ARTICLE 7
OFFICERS AND OTHER AGENTS

Section 7.1 **Number; Titles; Term of Office.** The officers of the Company shall be a President, a Secretary, a Treasurer, and such other officers as the Board may from time to time elect or appoint, including a Chairman, one or more Vice Presidents (with each Vice President to have such descriptive title, if any, as the Board shall determine), an Assistant Secretary, and an Assistant Treasurer. Each officer shall hold office until his successor shall have been duly elected and shall have qualified, until his or her death, or until he or she shall resign or shall have been removed in the manner hereinafter provided. Any two or more offices may be held by the same person. None of the officers need be a Member or a Board Member of the Company or a resident of the State of Delaware.

Section 7.2 **Removal.** Any officer or agent elected or appointed by the Board may be removed by the Board whenever in its judgment the best interest of the Company will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

Section 7.3 **Vacancies.** Any vacancy occurring in any office of the Company (by death, resignation, removal, or otherwise) may be filled by the Board.

Section 7.4 **Authority.** Officers shall have such authority and perform such duties in the management of the Company as are provided in this Agreement or as may be determined by resolution of the Board not inconsistent with this Agreement.

Section 7.5 **Compensation.** The compensation, if any, of officers and agents shall be fixed from time to time by the Board; *provided, however*, that the Board may delegate the power to determine the compensation of any officer and agent (other than the officer to whom such power is delegated) to the Chairman or the President. Any office held by Management Members or Additional Employed Members shall be without compensation, except as set forth in Article 16.

Section 7.6 **Chairman of the Board.** The Chairman, if elected by the Board, shall have such powers and duties as may be prescribed by the Board. Such officer shall preside at all meetings of the Members and of the Board.

Section 7.7 **President.** The President shall be the chief executive officer of the Company and, subject to the control and direction of the Board, shall have general executive charge and management of the properties and operations of the Company in the ordinary course of its business, with all such powers with respect to such properties and operations as may be reasonably incident to such responsibilities. If the Board has not elected a Chairman or in the absence or inability to act of the Chairman, the President shall exercise all of the powers and discharge all of the duties of the Chairman. As between the Company and third parties, any action taken by the President in the performance of the duties of the Chairman shall be conclusive evidence that there is no Chairman or that the Chairman is absent or unable to act.

Section 7.8 **Vice Presidents.** Each Vice President shall have such powers and duties as may be assigned to him by the Board, the Chairman, or the President, and (in order of their seniority as determined by the Board or, in the absence of such determination, as determined by the length of time they have held the office of Vice President) shall exercise the powers of the President during that officer's absence or inability to act. As between the Company and third parties, any action taken by a Vice President in the performance of the duties of the President shall be conclusive evidence of the absence or inability to act of the President at the time such action was taken.

Section 7.9 **Treasurer.** The Treasurer shall have custody of the Company's funds and securities, shall keep full and accurate account of receipts and disbursements, shall deposit all monies and valuable effects in the name and to the credit of the Company in such depository or depositories as may be designated by the Board, and shall perform such other duties as may be prescribed by the Board, the Chairman, or the President.

Section 7.10 **Assistant Treasurers.** Each Assistant Treasurer shall have such powers and duties as may be assigned to him by the Board, the Chairman, or the President. The Assistant Treasurers (in the order of their seniority as determined by the Board or, in the absence of such a determination, as determined by the length of time they have held the office of Assistant Treasurer) shall exercise the powers of the Treasurer during that officer's absence or inability to act.

Section 7.11 **Secretary.** Except as otherwise provided in this Agreement, the Secretary shall keep the minutes of all meetings of the Board and of the Members in books provided for that purpose, and shall attend to the giving and service of all notices. To the extent authorized by the Board, the Secretary may sign, in the name of the Company, any contract, FCC application or report and other similar documents of the Company. The Secretary may sign with the Chairman or the President all certificates representing Membership Interests of the Company, and shall have charge of the certificate books, transfer books, and other papers as the Board may direct, all of which shall at all reasonable times be open to inspection by any Board Member upon application at the office of the Company during business hours; *provided, however*, that no certificate evidencing Membership Interests need be issued. The Secretary shall in general perform all duties incident to the office of the Secretary, subject to the control of the Board, the Chairman, and the President.

