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**LIMITED PARTNERSHIP AGREEMENT**  
**TRIBAR LP 6 LIMITED PARTNERSHIP**

*A Texas Limited Partnership*

This Limited Partnership Agreement (the "Agreement") is made by and between Brian Alan Barnes, as general partner (hereinafter "General Partner", whether one or more) and by Beth Barnes, Brian Barnes, and Bonnie McNair, as limited partners (hereinafter "Limited Partners", whether one or more). The General Partner and the Limited Partners (the "Partners") hereby covenant and agree to the formation of this limited partnership under the following terms:

**ARTICLE 1. FORMATION OF PARTNERSHIP**

Section 1.1 **FORMATION.** Effective upon the proper filing of a formal Certificate of Limited Partnership (the "Effective Date"), the Partners form a limited partnership under the Texas Business Organizations Code.

Section 1.2 **NAME.** The name of the limited partnership is **TRIBAR LP 6 LIMITED PARTNERSHIP.** (the "Partnership"), and all Partnership business must be conducted in that name or such assumed names, in compliance with applicable law, as the General Partner may select.

Section 1.3 **PRINCIPAL OFFICE AND REGISTERED AGENT.** The principal office initially shall be:

8103-A Baywood Drive, Austin, Texas 78759

The Partnership shall conduct business at such other or additional locations as the General Partner from time to time may designate. The initial registered agent and registered address of the Partnership are:

**Brian Barnes, General Partner**  
**8103-A Baywood Drive, Austin, Texas 78759**

The Partnership may change its registered agent or registered office by written designation signed by a General Partner.

Section 1.4 **PURPOSE.** The Partnership is formed for the purpose of making a profit, increase wealth, and providing a method for the Partners to become knowledgeable of, manage and preserve assets. The Partnership may engage in any lawful activity or business necessary, incidental, proper, advisable or convenient to accomplish the purposes of the Partnership. The Partnership has, without limitation, the following authority:

- a. to engage in farming and ranching business, acquire, own, hold, develop, and operate farm and ranching properties, either as operator, managing agent, principal, agent, partner, stockholder, syndicate member, associate, joint venturer, participant, or otherwise, invest in and raise funds for farming and ranching, purchase, construct, acquire, own, develop, operate, lease, mortgage, pledge, sell or otherwise dispose of crops, livestock, and facilities, and do anything necessary or incident to farming and ranching;

- b. to engage in the real estate business, acquire, own, hold, develop, and operate real estate properties, either as operator, managing agent, principal, agent, partner, stockholder, syndicate member, associate, joint venturer, participant, or otherwise, invest in and raise funds for real estate development and operation, purchase, construct, acquire, own, develop, operate, lease, mortgage, pledge, sell or otherwise dispose of buildings, fixtures and improvements, and do anything necessary or incident to the real estate business;
- c. to purchase, sell, invest and deal in the following: stocks, options, bonds, notes, warrants, debentures, bills of exchange, commercial papers, and any other securities or evidences of indebtedness of any Person or any governmental entity, domestic or foreign, gold, silver, grain, cotton, and other commodities and provisions usually dealt on exchanges or over-the-counter markets, and any form of options to buy or sell in any of said markets, and to use margin accounts for such purposes;
- d. to invest Partnership Property, carry on any trade or business, form all types of business entities or trusts, to acquire general or limited partnership interests in a partnership, membership interests in a limited liability company or a joint venture, shares in a corporation, or interest in any syndication;
- e. to buy, sell, lease, and deal in services, personal property, and real property, and engage in any other trade, business, or investment activity;
- f. to buy sell, trade, exchange, acquire, transfer, assign, lease, develop, manage, and operate oil, gas and other mineral interests, either alone or together with others;
- g. to operate any lawful business enterprise which accomplishes other Partnership purposes;
- h. to guarantee the financial transactions of others, with or without charging a fee;
- i. to borrow and lend money, and, unless prohibited, allow a Partner to lend money to, borrow money from and transact other business with the Partnership or Partners;
- j. to invest and reinvest any of the property or income of the Partnership, whether or not the original purpose for the investment has been accomplished, and it being understood that, until the end of the term of the Partnership, the investment objectives of this Partnership are to continue until the Partnership is dissolved and its affairs would up;
- k. to purchase, lease, acquire, sell or dispose of machinery, equipment, buildings and other depreciable property;
- l. to purchase, lease, acquire, hold, operate, sell, lease or dispose of full or fractional interests in improved or unimproved real and personal property;
- m. to borrow or raise money by the issuance, acceptance, endorsement or execution of notes, drafts, bills of exchange, warrants, bonds, debentures, instruments or

evidences of indebtedness, securing the indebtedness by mortgage, pledge, transfer or assignment in trust of all or any part of the Property, and by selling, pledging or disposing of obligations of the Partnership;

- n. to operate one or more offices, lease or acquire office space, engage personnel and do all things necessary to operate the office;
- o. to carry insurance as the General Partner may deem necessary and appropriate;
- p. to make, enter into, deliver and perform all contracts, agreements or undertakings, pay all costs and expenses and perform all acts deemed appropriate by the General Partner to carry out the Partnership purposes;
- q. to open and maintain checking, savings, brokerage, margin and other accounts with banks, savings & loans, credit unions, stock brokers, and similar financial institutions;
- r. to sue or defend in any action or proceeding.

Section 1.5 **SCOPE OF BUSINESS.** The Partnership is authorized to engage in all business permitted by the Code. If the Partnership qualifies to do business in a foreign jurisdiction, then it may transact all business permitted in that jurisdiction. There is no jurisdictional restriction on the property or activity of the Partnership.

## ARTICLE 2. **TERM OF THE PARTNERSHIP**

Section 2.1 **COMMENCEMENT.** The Partnership shall not commence business until the Effective Date.

Section 2.2 **TERM.** The Partnership shall be a term-of-years partnership pursuant to the Code. The Partnership shall commence on the Effective Date and shall end on the close of business December 31, 2067, (the "Initial Term"), unless sooner terminated by law or continued as hereinafter provided.

Section 2.3 **CONTINUATION AFTER INITIAL TERM.** The Partnership may continue after the Initial Term, by Unanimous Consent, from calendar year to calendar year until thirty days written notice is given by any Partner to the others.

Section 2.4 **EARLY TERMINATION.** The Partnership may be terminated and dissolved at any time during the Initial Term or Secondary Term by Unanimous Consent.

Section 2.5 **CONTINUATION DURING ANY TERM.** The Partnership shall not be terminated or dissolved by the death, insanity, bankruptcy, withdrawal or expulsion of any Limited Partner, by the assignment or purported assignment by any Limited Partner of his interest, by the admission of a new Limited Partner, or by the admission of an additional General Partner. Upon an event of dissolution, whether under the terms of this Agreement or as a matter of law, to the extent allowable under the law, the Partnership shall be reconstituted and continued without winding up under the Code.

Section 2.6 **DISSOLUTION.** The Partnership shall be dissolved only upon the occurrence of any of the following events:

- a. The Unanimous Consent of all Partners in writing;
- b. The expiration of the term of the Partnership;
- c. The death, incompetency, bankruptcy, removal or other act constituting a withdrawal under the Code of a General Partner;
- d. The entry of a dissolution decree or judicial order by a court of competent jurisdiction or by operation of law;
- e. Any other event causing dissolution under the Code or this Agreement.

Section 2.7 **WITHDRAWALS; RECONSTITUTION.** In the event of a technical dissolution of the Partnership, if there is a remaining General Partner, which may include a Successor General Partner designated under Section 2.7.d hereof, the Partnership shall be reconstituted and continued, without winding up under the Code. If there is no remaining General Partner, the Partnership shall be reconstituted and continued upon the affirmative vote in writing of all remaining Partners and the appointment of at least one new General Partner within ninety days of the occurrence of the event of dissolution. Each Partner hereby contracts and agrees, and irrevocably casts an affirmative vote for the proposition that the partnership shall be reconstituted and continued in the event of any technical dissolution arising within the Initial Term.

- a. **Withdrawal by Consent.** Each General Partner agrees not to withdraw as a General Partner of the Partnership during the Initial Term. If a General Partner intends to withdraw, despite this provision, that General Partner may first solicit the prior written consent of a Majority in Interest. For purposes of this subsection, "Majority in Interest" means more than 50% of the Sharing Ratios remaining after excluding the Sharing Ratio of the Partner seeking to withdraw. In the event such consent is granted, any withdrawal shall be effective upon the later of (1) 30 days after the necessary written consent is given by a Majority in Interest or (2) the date specified in the written consent. Upon the withdrawal in conformity with this subsection, the General Partner's Partnership Interest shall be converted to a Limited Partnership Interest and, thereafter, such Partner shall be a Limited Partner for all purposes, subject to reduction of such interest under Section 2.7.b of this Agreement. Consent to withdrawal shall not constitute a waiver of the right to offset damages resulting from the withdrawal.
- b. **Damages on Withdrawal.** If a General Partner withdraws, even with consent, the withdrawal will be treated as a breach of this Agreement and the Partnership may recover damages from the withdrawing Partner, including the reasonable cost of obtaining replacement of the services the withdrawing Partner was obligated to perform. The Partnership may, in addition to pursuing any remedies otherwise available under applicable law, recover from the withdrawing Partner by offsetting any damages against any amount otherwise distributable to the withdrawing Partner, reducing the Limited Partnership Interest into which the withdrawing General Partner's Partnership Interest may be converted, or both.

- c. **Effect of Withdrawal Without Consent.** If a General Partner withdraws without first obtaining the written consent described in Section 2.7.a, the General Partner shall be expelled as a Partner and the Partnership Interest held by such General Partner shall be converted automatically to a Limited Partnership Interest and the withdrawing General Partner shall have the status of an Assignee of that interest. In the event of a purported withdrawal by a sole General Partner, the withdrawal shall not be effective until, and the Partnership Interest held by such Partner shall be converted effective immediately after, at least one Designated Successor General Partner (hereinafter defined) has assumed the role of General Partner or the election of one or more new General Partners. The Partnership shall have the unilateral option to acquire the entire interest of the withdrawn General Partner (as the same may remain, if at all, after offsetting damages allowed in Section 2.7.b of this Agreement) under the same terms and conditions as if the withdrawn General Partner was a transferee of an interest conveyed without authority.
- d. **Successor General Partner.** If a General Partner ceases to serve for any reason, a majority in interest of the Limited Partners may appoint a Successor General Partner within thirty days of a vacancy by presenting a written designation signed by a majority in interest of such partners.

