limited Partner shall himself or herself vote or approve with respect to such matter and without the necessity of the taking of any action by any such spouse or former spouse. Such power of attorney shall not be affected by the subsequent disability or incapacity of the spouse or former spouse granting such power of attorney.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the undersigned General Partner has executed this Agreement effective as of the date first written above.

General Partner:

KAINOS CAPITAL, LLC

By: 

Name: David W. Knickel
Title: Vice President; Chief Financial Officer; Secretary

IN WITNESS WHEREOF, the undersigned Limited Partner has executed this Agreement effective as of the date first written above.

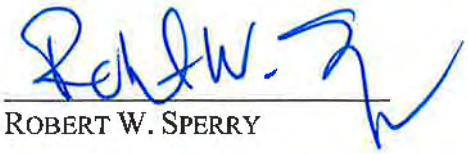
Existing Limited Partner:

ANDREW S. ROSEN

The undersigned, in his or her capacity as the spouse of a Limited Partner (or, as applicable, the Associated Person of a Limited Partner), is hereby executing and delivering this Agreement solely for the purpose of agreeing to the provisions of Section 11.14 hereof.

[redacted]

Existing Limited Partner:



ROBERT W. SPERRY

The undersigned, in his or her capacity as the spouse of a Limited Partner (or, as applicable, the Associated Person of a Limited Partner), is hereby executing and delivering this Agreement solely for the purpose of agreeing to the provisions of Section 11.14 hereof.

_____

[redacted]

SCHEDULE I

NAMES, PERCENTAGE INTERESTS AND INITIAL CAPITAL CONTRIBUTIONS OF PARTNERS
KAINOS CAPITAL, LLC PRIOR TO FILING THE CERTIFICATE OF CONVERSION

Partner Name	Address	Percentage Interest	Initial Capital Contribution *
Limited Partners:			
Rosen, Andrew S.	Note 1	42.000000%	
Sperry, Robert W.	Note 1	33.000000%	
Bradley, Sarah A.	Note 1	25.000000%	

Note 1: c/o Kainos (GP) Capital LLC, 2100 McKinney Avenue, Suite 1600, Dallas, TX 75201

* Andrew S. Rosen, Robert W. Sperry, and Sarah A. Bradley are deemed to contribute to the Partnership the net working capital of the Partnership on the date the Certificate of Conversion was filed pro-rata in accordance with the Percentage Interests reflected on this Schedule I.

SCHEDULE 2

NAMES, PERCENTAGE INTERESTS AND INITIAL CAPITAL CONTRIBUTIONS OF PARTNERS

KAINOS CAPITAL LP AFTER FILING THE CERTIFICATE OF CONVERSION

Partner Name	Address	Percentage Interest	Initial Capital Contribution
Limited Partners:			
Bradley, Sarah A.	Note 1	12.000000%	

Note 1: c/o Kainos (GP) Capital LLC, 2100 McKinney Avenue, Suite 1600, Dallas, TX 75201

EXHIBIT A

TRANSFEREE TAX REPRESENTATIONS

1. The transferee is, and will at all times continue to be, the sole beneficial owner of the interest in the Partnership to be registered in its name;

2. The transferee is not a trust, estate, partnership or "S corporation" for Federal income tax purposes;

3. The transferee did not acquire, and will not assign, its interest in the Partnership through (a) a national, foreign, regional, local or other Securities exchange, (b) PORTAL, (c) an over-the-counter market (including an interdealer quotation system that regularly disseminates firm buy or sell quotations by identified brokers or dealers by electronic means or otherwise) or (d) on or through an "established securities market" or a "secondary market or the substantial equivalent thereof" as such terms are used in Regulations Section 1.7704-1;

4. The transferee did not acquire, and will not Assign, its interest in the Partnership from, to or through (a) a person, such as a broker or dealer, that makes a market in, or regularly quotes prices for, interests in the Partnership or (b) a person that regularly makes available to the public (including customers or subscribers) bid or offer quotes with respect to interests in the Partnership and stands ready to effect, buy or sell transactions at the quoted prices for itself or on behalf of others; and

5. The transferee will only assign its interest in the Partnership to a buyer who provides the representations similar to these.

* * *

The General Partner may waive representation 2 above on the advice of counsel that the transfer of an interest in the Partnership to such transferee will not cause the Partnership to be treated as a corporation for Federal income tax purposes. These representations may from time to time be revised by the General Partner on the advice of counsel.