Section 7.12 **Assistant Secretaries.** Each Assistant Secretary shall have such powers and duties as may be assigned by the Board, the Chairman, or the President. The Assistant Secretaries (in the order of their seniority as determined by the Board or, in the absence of such a determination, as determined by the length of time they have held the office of Assistant Secretary) shall exercise the powers of the Secretary during that officer's absence or inability to act.

ARTICLE 8
MEETINGS OF MEMBERS

Section 8.1 **Place of Meetings.** All meetings of the Members shall be held at the principal place of business of the Company as provided in Section 1.4 or at such other place

within or without the State of Delaware as shall be specified or fixed in the notices or waivers of notice calling the meeting; *provided* that any or all Members may participate in any such meeting by means of conference telephone or similar communications equipment pursuant to Section 8.13.

Section 8.2 Annual Meeting. An annual meeting of the Members, for the transaction of all business as may properly come before the meeting, shall be held at such place, within or without the State of Delaware, on such date and at such time as the Board shall fix and set forth in the notice of the meeting.

Section 8.3 Special Meetings. Special meetings of the Members for any proper purpose or purposes may be called at any time by resolution of the Board or by Class A Members holding at least 25% in interest of the Fully Contributed Profit Percentages of all the Class A Members. Such Members may call a meeting by delivering to the Board one or more written requests signed by the requisite number of Members stating that such Members wish to call a meeting and indicating the specific purpose for which the meeting is to be held. If not otherwise stated in the written request or fixed in accordance with the remaining provisions hereof, the record date for determining Members entitled to call a special meeting is the date any Member first signs the written request for a meeting. Only business within the purpose or purposes described in the notice (or waiver thereof) required by this Agreement may be conducted at a special meeting of the Members.

Section 8.4 Notice and Waiver Thereof. Written or printed notice stating the place, day and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten days nor more than sixty days before the date of the meeting, by or at the direction of the Board, to each Member entitled to vote at such meeting in accordance with Section 17.7. Attendance of a Member at a meeting shall constitute a waiver of notice of the meeting except where such Member attends for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened. Notice of a meeting may also be waived in writing. Attendance at a special meeting is not a waiver of any right to object to the consideration of matters required to be included in the notice of the special meeting but not so included, if the objection is expressly made at the meeting.

Section 8.5 Quorum. A quorum shall be present at a meeting of Members if the holders of 50% in interest of the Fully Contributed Profit Percentages of all Class A Members are represented at the meeting in person or by proxy.

Section 8.6 Voting. Voting and Voting Power. All Class A Members shall, except as hereinafter provided, be entitled to vote at meetings. Such Members may vote either in person or by proxy at any meeting. Each Class A Member shall be entitled to one vote. No Class B Member or Class C Member shall be entitled to vote at meetings, other than for matters specifically requiring the affirmative vote of a specified percentage of the Class B Members or the Class C Members or a Majority in Interest of All Members. No Affected Member shall be entitled to vote except for those matters set forth in Section 9.3.

(a) Voting on Matters Other than the Designation of Board Members. With respect to any matter other than the designation of Board Members (which shall be governed by Section 6.2(b)) or a matter for which the affirmative vote of Members owning a specified percentage of the interests is required by the Act, the Certificate or this Agreement, the affirmative vote of a Majority in Interest of the Class A Members actually present at a meeting at which a quorum is present shall be the act of all the Members. The Members have no independent power or right to vote on any Major Decisions, the determination of which matters are specifically reserved to the Board pursuant to Section 6.11.

(b) Change in Voting Percentages. No provisions of this Agreement requiring that any action be taken only upon approval, vote or action of the Members holding a specified percentage of the Membership Interests of the Members may be modified, amended or repealed unless such modification, amendment or repeal is approved by Members holding at least such specified percentage of such Membership Interests.