A Successor General Partner will not have the duties nor the liability of a General Partner until such time as the successor actually assumes the position of a General Partner. A General Partner who ceases to be a General Partner will not be personally liable for the debts and obligations of the Partnership incurred following the termination of his service as a General Partner.

### ARTICLE 3. **WINDING UP.**

Section 3.1 **WINDING UP THE PARTNERSHIP.** On any voluntary dissolution, or upon expiration of the Partnership term, the Partnership shall immediately commence to wind up its affairs. The surviving General Partner who has not wrongfully caused the dissolution shall wind up the affairs of the Partnership or, if there is none, a Majority in Interest of the Limited Partners shall designate a Liquidator for such purpose. The Person winding up the business shall have all rights available to a General Partner hereunder, all rights available under the Code, and all further rights not expressly prohibited by law. The Partners shall continue to share profits and losses during the period of liquidation in the same proportions as before dissolution. The proceeds from liquidation of Partnership assets shall be applied in priority as follows:

- a. Payment to creditors of the Partnership, other than Partners, in the order of priority provided by law;
- b. Payment to Partners for unpaid salaries and for the credit balances in their drawing accounts; and finally
- c. Payment to the Partners of credit balances in their capital accounts.

Section 3.2 **GAINS OR LOSSES IN PROCESS OF LIQUIDATION.** Any gain or loss on disposition of Partnership properties in liquidation shall be credited or charged to the

Partners in the proportions of their interest in profits or losses. Any property distributed in kind in liquidation shall be valued and treated as though the property were sold and the cash proceeds were distributed. The difference between the value of property distributed in kind and its book value shall be treated as a gain or loss on sale of the property and shall be credited or charged to the Partners in the proportions of their interests in profits and losses.

#### ARTICLE 4. PARTNERS.

Section 4.1 ADMISSION OF NEW PARTNERS. The initial Partners are those Partners who executed this Agreement as General and Limited Partners as of the Effective Date. After the Effective Date, no Person shall be admitted as a Partner except as provided in this Agreement and the Code. Once the Person has been admitted as a Partner, he shall have the rights and obligations of a Limited Partner or General Partner, as applicable. Any new Partner will be required to accept and assume the terms and conditions of this Agreement in writing.

Section 4.2 ADMISSION OF NEW LIMITED PARTNERS DIRECTLY FROM THE PARTNERS. A Person may acquire a new Limited Partnership Interest directly from the Partnership and become a new Limited Partner upon the Unanimous Consent of all Partners.

Section 4.3 ADMISSION OF NEW LIMITED PARTNERS WHO ARE ASSIGNEES. An Assignee of a Limited Partnership Interest may be admitted as a new Limited Partner by Unanimous Consent, as provided in the Code, or as otherwise provided in this Agreement.

Section 4.4 ADMISSION OF NEW GENERAL PARTNER. A new General Partner may be admitted by Unanimous Consent of the General Partners or by Unanimous Consent of all Partners or as otherwise provided in this Agreement.

#### ARTICLE 5. REMOVAL OF A GENERAL PARTNER.

Section 5.1 REMOVAL. A Person other than the initial General Partner is removed as and ceases to be a General Partner as follows:

- a. If a General Partner is in material breach of his obligations and does not cure, or commence and diligently prosecute the curing of, such breach within thirty days after notice thereof by any of the Limited Partners, or if he has committed any act or omission of fraud or malfeasance to the injury of the Partnership, then said General Partner may be removed upon entry of a judicial decree finding such cause by a court of competent jurisdiction upon the filing of an action in which not less than 75% in Interest of all Partners holding that Share are joined.
- b. A General Partner effects a withdrawal by death, incompetency, incapacity, resignation, withdrawal, dissolution, insolvency, or bankruptcy of the General Partner, or the voluntary or involuntary assignment of any part of the General Partner's General Partnership Interest.
- c. Without need of any stated cause, the Limited Partners may unanimously (excluding only the vote of the Limited Partner that is also the General Partner subject to such vote) remove any General Partner.

Removal is effective upon the occurrence of the action causing the removal, unless this Agreement provides otherwise.

Section 5.2 **LIMITATION.** Notwithstanding anything herein to the contrary, a General Partner may not be removed unless there is at least one remaining General Partner.

Section 5.3 **DAMAGES.** A removed General Partner who is in breach of this Agreement shall be liable to the Partnership for damages caused by the breach. The Partnership may offset for the damages against any distributions or return of capital to the removed General Partner.

Section 5.4 **CONVERSION.** In the event that a General Partner is removed or effects a withdrawal for any reason, the Partnership Interest of the removed General Partner shall automatically be converted to a Limited Partnership Interest and the removed General Partner shall have the status of an Assignee of that interest, with no right to vote the same, unless this Agreement or the conditions of removal provide otherwise.

#### ARTICLE 6. **MANAGEMENT BY GENERAL PARTNER.**

Section 6.1 **MANAGEMENT BY GENERAL PARTNER.** The General Partner shall be responsible for the exclusive management, operation and control of the business and affairs of the Partnership. If there is more than one General Partner, all obligations of the General Partners under this Agreement shall be joint and several. Any actions taken by the General Partners shall be valid if approved by a majority of the General Partners.

Section 6.2 **DELEGATION TO EMPLOYEES.** The General Partner may hire employees of the Partnership, appoint any individual as an officer of the Partnership, and delegate to the officer or employee any power or duty a General Partner may have. The fact that a Partner is directly or indirectly an affiliate of any Person shall not prohibit that Person from being employed or dealing with the Partnership. Any employment or dealing shall be done at reasonable rates for similar services, supplies, or materials.

Section 6.3 **DELEGATION TO CONTRACTORS.** The General Partner will have the authority to employ, select, remove, and change the authority and responsibility of any consultants or professionals as the General Partner considers necessary to assist in the prudent management of the Partnership, its Property and its investments. The fact that a Partner is directly or indirectly an affiliate of any Person shall not prohibit that Person from being employed by or dealing with the Partnership as a consultant or professional. The General Partner may enter into agency agreements or agreements with a trust company to assist with the management and investment of its assets.

Section 6.4 **EFFECT OF DELEGATION.** The General Partner shall remain responsible to the Partnership for the acts or omissions of the Manager, agent, contractor, or employee in performance of the General Partner duties provided for in this Agreement or the Code.

Section 6.5 **ENUMERATION OF CERTAIN POWERS.** The General Partner shall have full power to do all things appropriate in carrying out the Partnership Purposes, including without limitation the authority to:



- a. sell, exchange, assign, convey, lease and/or transfer legal and equitable title to Partnership Property on terms and conditions deemed reasonable by the General Partner;
- b. acquire, utilize for Partnership purposes, and operate, improve and develop any Partnership Property;
- c. retain, without liability, any Partnership Property in the form in which it is received without regard to its productivity or the proportion that any one asset or class of assets may bear to the whole;
- d. register to take title to Partnership assets in the name of the Partnership or as Trustee, with or without disclosing the identity of his principal, or to permit the registration of securities in "street name" under a custodial arrangement with an established securities brokerage firm, trust department, or other custodian;
- e. borrow money, finance, refinance or otherwise incur obligations for the account of the Partnership and pledge, mortgage, and grant a security interest in the Property;
- f. carry out the Partnership purposes through other partnerships, corporations, limited liability companies, or other entities;
- g. compromise claims against the Partnership;
- h. make any election under any tax law in the manner the General Partner deems advisable, the election or failure to elect of which shall not result in any cause of action against the General Partner;
- i. execute and/or accept any instrument, conveyance, or agreement incident to the Partnership's business or Property without the joinder, ratification, or consent of the Partners;
- j. pay all Partnership debts, obligations, and expenses;
- k. perform the Partnership's obligations, and exercise all of the Partnership's rights, under any agreement to which the Partnership or any nominee of the Partnership is a party;
- l. loan funds to or borrow funds from any Partner or other Person on terms and conditions deemed reasonable by the General Partner;
- m. advance any monies to the Partnership required for the business of the Partnership, but with no obligation to do so, retaining all rights of reimbursement;
- n. acquire, and determine the amounts of, insurance coverages required by the Partnership purposes, Property, and/or business;
- o. enter into contracts and business undertakings to further the Partnership purposes;

- p. open and maintain banking and investment accounts and arrangements, enter into agency agreements and other agreements allowing Partnership Assets to be managed by a Trust Company, drawing checks and other orders for the payment of money, and designating individuals with authority to sign or give instructions with respect to those accounts and arrangements;
- q. maintain the Partnership Property in good order;
- r. collect sums due the Partnership;
- s. invest and reinvest property and income, through agents and otherwise, to accomplish Partnership purposes, including but not limited to investing the property in accordance with the Modern Portfolio Theory;
- t. hold and maintain Partnership income for further investment, and limit the income designated as Distributable Cash, subject to other provisions of this Agreement;
- u. execute and file certificates or instruments as required or permitted by the Code and any other laws of the State of Texas or any other jurisdiction where the Partnership does business;
- v. employ and compensate agents, accountants, attorneys, and other employees;
- w. institute and defend all manner of legal actions and proceedings on behalf of the Partnership.

Section 6.6 **REQUIREMENT OF UNANIMOUS CONSENT.** The General Partner will not have the authority to enter into any of the following transactions without Unanimous Consent of all Partners:

- a. terminate, liquidate and wind up the Partnership, except as otherwise provided in the Code or this Agreement;
- b. admit additional or substitute partners except as otherwise provided in the Code or this Agreement;
- c. do any act that would make it impossible to carry on the Partnership purposes and business of the Partnership (provided, however, that the sale or other dispositions of all or any Property shall not be deemed to be an act making it impossible for the Partnership to carry on its business);
- d. engage in any business activity that is illegal or inconsistent with the Partnership purposes;
- e. amend this Agreement except as provided for elsewhere in this Agreement.