Section 8.7 Record Date. For the purpose of determining Members entitled to notice of, or to vote at, any meeting of Members or any adjournment thereof, or entitled to receive a distribution, or in order to make a determination of Members for any other proper purpose (other than determining Members entitled to consent to action by Members proposed to be taken without a meeting of the Members), the Board may fix in advance a date as the record date for any such determination of Members, such date in any case to be not more than thirty days and, in case of a meeting of Members, not less than ten days prior to the date on which the particular action requiring such determination of Members is to be taken. When a determination of the Members entitled to vote at any meeting of Members has been made as provided in this Section 8.7, such determination shall apply to any adjournment thereof except where the determination has been made through the closing of the records and the stated period of closing has expired. The record date for determining Members entitled to consent to action in writing without a meeting shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Company by delivery to its registered office or its principal place of business, or to the Board in accordance with the provisions of Section 17.7.

Section 8.8 Voting Lists. The Board shall make, at least ten days before each meeting of Members, a complete list of the Members entitled to vote at such meeting, showing the interests owned by each Member. Failure to comply with these requirements shall not affect the validity of any action taken at such meeting.

Section 8.9 Adjournment. Notwithstanding the other provisions of the Certificate or this Agreement, the Chairman or the Class A Members holding a majority in interest of the Class A Interests actually present shall have the power to adjourn such meeting from time to time, without any notice other than announcement of the time and place of the holding of the adjourned meeting. If such meeting is adjourned by such Members, such time and place shall be determined by a vote of the Majority in Interest of the Class A Members actually present. Upon the resumption of such adjourned meeting, any business may be transacted that might have been transacted at the meeting as originally called.

Section 8.10 Proxies. A Member entitled to vote may vote either in person or by proxy executed in writing by the Member. A telegram, telex, cablegram or similar transmission by the

Member, or a photographic, photostatic, facsimile, or similar reproduction of a writing executed by such Member shall be treated as an execution in writing for purposes of this Section 8.10. A proxy shall be revocable unless the proxy form conspicuously states that the proxy is irrevocable and the proxy is coupled with an interest.

Section 8.11 Conduct of Meeting. The Board shall have full power and authority concerning the manner of conducting any meeting of the Members, including, without limitation, the determination of Persons entitled to vote, the existence of a quorum, the satisfaction of the requirements of this Article 8, the conduct of voting, the validity and effectiveness of any proxies, and the determination of any controversies, votes or challenges arising in connection with or during the meeting or voting. The Chairman shall preside at, and the secretary shall prepare minutes of, each meeting of Members, and in the absence of either such officer, his duties shall be performed by a Vice Chairman or, in such Person's absence, some Person or Persons selected by the Directors.

Section 8.12 Action by Written Consent. Any action required or permitted to be taken at any annual or special meeting of Members may be taken without a meeting, without prior notice, and without a vote, if a consent or consents in writing setting forth the action so taken shall be signed by the Members holding not less than the minimum interests that would be necessary to take such action at a meeting at which the Members holding the required interests were present and voted. Every written consent shall bear the date of signature of each Member who signs the consent. A telegram, telex, cablegram or similar transmission by a Member, or a photographic, photostatic, facsimile, or similar reproduction of a writing signed by a Member, shall be regarded as signed by the Member for purposes of this Section 8.12. Prompt notice of the taking of any action by Members without a meeting by less than unanimous written consent shall be given to those Members who did not consent in writing to the action. If any action by the Members is taken by written consent, any certificate or documents filed with the Secretary of State of Delaware, if any, as a result of the taking of the action shall state, in lieu of any statement required by the Act concerning any vote of Members, that written consent has been given in accordance with the provisions of this Agreement.

Section 8.13 Telephone and Similar Meetings. Members may participate in and hold a meeting by means of conference telephone or similar communications equipment by means of which all Persons participating in the meeting can hear each other. Participation in such meeting shall constitute attendance and presence in person at such meeting, except where a Person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

ARTICLE 9
RIGHTS AND OBLIGATIONS OF MEMBERS

Section 9.1 **No Participation by Members.** Notwithstanding any other provision of this Agreement, no Member shall have any independent right to participate in the management or control of the Company or of its business, which management and control is reserved specifically to the Board.

Section 9.2 **Liabilities of the Members.** Except as otherwise required by law, no Member shall be personally liable for any of the debts or obligations of the Company, and the liability of each Member to the Company shall be limited to the total Capital Contributions that such Member is required to make to the Company under Article 3 hereof, and such liability shall be enforceable only by the Company and the Members thereof and not by any creditors of the Company.

Section 9.3 **Membership Restrictions.**

(a) The determination of a Conflicting Attributable Interest shall be made by the Board based upon the advice of the Company's nationally recognized FCC counsel, which shall include Leibowitz & Associates, and for so long as a Conflicting Attributable Interest exists, the following restrictions shall be applicable to the Affected Member:

(i) neither the Affected Member nor any officer, director, member or partner of the Affected Member nor any Person who owns 5% or more of any class of equity securities of the Affected Member shall:

(1) be an employee of the Company whose functions directly or indirectly relate to any Media Enterprise of the Company (the "*Company Media Enterprise*");

(2) serve in any material capacity as an independent contractor or agent with respect to any Company Media Enterprise;

(3) serve as a Board Member of the Company;

(4) communicate with the Company's Board Members, with any Member that is not an Affected Member or the management of any Company Media Enterprise on matters pertaining to the day-to-day operations of any Company Media Enterprise;

(5) perform any services for the Company that materially relate to any Company Media Enterprise; or

(6) become actively involved in the management or operation of any Company Media Enterprise; and

(ii) the Affected Member shall not vote on the election of any new Board Member of the Company unless such new Board Member is approved by the existing Board Members; and

(iii) with respect to the replacement rights set forth in Section 6.2 and 6.3, the Affected Member shall not have the right to vote for the replacement of Board Members, unless such replacement Board Member is approved by the existing Board Members; and

(iv) the Affected Member shall not have the right to vote to remove a Board Member from the Company except where the Member is subject to bankruptcy proceedings, has been adjudicated incompetent by a court of competent jurisdiction, or has been removed for cause which was determined by an independent party to have constituted malfeasance, criminal conduct, wanton or willful neglect, or such other extraordinary conduct with respect to which a prudent investor would require the right to remove a Member; and

(v) the Affected Member shall use its best efforts, on an expedited basis, to divest or otherwise eliminate any Conflicting Attributable Interests; and

(vi) If the Board, based upon the advice of the Company's nationally recognized FCC counsel, which shall include Leibowitz & Associates, determines that the application of clauses (i) through (v) above is insufficient to protect the Company from a violation of the Multiple Ownership Rules or a violation of the foreign ownership limitations of Section 310(b) of the Communications Act, then, after written notice to the Affected Member, the Board may place further restrictions on an Affected Member's ownership interest designed to remedy the potential ownership violation, or the Board may cause the Company to purchase all or any portion of an Affected Member's ownership interest in the Company on the following terms and conditions:

(1) the purchase price for the Affected Member's ownership interest shall be equal to the Fair Interest Value of the ownership interest to be purchased computed pursuant to Sections 14.4 and subject to adjustment pursuant to Section 14.5 as if the Affected Member's ownership interest being purchased was a "Look Back Interest," the Affected Member was the "Grantor" and the Company was a "Purchasing Member";

(2) the purchase price shall, to the extent possible, be paid in full in cash on the date of the purchase of the Affected Member's ownership interest with the proceeds of a call of Additional Capital Contributions, the proceeds of available credit under any company credit agreement, or any other source of available cash. To the extent the purchase price is not paid in full on the date of purchase, the unpaid amount of the purchase price and interest on the unpaid balance thereof shall be evidenced by a promissory note secured by the Affected Member's purchased ownership interest (the "*Repurchase Note*"). The Company shall use its best efforts to ensure that the Repurchase Note is paid as soon as practicable but in no event in more than eighteen (18) months from the date of issuance. The Repurchase Note shall bear interest at an annual rate for the first

twelve (12) months from the date of issuance, equal to the interest rate paid by the Company on its senior indebtedness, or in the absence of such indebtedness, at the prime rate of Bankers Trust on the date of issuance and thereafter, the Repurchase Note shall bear interest at an annual rate of eighteen percent (18%);

(3) within ten (10) days of receipt of notice of the Board's determination to purchase the Affected Member's ownership interest, the Affected Member shall convey its ownership interests to the Company free and clear of all liens and encumbrances except for (y) security interest securing the Company's indebtedness and (z) a security interest securing the Repurchase Note contemplated in this subsection.