Section 6.7 **COMPENSATION AND REIMBURSEMENT OF GENERAL PARTNER.** The General Partner shall diligently and faithfully devote the time to the management of the Partnership necessary to serve the Partnership Purposes and shall perform all of the duties of a General Partner which are provided for in this Agreement and the Code. A

General Partner will be entitled to a reasonable annual compensation for services rendered to the Partnership, reasonable compensation to be measured by the time required in the administration of the Partnership, the value of property under the General Partner's administration, and the responsibilities assumed in the discharge of the duties or office and shall comply with Section 704(e) of the Internal Revenue Code, if applicable. This compensation shall be a guaranteed payment and will be paid out of the Share represented by that General Partner. The General Partner will be entitled to reimbursement of all reasonable and necessary business expenses incurred in the administration of the Partnership. The General Partners shall set the salary for a General Partner, however, upon a vote of 75% in Interest of the Limited Partners, a General Partner's compensation may be adjusted based upon the General Partner's performance and dedication of time to the business of the Partnership. If the cash flow of the Partnership is insufficient to pay the compensation, the unpaid portion of the compensation may be deferred and bear interest at the Default Interest Rate. Payments to the General Partner for services rendered to the Partnership will not be a return of invested capital, but will be paid as compensation for services rendered.

Section 6.8 **INDEMNIFICATION AND LIMITATIONS ON GENERAL PARTNER'S LIABILITY.** Liability and indemnification rights of a General Partner shall be governed by the following provisions:

- a. To the extent Texas law will permit, a General Partner who succeeds another will be responsible only for the property and records delivered by or otherwise acquired from the preceding General Partner, and may accept as correct the records of the preceding General Partner without duty to audit the records or to inquire further into the administration of the predecessor and without liability for a predecessor's errors and omissions.
- b. No General Partner shall be liable for any act or omission except those resulting from gross negligence, fraud, bad faith, or misconduct.
- c. A General Partner will not have liability for loss of income from or depreciation in the value of the property which was retained in the form which the General Partner received it.
- d. The General Partner shall be entitled to all indemnification authorized in the Code.
- e. The General Partner will not owe a fiduciary duty to the Partnership or to any Partner. The General Partner will owe a duty of loyalty and a duty of care to the Partnership.
- f. The General Partner shall indemnify, save and hold harmless the Partnership and each of the Limited Partners from any loss, damage, claim or liability incurred by them, including but not limited to reasonable attorneys' fees and expenses, due to or arising out of the General Partner's gross negligence, fraud, bad faith, or misconduct.
- g. Pursuant to the Code, the Partnership shall indemnify, save and hold harmless the General Partner, his affiliates, officers, directors, partners, employees, and agents from any loss, damage, claim or liability, including but not limited to direct and

indirect costs and reasonable attorneys' fees and expenses, incurred by them by reason of any act performed by the General Partner on behalf of the Partnership or in furtherance of the Partnership Purposes other than an act of gross negligence, fraud, misconduct, or bad faith, provided, however, that this indemnity from the Partnership shall be satisfied out of Partnership assets only.

- h. The Partnership shall indemnify, save and hold harmless the Tax Matters Partner for any act performed by them within the scope of the authority conferred on them by this Agreement other than an act of gross negligence, fraud, misconduct, bad faith or from any misrepresentations, provided, however, that this indemnity from the Partnership shall be satisfied out of Partnership assets only.
- i. The Partnership may purchase insurance to minimize all or part of any indemnification risk.
- j. For purposes of this section the term "General Partner" shall also refer to the General Partner's heirs, administrators, executors, successors and assigns.
- k. The Partners authorize any General Partner, in the discretion of such General Partner, to register the Partnership as a registered limited liability partnership under the Code, and further authorize such General Partner to take or cause the Partnership to take all actions, at the expense of the Partnership, as necessary or appropriate to effect and maintain the registration, including without limitation, to change the name of the Partnership to include the designation "L.L.P."

**Section 6.9 WAIVER OF SELF-DEALING.**

- a. The General Partner shall have the authority to enter into any transaction on behalf of the Partnership despite the fact that another party to the transaction may be (1) a trust of which a Partner is a trustee or beneficiary, (2) an estate of which a Partner is a personal representative or beneficiary, (3) a business controlled by one or more Partners or a business of which any Partner is also a director, officer or employee, (4) any affiliate, employee, stockholder, associate, manager, partner, or business associate, (5) any Partner, acting individually, or (6) any relative of a Partner, provided the terms of the transaction are no less favorable than those the Partnership could obtain from unrelated third parties.
- b. It is expressly understood that each Partner is entitled to invest his personal assets for his own account and is entitled to conduct his personal affairs and investments without regard to whether they constitute a Partnership "opportunity".
- c. A Partner may engage in or possess an interest in any other business or venture of any nature and description, independently or with others, including ones in competition with the Partnership, with no obligation to offer to the Partnership or any other Partner the right to participate. Neither the Partnership nor its Partners shall have by virtue of this Agreement any right in any independent venture or its income or profits.

Section 6.10 **AMENDMENT TO CERTIFICATE OF LIMITED PARTNERSHIP.**

If a General Partner is unwilling or unable to sign a required amendment to the Certificate, the amended Certificate may be signed by any remaining or Successor General Partner(s). Each General Partner appoints his successor and any remaining General Partner(s), if any, as his attorney-in-fact to sign an amended Certificate.

Section 6.11 **RELIANCE BY THIRD PARTIES.**

- a. Any Person dealing with the Partnership, other than a Partner, may rely on the authority of the General Partner in taking any action in the name of the Partnership without inquiry into the provisions of this Agreement. Any document executed by the General Partner shall be deemed the action of the Partnership as to any third parties. No purchaser, tenant, transferee or obligor will have any obligation to see to the application of payments made to the General Partner.
- b. Any Person dealing with the Partnership or the General Partner may rely upon a certificate signed by the General Partner as to:
  - (1) The identity of the Partners;
  - (2) Any conditions precedent to acts by the Partnership;
  - (3) The Persons authorized to execute any documents and bind the Partnership;
  - (4) Any other matter involving the Partnership or any Partner.

ARTICLE 7. **PROVISIONS AFFECTING LIMITED PARTNERS.**

Section 7.1 **NO PERSONAL LIABILITY.** No Limited Partner shall be personally liable for all or any part of the debts or other obligations of the Partnership. The Limited Partners shall not take part in the management or control of the business, or transact any business of the Partnership or have power to sign for or to bind the Partnership. However, this provision shall not prevent a Limited Partner from acting in another capacity or exercising a power specifically granted to Limited Partners by the Code.

Section 7.2 **VOTING OF LIMITED PARTNERS.** To the extent set forth otherwise in this Agreement, Limited Partners shall have the right to vote upon the matters listed below:

- a. Removal of the General Partner;
- b. Election of a Successor General Partner;
- c. Termination and dissolution of the Partnership;
- d. Amendment of this Agreement;
- e. The extension of the term of the Partnership; and

- f. Any matter requiring the vote of the Limited Partners as set out elsewhere in this Agreement or in the Code.
- g. Those matters to be voted on by the Limited Partners may be done by written consent. Such a written consent may be utilized at any meeting of the Partners, or it may be utilized in obtaining approval by the Partners without a meeting.

Section 7.3 **RESTRICTIONS ON LIMITED PARTNERS.**

- a. No Limited Partner shall have the right to withdraw from the Partnership or to receive a return of any of its contributions to the Partnership until the Partnership is terminated and its affairs are wound up in accordance with the Code and this Agreement. A Limited Partner will breach this Agreement if he (1) attempts to withdraw from the Partnership, (2) interferes in the management of the Partnership affairs, (3) engages in conduct which could result in the Partnership losing its tax status as a partnership, (4) engages in conduct that tends to bring the Partnership into disrepute, (5) owns a Partnership Interest that becomes subject to a charging order, attachment, garnishment, or similar legal proceeding, (6) breaches any confidentiality provision of this Agreement, or (7) fails to meet any commitment to the Partnership.
- b. No Limited Partner shall have the right or power to cause the dissolution and winding up of the Partnership by court decree or otherwise.
- c. A Limited Partner who is in breach of this Agreement shall be liable to the Partnership for damages caused by the breach. The Partnership may offset for the damages against any distributions or return of capital to the Limited Partner who has breached this Agreement. The General Partner may expel a Limited Partner as a further remedy in which event the Partnership Interest of that Limited Partner shall be held by the expelled Partner as an Assignee.

ARTICLE 8. **PARTNERSHIP COMMUNICATION.**

Section 8.1 **ANNUAL MEETING.** Upon request of a Majority in Interest of Limited Partners or at the initiation of the General Partner, an annual meeting shall be held for all Partners. The General Partner shall review and discuss the financial statements at the meeting and report to the Limited Partners the financial condition of the Partnership. The annual meeting shall be held at a place designated by the General Partner on or before the last day of April of each year. All Partners shall receive prior notice of dates, time, and place of the meeting or waive the right to receive such notice.

Section 8.2 **ADVISORY COMMITTEE.** The General Partner or 90% in Interest of Limited Partners may establish an Advisory Committee of the Partnership consisting of two or more Limited Partners (the "Advisory Committee"). If the Advisory Committee is established, at least once each calendar year the General Partner, on notice to each member on or before the tenth day prior to the meeting, shall call a meeting of the Advisory Committee, at which the General Partner shall advise it generally of the business and affairs of the Partnership since the latest meeting of the Advisory Committee. The Advisory Committee may make recommendations to or otherwise advise and consult with the General Partner regarding the business and affairs of the Partnership, however, the Advisory committee is not authorized to

take any action on behalf of the Partnership or to compel any Partner to take any action. The Advisory Committee may make a report of the meeting to the remaining Limited Partners. A Limited Partner or representative is entitled to payment from the Partnership for its expenses regarding attendance at meetings of the Advisory Committee.

#### **ARTICLE 9. OWNERSHIP OF PARTNERSHIP PROPERTY.**

All Partnership Property shall be owned by and in the name of the Partnership. Each Partner expressly waives the right to require partition of any Partnership Property. The Partners shall execute any documents that may be necessary to reflect the Partnership's ownership of its Property and shall record the documents in the public offices that may be necessary or desirable in the discretion of the Partners. No Partner shall have the right or power to demand any particular Partnership Property or type of property in return for his interest in the Partnership upon winding up, however, the General Partner shall have the right to distribute property, or cash, or a combination of the two, in satisfaction of such interest.