(vii) the restrictions in (i) through (vi) above shall be in addition to the restrictions set forth in Section 9.4 below.

(viii) At any time when Alta is an Affected Member and subject to the provisions of Section 9.3(a)(i), Alta shall be entitled to consult with the Company, to the extent permitted under applicable FCC rules and regulations, on the Company's overall strategy and performance. Alta may examine the books and records of the Company and inspect its facilities and request information at reasonable times and intervals concerning the general status of the financial condition and operation of the Company, and may request full information pertinent to any covenant, provision or condition hereof.

(b) Before the Company makes an offer or enters into an agreement for an Investment in any Company Media Enterprise, each Member, at the request of the Company, shall provide an opinion of counsel or certificate to the Company stating whether the Member has a Conflicting Attributable Interest with respect to the proposed Investment of the Company.

(c) Each Member shall cooperate with the Board to ensure the Company's compliance with the applicable provisions of any material federal or state law (including the rules and regulations of the FCC) and shall provide the Board with such information as the Board may reasonably request to enable the Board to cause the Company to comply with the applicable provisions of any material federal or state law or regulation (including the rules and regulations of the FCC).

Section 9.4 Competitive Activities.

(a) The Members agree to not acquire any equity or debt investments in another investment vehicle with a competing strategy to the Company's and operating a Core Business without first offering each such equity or debt investment opportunity to the Company; *provided, however,* that notwithstanding the foregoing, (i) with respect to the GS Investors, this Section 9.4(a) shall apply to the GS Investors and all Goldman Sachs Capital Partners equity funds that are Affiliates of the GS Investors, but shall not apply to any other Affiliate of the GS Investors, and (ii) with respect to any Member (other than the GSCP Investors) that is an equity fund, this Section 9.4(a) shall apply to such Member and similar equity funds that are Affiliates of such Member, but shall not apply to any other Affiliate of such Member, *provided, further*, that notwithstanding any other provision hereof, nothing shall prevent any party from owning any

equity or debt investment, or making any follow-on or subsequent investment, in an investment vehicle, the investment in which, at the time of the original investment by such party, was not in violation of the provisions hereof, and provided, further, that the foregoing limitation will not apply to:

(i) non-attributable minority investments of such Members where, had the investment in question been made by the Company, the Management Members and/or Additional Employed Members would not have had management oversight responsibility of the investment, through board representation or otherwise;

(ii) investments where the ownership stake acquired is less than 50.0% on a fully diluted basis; or

(iii) the existing Alta investments in the entities identified on Schedule D hereto and any follow-on or subsequent investments in such entities;

(iv) the existing investments of GS Investors or their Affiliates in the entities identified of Schedule D hereto and any follow-on or subsequent investments in such entities;

(v) in the case of (iii) and (iv), the respective investments by Alta and the GS Investors in entities and any follow-on or subsequent investments in such entities where, at the time of such investment, such entity is not seeking new or replacement management and such investment does not cause the Company to violate the Multiple Ownership Rules; or

(vi) in the case of PNE, the outdoor assets in its New York market or any investment acquired by PNE as consideration for the transfer of such outdoor assets.

In the event the Company elects not to participate in an investment opportunity made available by a Member, or does not give written notice that it elects to so participate within 30 days after receiving notice from a Member of any such opportunity, the Member may proceed with its proposed equity or debt investment and any follow-on or subsequent investment in such entity. Notwithstanding the foregoing, in the event a Member's interest in an investment becomes a Conflicting Attributable Interest, any Affected Member shall at that time be subject to the restrictions in Section 8.6(a) and Section 9.3 until such time as such investment is no longer a Conflicting Attributable Interest. Notwithstanding the foregoing, this Section 9.4(a) shall cease to apply to each Investor Member, upon the earlier of (i) the termination of the Commitment Period either in accordance with the early termination provisions of Section 3.1(d)(iii) or in accordance with the terms of this Agreement or (ii) such Investor Member owning less than 10% of the Membership Interests and not having a member on the Board.

(b) In addition to the limitations set forth in the foregoing Section 9.4(a), during the term of this Agreement (and for a period of two years following any termination of such Management Member or Additional Employed Member pursuant to Section 16.5), no Management Member or Additional Employed Member shall, directly or indirectly, engage, participate, make any financial investment in, or become employed by or render advisory or other services to or for any Person or other business enterprise (other than any of the Investments

of the Company or its Affiliates, or any existing investments on the Original Effective Date of such Management Member or any existing investments on the Effective Date of such Additional Employed Member, in each case, disclosed to the Board and listed on Schedule D) in the Lines of Business of any Investment of the Company (any of the foregoing activities being referred to herein as "*Competitive Activities*"), and each Management Member and Additional Employed Member agrees to not provide management services to any Person engaged in Competitive Activities, *provided, however,* that Matthew L. Leibowitz may render legal services to his clients in the ordinary course of his law practice, subject to all applicable rules of professional conduct. The foregoing covenant regarding Competitive Activities shall not be construed to preclude any Management Member or Additional employed Member from making any investments (that are non-attributable interests under the rules, regulations or policies of the FCC) in the securities of any company, whether or not engaged in Competitive Activities with the Company or its Affiliates, to the extent that such securities are actively traded on a national securities exchange or in the over-the-counter market in the United States or any foreign securities exchange and such investment does not exceed 1.0% of the issued and outstanding shares of such company or give the Management Member or the Additional Employed Member the right or power to control or participate directly in making the policy decisions of such company. The Management Members and Additional Employed Members acknowledge that the Company and the other Members may pursue and enforce all rights and remedies the Company may have against any Member with respect to the obligations under this Section 9.4(b).

Section 9.5 Multiple Ownership Rules. If any Member (other than an Affected Member) becomes aware that a Person holding an Attributable Interest in the Company through that Member also holds Attributable Interests that, when held in conjunction with the Company's Media Interests, violate the Multiple Ownership Rules, then such Member will expeditiously take such action as is necessary to remedy such violation of the FCC's Ownership Rules with respect to the Company.

ARTICLE 10
EXCULPATION AND INDEMNIFICATION

Section 10.1 Exculpation. No Board Member, nor any Member, nor any Affiliate of any Board Member or any Member, nor any officer, director, member, stockholder, employee or agent of any Board Member or any Member or any of their respective Affiliates (collectively, the "*Indemnified Parties*" and each, an "*Indemnified Party*"), shall be liable, responsible, or accountable in damages or otherwise to the Company or to any Member by reason of, arising from, or relating to the operations, business, or affairs of the Company, or any act or failure to act on behalf of the Company by such Indemnified Party except to the extent that any of the foregoing is determined, by a final, nonappealable order of a court of competent jurisdiction, to have been primarily caused by the gross negligence, willful misconduct, or criminal activity of a person claiming exculpation.

Section 10.2 Indemnity. To the fullest extent permitted by law, the Company shall indemnify each Indemnified Party against any claim, loss, damage, liability, or expense, including reasonable attorney's fees, court costs, and costs of investigation, suffered or incurred by any such Indemnified Party by reason of, arising from, or relating to the operations, business, or affairs of or any act or failure to act on behalf of the Company, any Board Member or any