#### **ARTICLE 10. CONFIDENTIALITY OF INFORMATION.**

Section 10.1 **WAIVER OF FULL ACCESS TO INFORMATION.** Each Partner is entitled to all information under the circumstances and subject to the conditions stated in this Agreement and the Code. The Partners agree, however, that the General Partner or 90% in Interest of Limited Partners may determine, due to contractual obligations, business concerns, or other considerations, that certain information regarding the business, affairs, property, and financial condition of the Partnership shall be kept confidential and not provided to some or all other Limited Partners, and that it is not just or reasonable for those Partners or Assignees or representatives to examine or copy that information.

Section 10.2 **CONFIDENTIALITY AGREEMENT.** The Partners acknowledge that they may receive information regarding the Partnership in the nature of trade secrets or that otherwise is confidential, the release of which may be damaging to the Partnership or Persons with which it does business. Each Partner shall hold in strict confidence any information it receives regarding the Partnership that is identified as being confidential (and if that information is provided in writing, that is so marked) and may not disclose it to any Person other than another Partner, except for disclosures (1) compelled by law (but the Partner must notify the General Partner promptly of any request for that information, before disclosing it, if practicable), (2) to advisers or representatives of the Partner or Assignees of the Partner, but only if they have agreed to be bound by the provisions of this section, or (3) of information that the Partner also has received from a source independent of the Partnership that the Partner reasonably believes obtained that information without breach of any obligation or confidentiality. The Partners acknowledge that breach of the provisions of this section may cause irreparable injury to the Partnership for which monetary damages are inadequate, difficult to compute, or both. Accordingly, the Partners agree that the provisions of this section may be enforced by specific performance.

## ARTICLE 11. FINANCIAL MATTERS.

### Section 11.1 ACCOUNTING FOR THE PARTNERSHIP.

- a. **Method of Accounting.** The Partnership shall keep its accounting records and shall report for income tax purposes on the cash basis. The records shall be maintained in accordance with generally accepted accounting principles.
- b. **Annual Statements.** Financial statements shall be prepared not less than annually and copies of the statements shall be available to each Partner. Copies of income tax returns filed by the Partnership shall satisfy this requirement unless any Partner shall request in writing formal financial statements.
- c. **Interim Financial Statements.** On written request, any Limited Partner shall be entitled to copies of any interim financial statements prepared for the General Partner.
- d. **Tax Returns.** The General Partner shall cause to be prepared and filed all necessary federal and state income tax returns for the Partnership, including making the elections described in this Agreement. Each Partner shall furnish to the General Partner all pertinent information in his possession relating to Partnership operations that is necessary to enable the Partnership's income tax returns to be prepared and filed.
- e. **Tax Elections.** The General Partner shall have the right to make the following elections for the Partnership on the appropriate tax returns:
  - (1) To adopt the calendar year as the Partnership's fiscal year;
  - (2) If a distribution of Partnership Property as described in Section 734 of the Internal Revenue Code occurs or if a transfer of a Partnership Interest as described in Section 743 of the Internal Revenue Code occurs, on written request of any Partner, to elect, pursuant to Section 754 of the Internal Revenue Code, to adjust the basis of Partnership properties;
  - (3) To elect to amortize the organizational expenses of the Partnership ratably over a period of sixty months as permitted by Section 709(b) of the Internal Revenue Code; and
  - (4) To make any other election the General Partner may deem appropriate and in the best interest of the Partners.

Neither the Partnership nor any Partner may make an election for the Partnership to be excluded from the application of the provisions of subchapter K of chapter I of subtitle A of the Code or any similar provisions of applicable state law.

Section 11.2 **TAX MATTERS PARTNER.** A General Partner shall be the "tax matters partner" of the Partnership pursuant to Section 6231 (a)(7) of the Internal Revenue Code. The General Partner shall take such action as may be necessary to cause each other Partner to become a "notice partner" within the meaning of Section 6223 of the Internal Revenue Code.



## **ARTICLE 12. CAPITAL CONTRIBUTIONS.**

Section 12.1 **INITIAL CAPITAL CONTRIBUTIONS.** Each Partner agrees to immediately contribute, as his Capital Contribution, cash or other property as set forth on Schedule "A", attached hereto and incorporated as a part of this Agreement.

Section 12.2 **INITIAL OWNERSHIP INTERESTS OF PARTNERS.** The initial interests of the Limited Partners in the Partnership shall be set based upon their respective Capital Contributions, as set forth on Schedule "A". The Limited Partners initially shall have a 99% interest in the Partnership. The General Partner initially shall have a 1% interest in the Partnership.

Section 12.3 **ADDITIONAL VOLUNTARY CONTRIBUTIONS.** The General Partner may admit to the Partnership additional Limited Partners and create and issue additional Limited Partnership Interests to such Persons, provided the Capital Contribution therefor is sufficient to avoid diluting the value of the interests of other Partners in the Partnership. Additional Capital Contributions by initial Partners need not be pro rata, and may increase the sharing percentage of an initial Partner. The General Partner shall issue a revised statement of ownership at least annually to reflect admission of new Partners.

Section 12.4 **RETURN OF CAPITAL CONTRIBUTIONS.** No Partner shall be entitled to withdraw or demand the return of any part of his Capital Contribution except upon termination of the Partnership and as specifically provided for in this Agreement. The General Partner may in its discretion allow a Limited Partner to withdraw capital if he determines such withdrawal would not negatively impact the Partnership.

Section 12.5 **REQUIRED CONTRIBUTIONS - ALL PARTNERS.** If needed for the business of the Partnership, in the discretion of the General Partner, the Partners will be required to make additional Capital Contributions to the Partnership to meet operating expenses of the Partnership within 30 days from date of written notice by the General Partner. Any required Capital Contributions shall be made pro rata, in accordance with the Partners' Sharing Ratios, unless otherwise agreed to by all Partners in writing.

Section 12.6 **REQUIRED CONTRIBUTIONS - GENERAL PARTNERS.** The Sharing Ratio of each General Partner shall at all times equal or exceed 1%. Accordingly, in addition to other available means by which the General Partners would each maintain 1% Sharing Ratio, the General Partners agree to contribute capital, from time to time, in the form of cash or other property, so that they each maintain a Sharing Ratio of no less than 1%, or convert such portion of their Limited Partnership interest, if any, as may be necessary to maintain a 1% General Partnership interest.

Section 12.7 **RESTATEMENT OF SHARING RATIOS.** To simplify the Partnership accounting, any adjustment to the Sharing Ratios of the Partners caused by required or optional Capital Contributions shall be made semi-annually on the June 30 or December 31 following the contribution.

Section 12.8 **FAILURE TO CONTRIBUTE.** If a Partner fails to make a required Capital Contribution, the Partnership may exercise, on notice to that Partner (the "Delinquent Partner"), one or more of the following remedies:

- a. take such action, at the cost and expense of the Delinquent Partner, to obtain payment by the Delinquent Partner of the portion of the Delinquent Partner's Capital Contribution that is in default, together with interest on that amount at the Default Interest Rate from the date that the Capital Contribution was due until the date that it is made;
- b. permit the Partners, in proportion to their Sharing Ratios or in such other percentages as they may agree (the "Lending Partner", whether one or more), to advance the portion of the Delinquent Partner's Capital Contribution that is in default, with the following results:
  - (1) the sum advanced constitutes a loan from the Lending Partner to the Delinquent Partner and a Capital Contribution of that sum to the Partnership by the Delinquent Partner,
  - (2) the principal balance of the loan and all accrued unpaid interest is due and payable on the tenth day after written demand by the Lending Partner to the Delinquent Partner,
  - (3) the amount lent bears interest at the Default Interest Rate from the day that the advance is deemed made until the date that the loan, together with all interest accrued, is repaid to the Lending Partner,
  - (4) all distributions from the Partnership that would be made to the Delinquent Partner shall be paid to the Lending Partner until the loan and all interest accrued have been paid in full,
  - (5) the payment of the loan and interest accrued is secured by a security interest in the Delinquent Partner's Partnership Interest,
  - (6) the Lending Partner has the right, in addition to the other rights and remedies granted to it under this Agreement or at law or inequity, to take any action, at the cost and expense of the Delinquent Partner, that the Lending Partner may deem appropriate to obtain payment by the Delinquent Partner of the loan and all accrued and unpaid interest;
  - (7) exercise the rights of a secured party under the Uniform Commercial Code of the State of Texas; or
  - (8) exercise any other rights and remedies available at law or in equity.

Section 12.9 **LOANS TO PARTNER.** Each Partner grants to the Partnership, and to the Lending Partner with respect to any loans made to that Partner, as security, equally and ratably for the payment of all Capital Contributions that Partner has agreed to make and the payment of all loans and interest accrued made by lending Partners to that Partner, a security interest in its Partnership Interest under the Uniform Commercial Code of the State of Texas. On any default in the payment of a required Capital Contribution or in the payment of a loan or interest accrued, the Partnership or the Lending Partner, as applicable, is entitled to all the rights and remedies of a secured party under the Uniform Commercial Code of the State of Texas with

respect to the security interest granted. Each Partner shall execute and deliver to the Partnership and the other Partners all financing statements and other instruments that the General Partner or the Lending Partner, as applicable, may request to effectuate and carry out the preceding provisions of this section. At the option of the General Partner or a Lending Partner, this Agreement or a carbon, photographic, or other copy of this Agreement may serve as a financing statement.

#### **ARTICLE 13. CAPITAL ACCOUNTS.**

Section 13.1 **CAPITAL ACCOUNTS.** One capital account shall be maintained for each Partner ("Capital Account"). The Capital Account of a Partner generally shall consist of the value of that Partner's original contribution increased by his additional contributions to capital and his share of Partnership profits transferred to capital, and decreased by distributions to him in reduction of his Partnership capital and (b) his share of Partnership losses. This provision shall be construed to conform with and the Capital Account shall be adjusted in accordance with Treasury Regulations 1.704-1(b)(2)(iv). Capital Accounts shall not bear interest.