Member, or any of their respective Affiliates, except to the extent that any of the foregoing is determined by final, nonappealable order of a court of competent jurisdiction to have been primarily caused by the gross negligence, bad faith or willful misconduct or criminal activity of such Indemnified Party. **IT IS THE EXPRESS INTENT OF THE COMPANY THAT THE FOREGOING INDEMNITY SHALL BE APPLICABLE TO ANY CLAIM, LOSS, DAMAGE, LIABILITY, OR EXPENSE THAT HAS RESULTED FROM OR IS ALLEGED TO HAVE RESULTED FROM THE ACTIVE OR PASSIVE OR THE SOLE, JOINT, CONCURRENT ORDINARY NEGLIGENCE OF SUCH INDEMNIFIED PARTY.** Unless a determination has been made (by final, nonappealable order of a court of competent jurisdiction) that indemnification is not required, the Company shall, upon the request of any Indemnified Party, advance or promptly reimburse such Indemnified Party's reasonable costs of investigation, litigation, or appeal, including reasonable attorneys' fees; *provided, however*, that the affected Indemnified Party shall, as a condition of such Indemnified Party's right to receive such advances and reimbursements, undertake in writing to repay promptly the Company for all such advancements or reimbursements if a court of competent jurisdiction determines that such Indemnified Party is not then entitled to indemnification under this Section 10.2.

ARTICLE 11
FINANCIAL ACCOUNTING AND TAX MATTERS

Section 11.1 Books and Records. The Company shall keep or cause to be kept complete and appropriate records and books of account in which shall be entered all such transactions and other matters relative to the Company's business as are usually entered into records and books of account maintained by persons engaged in businesses of like character or which are required by the Act. The Company shall maintain such books and records in accordance with the basis utilized in preparing the Company's United States federal income tax returns, which returns, if allowed by applicable law, may in the discretion of the Board be prepared on either a cash basis or accrual basis. The books and records shall be maintained at the principal place of business of the Company, and all such books and records shall be available for inspection and copying at the request, and at the expense, of any Member during the ordinary business hours of the Company.

Section 11.2 Tax Information. As soon as practicable, but no later than 90 days after the end of each Company Fiscal Year (subject to clause (ii) of Section 11.7(a)), the Company shall cause to be prepared and mailed to each Member all necessary tax reporting information.

Section 11.3 Tax Matters Member. Pursuant to Section 6231(a)(7)(A) of the Code, Thomas Weisel Capital Partners, L.P., shall be the tax matters Member of the Company (the "*Tax Matters Member*"). Except as otherwise provided herein, all elections relating to tax matters shall be made by the Tax Matters Member, with the consent of the GS Investors, which consent shall not be unreasonably withheld. To the maximum extent permitted by applicable law and without limiting Article 10, the Company shall indemnify and reimburse the Tax Matters Member for all expenses (including reasonable legal and accounting fees) and any other liabilities of whatever nature incurred as a Tax Matters Member pursuant to this Article 11 in connection with any administrative or judicial proceeding with respect to the tax liability of the Members, so long as the Board has determined in good faith that the Tax Matters Member's

course of conduct was in, or not opposed to, the best interest of the Company. The taking of any action and the incurring of any expense by the Tax Matters Member in connection with any such proceeding, except to the extent provided herein or required by law, is a matter in the sole discretion of the Tax Matters Member.

Section 11.4 Audit. If the Board determines that it is appropriate, the books of account and records of the Company shall be examined by and reported upon as of the end of each Company fiscal year by a firm of independent public accountants of nationally recognized standing selected by the Board. The cost and expenses of any such audit shall be a Company Cost and Expense.

Section 11.5 Banking.

(a) Demand Deposits. All funds of every kind and nature received by the Company, including Capital Contributions, loan proceeds and operating receipts, shall be deposited in such bank accounts opened in the name of the Company as shall be determined by the Board. Signatories shall be as designated from time to time by the Board.

(b) Investments in Cash and Cash Equivalents. The Company may make such investments of the Company's working capital in cash and cash equivalents as the Board deems appropriate in the ordinary course of business; *provided*, that such investments in cash and cash equivalents shall not preclude the timely distribution of Distributable Property as set forth in Article 4, and *provided, further*, that any such investments in cash and cash equivalents shall not preclude the timely payment of Company obligations when and as due.

Section 11.6 Accounting Decisions. All decisions as to accounting matters, except as specifically provided to the contrary herein, shall be made by the Board; *provided* that such decisions must be acceptable to the Company's independent certified accountants.