#### Section 13.2 **CARRYING VALUE ADJUSTMENTS.**

- a. If any additional Partnership Interests are to be issued for a contribution of Property or cash (other than a de minimis amount) or if any Property or cash (other than a de minimis amount) is to be distributed in liquidation of the Partnership or a Partnership Interest, the Capital Accounts of the Partners and the Carrying Value of all Property shall, immediately prior to such issuance or distribution, be adjusted (consistent with the provisions of Section 704(b) of the Internal Revenue Code and the Regulations) upward or downward to reflect any Unrealized Gain or Unrealized Loss attributable to all Property (as if the Unrealized Gain or Unrealized Loss had been recognized upon actual sale of the Property upon a liquidation of the Partnership immediately prior to issuance).
- b. If all or any portion of a Partnership Interest is transferred to a Permitted Transferee as a gift or deemed gift, the Capital Accounts of the Partners and the Carrying Value of all Property shall, immediately prior to such transfer, be adjusted upward or downward to reflect any Unrealized Gain or Unrealized Loss attributable to such Property in a manner similar to that set forth in this subsection. The Capital Accounts and Carrying Values so determined shall be referred to as the "Section 704(c) Capital Accounts" and "Section 704(c) Carrying Values," respectively. The Section 704(c) Capital Accounts and Section 704(c) Carrying Values shall thereafter be adjusted in the same manner as Capital Accounts and Carrying Values.

Section 13.3 **TRANSFER OF CAPITAL ACCOUNT.** Except as otherwise required by the Regulations under Internal Revenue Code 704(b), in the event any interest in the Partnership is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account and the Section 704(c) Capital Account of the transferor to the extent it relates to the transferred interest.

Section 13.4 **NEGATIVE CAPITAL ACCOUNT.** No Partner will be required to restore a deficit in his Capital Account upon liquidation of the Partnership or the Partner's Partnership Interest.

Section 13.5 **SEPARATE ACCOUNTS.** The General Partner's Partnership Interest will be maintained separately from any Limited Partnership Interest which he may have.

**ARTICLE 14. DRAWING ACCOUNTS.**

Section 14.1 **DRAWING ACCOUNTS.** An individual drawing account shall be maintained for each General and Limited Partner. All withdrawals made by a Partner (other than for salaries, reimbursement for expenses, and other like items supported by adequate consideration) shall be charged to his drawing account. Each Partner's share of profits and losses shall be credited or charged to his drawing account as follows:

- a. A credit balance of a Partner's drawing account at year end shall constitute a Partnership liability to that Partner but it shall not constitute a part of his capital account nor increase his proportionate interest in the Partnership;
- b. If, after the net profit or loss of the Partnership for the fiscal year is determined, a Partner's drawing account shows a deficit (a debit balance), whether occasioned by drawings in excess of his share of Partnership profits or by charging him for his share of a Partnership loss, the deficit shall constitute an obligation of that Partner to the Partnership to the extent of the Partner's Capital Account, and may be offset against it in the discretion of the General Partner.

Payment of any amount owing to the Partnership, if not offset against the Capital Account, shall be made in a manner and time determined by the General Partner. Such obligations shall not be made payable on demand nor shall interest be charged thereon above the prime interest rate plus 3 percentage points.

**ARTICLE 15. PROFITS OR LOSSES.**

Section 15.1 **SPECIAL AND GENERAL ALLOCATIONS.** The income derived on a Secondary Account shall be specially allocated to the Partners for whom such Secondary Account is established. Except as otherwise provided herein, for federal income tax purposes, each item of income, gain, loss and deduction will be allocated among the Partners in the same manner as its correlative item of "book" income, gain, loss or deduction is allocated pursuant to this Agreement.

Section 15.2 **ALLOCATION OF PROFITS AND LOSSES.** Profits and Losses shall be allocated as follows:

- a. First, Losses shall be allocated to the Partners in accordance with and in proportion to the Partners' Sharing Ratios but only to the extent of the Partners' Adjusted Capital Accounts.
- b. Second, to the extent the allocation of Losses to a Partner would create an Adjusted Capital Account Deficit for that Partner, such Losses shall be allocated to the General Partner.
- c. Third, Profits shall be allocated to the General Partner in a cumulative amount equal to the cumulative Losses allocated to the General.

- d. Fourth, Profits shall be allocated to Partners in accordance with such Partners' Sharing Ratios.
- e. Notwithstanding the preceding allocations, and to the extent the General Partner deems it necessary to insure that the Agreement and the allocations thereunder meet the requirements of Section 704 of the Internal Revenue Code and the allocation Regulations, allocations will be made to the appropriate Partners in the necessary and required amounts as set forth in the Regulations under code Section 704(b) of the Internal Revenue Code before any other allocations under this Section.

**Section 15.3 TRANSFEROR - TRANSFEREE ALLOCATIONS; SECTION 754 ELECTION.** Income, gain, loss, deduction or credit attributable to any interest in the Partnership which has been transferred shall be allocated between the transferor and the transferee under any method allowed under Section 706 of the Internal Revenue Code as agreed by the transferor and the transferee. The General Partner, at his discretion, may make the election provided under Section 754 of the Internal Revenue Code and any corresponding provision of applicable state law.

**Section 15.4 RELIANCE ON ADVICE OF ACCOUNTANTS AND ATTORNEYS.** The General Partner shall have no liability to the Limited Partners or the Partnership if he relies upon the written opinion of tax counsel or accounts retained by the Partnership with respect to all matters (including disputes) relating to computations and determinations required to be made under this article or other provisions of this Agreement. After all allocations under this article have been made, the General Partner, in its discretion, shall reallocate income among the Partners to the least extent necessary to insure that the provisions of Internal Revenue Code Section 704(e) and the Regulations have been fulfilled, especially Regulations Section 1.704-1(e)(3). To the extent that any Partner was allocated income which the Internal Revenue Service finally determines should have allocated to any other Partner under the principles of Internal Revenue Code Section 704(e), whether by way of a guaranteed payment or otherwise, the second Partner intends and does designate the income as a gift to the first Partner.

**Section 15.5 TAX ALLOCATIONS; CODE SECTION 704(c).** With regard to income, gain, loss, depreciation, depletion and cost recovery deductions for federal income tax purposes: In the case of a Contributed Property, such items will be allocated among the Partners in the manner provided in Section 704(c) of the Internal Revenue Code and its Regulations to take account of the Built-In Gain and Built-In Loss at the time of contribution and, in the case of any Property the Carrying Value of which has been adjusted pursuant to this Agreement, such items will be allocated among the Partners in a manner consistent with the principles of Section 704(c) of the Internal Revenue Code and its Regulations to take into account differences between the Gross Asset Value and the adjusted tax basis of such property at the time of such adjustment. Allocations under this subsection are solely for purposes of federal, state and local taxes and will not affect, or in any way be taken into account in computing, any Partner's Capital Account or share of Profits, Losses or other items or distributions under any provision of this Agreement.

**Section 15.6 PARTNER ACKNOWLEDGMENT.** The Partners agree to be bound by the provisions of this Article in reporting their shares of Partnership income and loss for income tax purposes.

## ARTICLE 16. DISTRIBUTIONS.

Section 16.1 **DISTRIBUTABLE CASH.** Subject to the other provisions of this Agreement, Partnership income, or any portion thereof, may be distributed, at the sole discretion of the General Partner, among the Partners. To the extent that it is not distributed, such funds may be set aside in separate accounts for each Partner, or for each Share, in the discretion of the General Partner, until such time as it is distributed to the Partners or recalled by the General Partner for further Partnership purposes. Any amounts so set aside shall be held in separate partnership accounts which may be referred to herein as "Secondary Accounts," without designating such funds as Distributable Cash. Distributable Cash may also be held in a Secondary Account until such time as it is withdrawn by a Partner.

Section 16.2 **NO INTEREST.** If any Partner does not withdraw the whole or any part of his share of any cash distribution, or if the General Partner does not make cash distributions from a Secondary Account, the Partner shall not be entitled to receive any interest without Unanimous Consent, but any interest or other income derived from a Secondary Account shall be specially allocated to or among the Partner or Partners for whom such Secondary Account was established.

Section 16.3 **TRANSFEROR - TRANSFEREE SHARES.** Unless otherwise agreed in writing by a transferor and transferee, and accepted by the General Partner, Distributable Cash allocable to a Partnership Interest which may have been transferred during any year shall be distributable to the holder of such Partnership Interest, past or current, who is recognized by the Partnership as the owner of the Partnership Interest on the date of any distribution.

Section 16.4 **PARTNER LOANS.** Notwithstanding the foregoing, if any Partner advances any funds or makes any other payment to or on behalf of the Partnership, not required in this Agreement, to cover operating or capital expenses of the Partnership which cannot be paid out of the Partnership's operating revenues, any advance or payment shall be deemed a loan to the Partnership by the Partner, bearing interest from the date of the advance or payment was made until the loan is repaid at the Default Interest Rate, unless another rate is agreed to by the General Partner. All distributions of Distributable Cash shall first be distributed to the Partners making the loans until the loans have been repaid, together with interest. Thereafter, the balance of the distributions, if any, may be as is otherwise provided in this Article. If distributions are insufficient to repay all loans as provided above, the funds available shall first be applied to repay the oldest loan and, if any funds remain available, the funds shall be applied in a similar manner to remaining loans in accordance with the order of the dates on which they were made, however, as to loans made on the same date, each loan shall be repaid pro rata in the proportion that the loan bears to the total loans made on that date.

Section 16.5 **LIMITATION ON DISCRETION TO MAKE DISTRIBUTIONS.** With regard to distributions to the Partners, the General Partner shall periodically determine, in accordance with his duty of care and loyalty to the Partnership, the ongoing need of the Partnership for the Property and retained earnings for the operation of the Partnership business, considering current needs for operating capital, prudent reserves for future operating capital, current investment opportunities, and prudent reserves for future investment opportunities, all in keeping with the Partnership purposes and in light of the remaining term of the Partnership. It is the duty of the General Partner, in determining the amount of Distributable Cash available for the payment of distributions, to take into account the needs of the Partnership in its business and sums necessary in the operation of its business until the income from further operations is

available, the amounts of its debts, the necessity or advisability of paying its debts, or at least reducing them within the limits of the Partnership's credit, the preservation of its capital as represented in the Property or income of the Partnership as a fund for the protection of its creditors, the extent of Property available for investment other than retained income, and the character of its surplus Property. Any contributed Property or borrowed funds by the Partnership shall be considered as needed for Partnership investment purposes, and any cash produced from the sale of Property contributed to the Partnership or from the sale of any Property purchased by the Partnership, or any reinvestment of any of the Property, including the portion of the sale proceeds representing capital appreciation, shall be considered as needed reserves for Partnership investment purposes. The General Partner may make an interim determination of Distributable Cash derived from income, or decline to make an immediate determination, and then nonetheless set aside an amount not to exceed the maximum potential Distributable Cash in Secondary Accounts without committing the Partnership to distribute the same to the Partners. The General Partner may, in its sole discretion and to the extent such amounts are deemed unnecessary for Partnership purposes, distribute all or any part of such sums in accordance with this Agreement. The General Partner may, in its absolute discretion and as to any portion of a Secondary Account, allow cash distributions upon the special request of a Partner without automatically providing like distributions to all Partners.

#### **ARTICLE 17. RESTRICTIONS ON TRANSFERS.**

Section 17.1 **NOTICE OF RESTRICTION ON TRANSFER.** The ownership and transferability of interest in the Partnership are substantially restricted. Neither record title nor beneficial ownership of a Partnership Interest of any Partner may be transferred or encumbered except as set forth in this Agreement.

Section 17.2 **JUSTIFICATION.** This Partnership is formed by those who know and trust one another, who will have surrendered certain management rights (in exchange for limited liability in the case of a Limited Partner), or who will have assumed management responsibility and risk (in the case of a General Partner) based upon their relationship and trust. Capital is material to the business and investment objectives of the Partnership and its federal tax status. An unauthorized transfer of a Partner's interest could create a substantial hardship to the Partnership, jeopardize its capital base, and adversely affect its tax structure. These restrictions upon ownership and transfer are not intended as a penalty, but as a method to protect and preserve existing relationships based upon trust and the Partnership's capital and its financial ability to continue.

Section 17.3 **RESTRICTION ON TRANSFER.** Except as provided in this Agreement, neither record title nor beneficial ownership of a Partnership Interest may be transferred or assigned without the Required Consent. In the case of a Limited Partnership Interest, Required Consent means the consent of all General Partners. In the case of a General Partnership Interest, Required Consent means the consent of all the Limited Partners. This restriction on transfer or assignment applies to any transferor, whether the same is a Partner or an Assignee. To be a valid assignment, in addition to meeting the other requirements of this Article V, the assignment must be in writing, the terms of which are not in contravention of any of the provisions of the Agreement, and the assignment must be received by the Partnership and recorded on the books of the Partnership. Until the effective date of an assignment of a transferred interest, both the Partnership and the Partners shall be entitled to treat the assignor of the transferred interest as the absolute owner thereof in all respects. Upon the effective date of an assignment conducted pursuant hereto, the transferee shall be an Authorized Assignee.

Section 17.4 **DISCLOSURES.** The Partnership Interests have not and will not be, registered under federal or state securities laws. Partnership Interests may not be offered for sale, sold, pledged, or otherwise transferred unless so registered, or unless an exemption from registration exists. The availability of any exemption from registration must be established by an opinion of counsel, whose opinion must be satisfactory to the General Partner.

**ARTICLE 18. PERMITTED TRANSFERS.**

In the following circumstances, transfers of a Partnership Interest are permitted without necessity of obtaining Required Consent.

Section 18.1 **DEATH OR INCOMPETENCE.** The death or incompetence of an individual General Partner will automatically convert his General Partnership Interest to a Limited Partnership Interest. A General Partner whose death or incompetence converted his General Partnership Interest to a Limited Partnership Interest or a Limited Partner who is (1) an individual, or (2) a trust with an individual beneficiary who has a limited or unlimited power of appointment at his death, may transfer that Limited Partnership Interest to a Permitted Transferee upon death or incompetence. The Permitted Transferee will be an Authorized Assignee of the transferred Partnership Interest.

- a. The transfer may be accomplished (1) pursuant to the properly probated last will of a Partner, (2) pursuant to the exercise of a limited or unlimited power of appointment or beneficiary designation of any trust, or (3) pursuant to a written and acknowledged assignment and designation of beneficiary delivered by the Partner to a General Partner prior to the death of the Partner, effective as of his death.
- b. If there has been no pre-arranged transfer as provided above, the executor, administrator, guardian, conservator, or legal representative of a deceased or incompetent Partner shall have the status of an Authorized Assignee and, in accordance with the Code, may exercise all rights and powers necessary to settle the estate or administer the property.

Section 18.2 **INTERVIVOS ESTATE PLANNING TRANSFERS.** A Limited Partner who is an individual (or a trust with an individual beneficiary with a limited or unlimited right to make a disposition of all or any part of his interest in the trust during his lifetime) will have the right to make transfers of his Limited Partnership Interest with or without consideration to a Permitted Transferee.

Section 18.3 **NONRECOGNITION OF AN UNAUTHORIZED TRANSFER.** The Partnership will not be required to recognize the interest of any transferee who has obtained a purported Partnership Interest as the result of a transfer or assignment that is not authorized by this Agreement. If there is a doubt as to ownership of a Partnership Interest or who is entitled to Distributable Cash or liquidating proceeds or other property, the General Partner may accumulate the same until the issue is resolved to the satisfaction of the General Partner. In the event any Person purports to be an Assignee, but is not an Authorized Assignee under this Agreement, the Partnership shall have the right, but not the obligation, to seek a declaratory judgment to determine whether such Person is an Assignee. The Partnership Interest in question shall bear the legal and administrative expenses of the Partnership in making such determination, which



expenses may be offset against the Partnership Interest as damages arising from the unauthorized assignment in the same manner as the offset allowed against the interest of a Withdrawing General Partner under this Agreement.

**Section 18.4 ACQUISITION OF INTEREST CONVEYED WITHOUT AUTHORITY.** If any Person acquires a Partnership Interest or becomes an Assignee of an interest as the result of an order of a court which the Partnership is required by law to recognize, or if a Partner's interest in the Partnership is subjected to a lawful "charging order", or if a Partner makes an unauthorized transfer or assignment of a Partnership Interest, which General Partner determines that the Partnership is required by law to recognize (whether or not the General Partner has obtained a declaratory judgment to that effect), or if for any other reason an Assignee is not an Authorized Assignee, the Partnership will have the unilateral option (but not the obligation) to acquire the interest of the transferee or Assignee, or any fraction or part thereof, upon the following terms and conditions:

- a. The Partnership will have the option to acquire the interest by giving written notice to the transferee or Assignee of its intent to purchase within 90 days from the date it is finally determined that the Partnership is required to recognize the transfer or assignment.
- b. The valuation date for the determination of the purchase price of the interest will be the first day of the month following the month in which notice is delivered.
- c. Unless the Partnership and the transferee or Assignee agree otherwise, the purchase price for the interest, or any fraction to be acquired by the Partnership, shall be its fair market value as determined by an Appraisal.
- d. Closing of the sale will occur at the principal office of the Partnership at 10 o'clock a.m. on the first Tuesday of the month following the month in which the Appraisal is rendered.
- e. In order to reduce the burden upon the resources of the Partnership, the Partnership will have the option, to be exercised in writing delivered at closing, to pay its purchase money obligation in 15 equal annual installments [or in equal annual installments over the remaining term of the Partnership if less than 15 years] with interest at the Default Interest Rate, beginning one year after the date of closing. The Partnership will have the right to prepay all or any part of the purchase money obligation at any time without penalty.
- f. By Unanimous Consent of General Partners, the General Partner may assign the Partnership's option to purchase to one or more of the remaining Partners and when done, any rights or obligations of the Partnership will instead become, by substitution, the rights and obligations of the Partners who are assignees. Such Partners, upon purchasing the interest of the unauthorized Assignees, shall be Authorized Assignees of such interest.
- g. No transferee or Assignee of an unauthorized transfer or assignment or the Partner causing the transfer or assignment will have the right to vote on Partnership matters during the prescribed option period or, if the option to purchase is timely exercised, until the sale is closed.

## **ARTICLE 19. ADMISSION OF SUBSTITUTE LIMITED PARTNERS.**

Section 19.1 Notwithstanding anything in this Article to the contrary, any Assignee of a Partnership Interest (whether such Interest was obtained by virtue of a Required Consent, a Permitted Transfer, an unauthorized transfer, or otherwise) shall be admitted to the Partnership as a substitute Limited Partner only upon:

- a. Furnishing to the General Partners, in a form satisfactory to the General Partners, a written acceptance of all of the terms and conditions of this Agreement and such other documents and instruments as may be required to effect the admission of the Assignee as a Limited Partner;
- b. Depositing with the Partnership a transfer fee of \$10,000.00, or such other reasonable amount as may be set by the General Partner to cover the costs and expenses of the Partnership in connection with the request, including legal and accounting expenses and the cost of investigating the proposed substitute Limited Partner; and

Section 19.2 The consent may be withheld or granted in the sole discretion of those constituting the Required Consent.

Section 19.3 If admitted as a Partner, the Assignee shall be admitted to the Partnership as a substitute Limited Partner as of the effective date of the transfer. If an Assignee is not admitted as a substitute Limited Partner, he shall have no right to vote the Interest nor any other right beyond those specifically given an Assignee under the Code, and all votes on Partnership matters shall be calculated as if the Partnership Interest of the Assignee did not exist by subtracting the interest of the Assignee from the denominator of any voting equation.

Section 19.4 The General Partner may elect to treat an Assignee who has not become a substituted Limited Partner hereunder as a substituted Limited Partner in the place of his assignor should the General Partner deem, in its sole discretion, that such treatment is in the best interest of the Partnership for any of its purposes or for any of the purposes of this Agreement. No consent of the Limited Partners is required to effect a substitution under this provision.

## **ARTICLE 20. PARTNERSHIP INTEREST PLEDGE OR ENCUMBRANCE.**

No Partner may grant a security interest in or otherwise pledge, hypothecate or encumber his interest in this Partnership or such Partner's distributions without Required Consent. It is understood that the Partners are under no obligation to give consent nor are they subject to liability for withholding consent.

## **ARTICLE 21. POWER OF ATTORNEY.**

Each Limited Partner, and any Assignee or transferee of his interest in the Partnership, irrevocably makes, constitutes and appoints the General Partner, including any current or future Designated Successor General Partner, and each of them, now or hereafter serving, with full power of substitution, as his true and lawful attorneys-in-fact and agent, for him and in his name, place and stead and for his use and benefit, any one of which may sign, execute, certify, acknowledge, file and record this Agreement, and sign, execute, certify, acknowledge, file and

record all appropriate instruments amending this Agreement as now and as hereafter amended, including, without limitation, agreements or other instruments or documents: (1) to reflect the exercise by the General Partner of any of the powers granted to the General Partner under this Agreement, (2) to reflect any amendments duly made to the Agreement, (3) to reflect the admission to the Partnership of a substituted Partner or the withdrawal of any Partner, in the manner prescribed in this Agreement, and (4) which may be required of the Partnership or of any Partner by the laws of our State or any other jurisdiction or governmental agency. Each Limited Partner authorizes such attorneys-in-fact to take any further action which such attorneys-in-fact shall consider necessary or advisable to be done in and about the foregoing (including the power to consent to items (1), (2), (3) and (4) above as fully as such Limited Partner might or could do if personally present) and hereby ratifies and confirms all that such attorneys-in-fact shall lawfully do or cause to be done by virtue hereof. This Power of Attorney shall be deemed to be coupled with an interest and irrevocable, and it shall survive the death, dissolution, incompetency or legal disability of any Partner and shall extend to their heirs, executors, successors and assigns.

## ARTICLE 22. MISCELLANEOUS.

Section 22.1 **DEFINITIONS.** Any terms not specifically defined herein shall have the meanings set forth in the Code where applicable or distinguishable from ordinary usage. The following terms have the following meanings:

“Adjusted Capital Account” means, with respect to a Partner, that Partner's Capital Account after (1) crediting to his Capital Account any amount which the Partner is deemed to be obligated to restore pursuant to the penultimate sentence of Regulations Sections 1.704-2(g)(1) and 1.704-2(I)(5), (2) crediting to his Capital Account any amount that Partner is unconditionally obligated to contribute to the Partnership under applicable law, and (3) debiting to the Capital Account the items described in Regulations Section 1.7041(b)(2)(ii)(d)(4),(5), and (6). This definition of Adjusted Capital Account is intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(ii)(d) and 1.704-2, and will be interpreted consistently with those provisions.

“Adjusted Capital Account Deficit” means, with respect to a Partner, the deficit balance, if any, in that Partner's Adjusted Capital Account.

“Advisory Committee” is defined in Section 8.2.

“Affiliate” means, with respect to any Person, any other Person controlling, controlled by, or under common control with that first Person, or, with regard to a Person who is an individual, a member of such Person's family, whether by blood or marriage. As used in this definition, the term “control” means (1) with respect to any corporation or other entity having voting shares or the equivalent and elected directors, managers, or Persons performing similar functions, the ownership or power to vote more than 50% of shares or the equivalent having the power to vote in the election of directors, managers, or Persons performing similar functions, and (2) with respect to any other entity, the ability to direct its business and affairs.

“Agreed Value” means the Gross Asset Value of any Contributed Property or distributed property net of any liability assumed or taken subject to by the Partnership or the distributees, as the case may be.

“Agreement” has the meaning given that term in the introductory paragraph.

“Appraisal” means, unless the context indicates otherwise, a written valuation report by an Appraiser that describes and values the fair market value of an ownership interest in the Partnership.

“Appraiser” means a Person or firm qualified to perform business Appraisals of partnerships and ownership interests in the partnerships.

“Assignee” means a Person who has acquired all or a portion of an interest in a Partnership Interest by assignment as of the date the assignment of the Partnership Interest has become "effective." As used in this Agreement, the assignment of a Partnership Interest becomes "effective" as of the date on which all of the requirements of an assignment expressed in this Agreement shall have been met. An Assignee has only the rights granted under the Code. An Assignee does not have the right to become a partner except as provided in this Agreement or in the Code. An Assignee is an "Authorized Assignee" only if the assignment arose under Section 17.3 of this Agreement.

“Built-In Gain” with respect to any Partnership property means (1) as of the time of contribution, the excess of the Gross Asset Value of any Contributed Property over its adjusted basis for federal income tax purposes and (2) in the case of any adjustment to the Carrying Value of any Partnership Property pursuant to this Agreement, the Unrealized Gain.

“Built-In Loss” with respect to any Partnership property means (1) as of the time of contribution, the excess of the adjusted basis for federal income tax purposes of any Contributed Property over its Gross Asset Value and (2) in the case of any adjustment to the Carrying Value of any Partnership Property pursuant to this Agreement, the Unrealized Loss.

“Capital Account” is defined in Section 13.

“Capital Contribution” means with respect to any Partner, the Agreed Value of any property and the amount of cash contributed to the Partnership. Any reference in this Agreement to the Capital Contribution of a Partner will include a Capital Contribution made by any prior Partner with respect to the Partnership interest of the Partner.

“Carrying Value” means (1) with respect to any Contributed Property, the Gross Asset Value of the property reduced as of the time of determination by all Depreciation and an appropriate amount to reflect any sales, retirements, or other dispositions of assets included in the property and, (2) with regard to other Property, the adjusted basis of the property for federal income tax purposes as of the time of determination, provided, however, that the Carrying Values shall be further adjusted as provided in this Agreement and, at the time of adjustment, the property shall thereafter be deemed to be a Contributed Property contributed as of the date of adjustment.

“Certificate” means the certificate of limited partnership of the Partnership, as amended or restated from time to time.

“Code” means the Texas Business Organizations Code, Chapter 153, as amended, and any successor statute.

“Contributed Property” means any property other than cash contributed to the Partnership.

“Default Interest Rate” means the rate per annum equal to the lesser of (1) the Wall Street Journal prime rate as quoted in the money rates section of the Wall Street Journal as its prime commercial or similar reference interest rate, with adjustments to be made on the same date as any change in the rate, and (2) the maximum rate permitted by applicable law.

“Delinquent Partner” is defined in Section 12.8.

“Dispose”, “Disposing”, or “Disposition” means a sale, assignment, transfer, exchange, mortgage, pledge, grant of a security interest, or other disposition or encumbrance, or the acts thereof.

“Distributable Cash” means, at the time of determination for any period (on the cash receipts and disbursements method of accounting), all Partnership cash derived from the conduct of the Partnership's business, including distributions from entities owned by the Partnership, cash from operations or investments, and cash from the sale or other disposition of Partnership property, other than (1) Capital Contributions with interest earned pending its utilization, (2) financing or other loan proceeds, (3) reserves for working capital, and (4) other amounts that the General Partner reasonably determines should be retained by the Partnership in accordance with the General Partner's discretion under Section 16.5.

“Effective Date” is defined in Section 1.1.

“General Partner(s)” means any Person or Persons executing this Agreement as of the date of this Agreement as a general partner or hereafter admitted to the Partnership as a general partner as provided in this Agreement, but does not include any Person who has ceased to be a general partner in the Partnership.

“General Partnership Interest” means the Partnership Interest owned in the capacity of a General Partner.

“Gross Asset Value” means, (1) with regard to property contributed to the Partnership, the fair market value of the property as of the date of the contribution and (2) as to any property the Carrying Value of which is adjusted pursuant to Subsection 13.2, the fair market value of the property as of the date of the adjustment, as the fair market value is determined by the General Partner using any reasonable method.

“Initial Term” is defined in Section 2.2.

“Limited Partner(s)” means any Person or persons executing this Agreement as of the date of this Agreement as a limited partner or hereafter admitted to the Partnership as a limited partner as provided in this Agreement, but does not include any Person who has ceased to be a limited partner in the Partnership, and does not include an Assignee of a Limited Partnership Interest unless the Assignee has been admitted as a Limited Partner.

“Limited Partnership Interest” means the Partnership Interest owned in the capacity of a Limited Partner.

“Liquidator” means the General Partner or, if there are no remaining General Partners, a Person or committee selected by a Majority in Interest of Limited Partners who will commence to wind up the affairs of the Partnership and to liquidate and sell its properties when there has been

a dissolution or termination without reconstitution of the Partnership. The term shall also refer to any successor or substitute Liquidator.

“Majority in Interest” means those Partners whose Sharing Ratios aggregate more than 50% of the Sharing Ratios of all Partners.

“Majority in Interest of Limited Partners” means those Limited Partners whose Sharing Ratios aggregate more than 50% of the Sharing Ratios of all Limited Partners.

“Partner” means any General Partner or Limited Partner of the Partnership.

“Partners” means all General and Limited Partners of the Partnership.

“Partnership” means **TRIBAR LP 6 LIMITED PARTNERSHIP**, a Texas limited partnership.

“Partnership Interest” means the ownership interest of a Partner in the Partnership, including, without limitation, rights to distributions (liquidating or otherwise), allocations, information, and to consent or approve, and with respect to any Partner means a fraction (expressed as a percentage), the numerator of which is that Partner's Capital Contribution and the denominator of which is the sum of the Capital Contributions of all Partners, provided, however, that the Partnership Interest of each General Partner shall equal at least 1% of the Partnership Interest of all Partners.

“Partnership Purposes” is defined in Section 1.4.

“Permitted Transferee” means (1) a spouse of a Partner other than a spouse who is legally separated under a decree of separate maintenance or a spouse who is a party to a pending divorce proceeding, (2) a descendant of a Partner, including descendants by adoption if the adoption was a court adoption of a minor under fourteen years of age, (3) any parent or sibling of a Partner, (4) a descendant of a sibling of a Partner including those by adoption as defined in (2) above, (5) a trust created for the benefit of anyone in (1) through (4) above, (6) any organization described in each of the following sections of the Internal Revenue Code: Section 170(b)(1)(A), Section 170(c), Section 2055(a) and Section 2522(a), and (7) a charitable remainder trust created under Section 664 of the Internal Revenue Code. A Permitted Transferee, upon receiving a transfer of a Limited Partnership Interest, shall be an Assignee. A Permitted Transferee who has become an Assignee shall have the right to become a substitute Limited Partner only as provided in Section 19 of this Agreement.

“Person(s)” means one or more individual, estate, partnership, corporation, trust, unincorporated association, limited liability company, joint venture or other entity.

“Profits” and “Losses” means 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 Internal Revenue Code Section 703(a) (for this purpose all items of income, gain, loss or deduction required to be stated separately pursuant to Internal Revenue Code Section 703(a)(1), and any guaranteed payments paid to the General Partner, 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 not otherwise taken into account in computing Profits or Losses pursuant to this definition shall be added to such taxable income or loss;
- b. any expenditures of the Partnership described in Internal Revenue Code Section 705(a)(2)(B) or treated as Internal Revenue Code Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv)(I) and not otherwise taken into account in computing Profits or Losses pursuant to this definition shall be subtracted from such taxable income or loss;
- c. gain or loss resulting from any disposition of Property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Carrying Value or Section 704(e) Carrying Value of the property disposed of, as the case may be, notwithstanding that the adjusted tax basis of such property differs from its Carrying Value or Section 704(e) Carrying Value;
- d. in lieu of depreciation, amortization and other costs recovery deductions taken into account in computing taxable income or loss, there will be taken into account Depreciation for the taxable year or other period;
- e. if the Carrying Value or Section 704(e) Carrying Value, as the case may be, of any Partnership property is adjusted under Section 13.2, the adjustment will be taken into account as gain or loss from disposition of the asset for purposes of computing Profits or Losses;
- f. notwithstanding any other provision of this definition, any items which are specially allocated pursuant to subsection 4.5.2 of this Agreement shall not be taken into account in computing Profits or Losses.

“Property” means all real and personal property which has been contributed to or acquired by the Partnership and all increases and decreases applicable to the Property.

“Required Consent” means that percentage of Partnership Interest required to admit a new or substitute Limited Partner as defined in Section 17.3 of this Agreement.

“Required Interest” means one or more Limited Partners having among them more than 50% of the Partnership Interests of all Limited Partners in their capacities as such.

“Regulations” means Treasury Regulations promulgated under the Internal Revenue Code as amended.

“Secondary Account” is defined in Section 15.1.

“Secondary Term” means the term of continuation of the Partnership after the Initial Term as defined in Section 2.3.

“Sharing Ratio” means the ratio of a Partner's Capital Account to the Capital Accounts of all Partners. The initial Sharing Ratios of the Partners as of the Effective Date are set forth on Schedule A. Each Partner's Sharing Ratio is subject to change over time as provided in this Agreement.

“Unrealized Gain” attributable to a Partnership property means the excess of the Gross Asset Value of the property over the carrying Value or the Section 704(e) Carrying Value, as the case may be, of the property as of the date of determination.

“Unrealized Loss” attributable to a Partnership property means the excess of the Carrying Value or the Section 704(e) Carrying Value, as the case may be, of the property over its Gross Asset Value as of the date of determination.

Section 22.2 **CONSTRUCTION.** This document shall be construed to give effect to the intention of the parties. Any testimony by the original Partners as to their understanding of the document or their intention hereunder shall be binding when not contradicted. Gender, plurality and like matters shall be liberally construed to include the opposite where appropriate.

Section 22.3 **VENUE.** This Agreement is entered into in Travis County, Texas and shall be construed under Texas law. Any dispute arising hereunder shall be resolved in the courts of Travis County, Texas.

Section 22.4 **MULTIPLE COUNTERPARTS.** This Agreement may be executed in multiple counter parts, any one of which shall be an original. In the event the Partners executed separate counterparts, all so executed shall constitute one Agreement, binding on all the Partners, despite the failure of a Partner to sign all counterparts.

Section 22.5 **AMENDMENT.** This Agreement may be amended or modified at any time by the unanimous vote of the Partners, except that (1) an amendment or modification reducing a Partner's Sharing Ratio (except as otherwise provided by this Agreement) is effective only with that Partner's consent and (2) an amendment or modification reducing the required measure for any consent or vote in this Agreement is effective only with the consent or vote of Partners having the Sharing Ratio or other measure previously required.

Section 22.6 **NOTICES.** All notices under this Agreement shall be in writing and shall be given to the Partner entitled by personal service or by certified or registered mail, return receipt requested, except that the notice of any meeting or the furnishing of any financial statement to the Partners may be done by regular mail. Any notice shall be deemed received after twenty-four hours from the date and time of postmark if it is deposited with the U.S. Mail pursuant to the above (if mailed) or when personally received if the mail service is not used.

Section 22.7 **ATTORNEY FEES.** Except as otherwise provided in this Agreement, in the event a dispute arises between any Partner(s) and the Partnership or between the Partners themselves, the prevailing party shall be entitled to recover reasonable attorney's fees and court costs incurred.

Section 22.8 **TAX AUDIT.** In the event this Partnership is audited by the Internal Revenue Service, the costs and expenses incurred to defend and comply with the audit shall be an expense of the Partnership. Any audit of any individual Partner shall not be deemed to be an audit of this Partnership.

Section 22.9 **BINDING NATURE.** The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the respective Partner.



Section 22.10 **SEVERANCE**. In the event any sentence or paragraph of this Agreement is declared by a court to be void or by the Internal Revenue Service, for the purposes of Section 2704 of the Internal Revenue Code, to be noneffective, that sentence or paragraph shall be deemed severed from the remainder of the Agreement, and the balance of the Agreement shall remain in effect. To the extent applicable, the default provisions of the Code shall govern in the place of the severed sentence or paragraph. This provision shall not prohibit the Partnership or any Partner from contesting a determination of non-effectiveness of any provision of this Agreement by the Internal Revenue Service.

Section 22.11 **APPLICABLE LAW**. This Agreement and all rights and liabilities of the parties with reference to this Partnership shall be governed by the Code and all other applicable laws of the State of Texas other than its conflicts of laws rules and principles.

Section 22.12 **FOREIGN QUALIFICATION**. Prior to the qualification of the Partnership to conduct business in any jurisdiction other than Texas, the General Partners shall cause the Partnership to comply, to the extent procedures are available and those matters are reasonably within the control of the General Partners, with all requirements necessary to qualify the Partnership as a foreign limited partnership in that jurisdiction. At the request of the General Partners, each Partner shall execute, acknowledge, swear to, and deliver all certificates and other instruments conforming with the terms of this Agreement that are necessary or appropriate to qualify, continue, and terminate the Partnership as a foreign limited partnership in all jurisdictions in which the Partnership may conduct business.

Section 22.13 **HEADINGS**. The headings used in this Agreement are for convenience only and shall not be construed in interpreting this Agreement.

Section 22.14 **ENTIRE AGREEMENT**. This Agreement contains the entire agreement among the Partners with respect to the matters of this Agreement and shall supersede and govern all prior agreements, written or oral.

Section 22.15 **FURTHER ACTION**. The parties hereto shall execute and deliver all documents, provide all information and take or refrain from taking action as may be necessary or appropriate to achieve the purposes of this Agreement.

Section 22.16 **CREDITORS**. None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of the Partnership, any Partner or any other third party.

Section 22.17 **WAIVER**. No failure by any Partner to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute waiver of any breach or any other covenant, duty, agreement or condition.

Section 22.18 **OFFSET**. Whenever the Partnership is to pay any sum to any Partner, any amounts that Partner owes the Partnership may be deducted from that sum before payment.

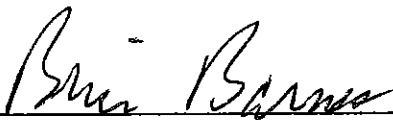
Section 22.19 **DISCLOSURE**. Each of the Partners acknowledge that he or she (1) was urged in advance by the Attorney who prepared this Agreement to secure separate independent legal counsel in connection with signing and making this Agreement and its effect upon each of them and their marital Property, (2) has carefully read and understood the provisions of this Agreement, (3) understands that his or her marital rights in real property may be adversely

affected by this Agreement, (4) is signing and making this Agreement voluntarily, (5) has been provided a fair and reasonable disclosure of the property and financial obligations of the other Party, and (6) hereby voluntarily expressly waives in this writing any right to disclosure of the Property and financial obligations of the other Partners beyond the disclosure provided.


Section 22.20 **ATTACHMENTS** All exhibits or schedules referenced in and attached to the Agreement are incorporated as a part of the Agreement.

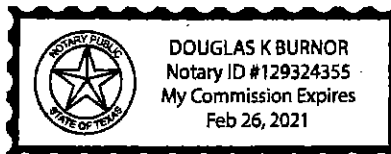
EXECUTED March 13, 2017 to be effective on the Effective Date.

**GENERAL PARTNER:**

  
\_\_\_\_\_  
Brian Barnes

This document was acknowledged on March 14, 2017 by Brian Barnes, general partner, TriBar LP 6 Limited Partnership.

  
\_\_\_\_\_  
NOTARY PUBLIC, State of Texas



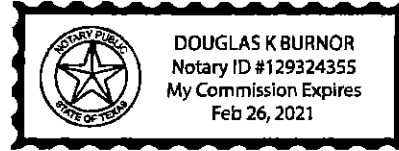
\_\_\_\_\_  
Printed Name/Seal/Commission Expiration

**LIMITED PARTNERS:**

Beth Barnes by Brian Barnes  
Beth Barnes by Brian Barnes, Agent

This document was acknowledged on March 14, 2017 by Beth Barnes by Brian Barnes, Agent, limited partner, TriBar LP 6 Limited Partnership.

Douglas K Burnor  
NOTARY PUBLIC, State of Texas

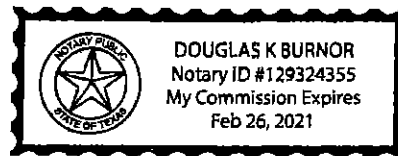


Printed Name/Seal/Commission Expiration

Brian Barnes  
Brian Barnes

This document was acknowledged on March 14, 2017 by Brian Barnes, limited partner, TriBar LP 6 Limited Partnership.

Douglas K Burnor  
NOTARY PUBLIC, State of Texas

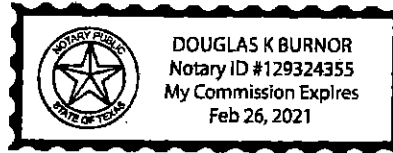


Printed Name/Seal/Commission Expiration

Bonnie McNair  
Bonnie McNair

This document was acknowledged on March 14, 2017 by Bonnie McNair, limited partner, TriBar LP 6 Limited Partnership.

Douglas K Burnor  
NOTARY PUBLIC, State of Texas



Printed Name/Seal/Commission Expiration

**SCHEDULE A - INITIAL INTERESTS**

Attached to the Limited Partnership Agreement of TriBar LP 6 Limited Partnership.

<b>PARTNER</b>	<b>PARTNERSHIP</b>	<b>SHARE INTEREST</b>
Brian Barnes	General Partner	1.00%
Beth Barnes	Limited Partner	33.00%
Brian Barnes	Limited Partner	33.00%
Bonnie McNair	Limited Partner	33.00%
<b>TOTAL</b>		<b>100.00%</b>