Section 11.7 Financial Reports.

(a) Annual Reports. As soon as practicable after the close of each Fiscal Year of the Company, but in no event later than 90 days after the close of any Fiscal Year, the Company shall deliver (i) to each Member an annual financial report of the Company for that Fiscal Year, including a balance sheet, a profit and loss statement and a statement showing distributions and allocations to the Members, and such other information as the Board deems necessary or advisable to deliver, accompanied by a report of the Company's independent certified public accountants (if determined to be appropriate pursuant to Section 11.4 hereof), and (ii) to each Member all information and documents as may be necessary, in the opinion of the Board, for the preparation by each Member of such Member's federal and state income or other tax returns, including the tax information referred to in Section 11.2; *provided, however*, that for purposes of this clause (ii), the Board may elect to extend the period within which to file any federal and state income or other tax returns for a period not to exceed five calendar months and any such information or documents set forth in this clause (ii) shall be delivered by the Company to the Members prior to the end of such extended period so as to permit timely preparation by the Member of such returns. The Company's accountants shall be a firm of independent certified public accountants selected by the Board. The annual statements shall also be provided to any

Person who was a Member at any time during the year covered by the annual statements. Within 45 days after the end of each quarterly accounting period in each Fiscal Year, the Company shall deliver to each Member a quarterly financial report of the Company for that quarter, including a balance sheet, a profit and loss statement and a statement showing distributions and allocations to the Members, and such other information as the Board deems necessary or advisable to deliver. All annual financial statements shall be prepared in accordance with generally accepted accounting principles in the United States, consistently applied.

(b) Transfers. In the case of a Transfer by a Member of a Membership Interest by sale or exchange, the death of a Member or the distribution of Company Assets, the Board shall, upon request of the transferee Member, make an election under Section 754 of the Code to adjust the basis of the Company Assets with respect to a transferee who acquires a Membership Interest from an exiting Member. The Capital Accounts of the Members shall be adjusted in accordance with Section 1.704-1(b)(2)(iv)(m) of the Treasury Regulations. Because of the significant accounting difficulties and extra expense to the Company which may be involved if this election is made, the transferee Member will be required to pay all administrative and accounting expenses incurred in connection with the election.

ARTICLE 12
TRANSFERS OF MEMBERSHIP INTERESTS

Section 12.1 Compliance with Securities Laws; Assignments. Each Member represents that it has acquired its Membership Interest for its own account and not with a view to distribution thereof within the meaning of the Securities Act. MEMBERSHIP INTERESTS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OR UNDER THE SECURITIES LAWS OF ANY APPLICABLE JURISDICTION, AND MAY NOT BE OFFERED OR SOLD UNLESS SUCH MEMBERSHIP INTERESTS HAVE BEEN SO REGISTERED OR UNLESS AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE. No Member shall voluntarily or involuntarily make or suffer any Transfer of any Membership Interest (other than a Transfer effected in strict compliance with this Article 12) without the prior unanimous written consent of the Board. Any purported Transfer in violation of this Article 12 shall be void *ab initio* and of no force or effect whatsoever.

Section 12.2 Transfer by Members.

(a) Subject to Sections 12.2(d), 12.3 and 12.4, a Member's Membership Interest may be Transferred to any Affiliate of such Member.

(b) Subject to Sections 12.2(d), 12.3 and 12.4, any individual holder of a Membership Interest, including any individual who acquired a Membership Interest from a Member pursuant to Section 12.2(a), may Transfer any or all of his Membership Interest (x) during his lifetime to a trust (of which he or a responsible financial institution is the sole or managing trustee) for the primary benefit of his spouse and/or lineal descendants or a charity, and (y) upon his death, to such a trust or to his estate.

(c) Any holder of Class B Interests may Transfer any part of such Class B Interests to any other holder of Class B Interests. Any holder of Class A Interests may Transfer any part of

such Class A Interests to any other holder of Class A Interests. Any holder of Class C Interests may Transfer any part of such Class C Interests to any other holder of Class C Interests.

(d) As a condition precedent to the effectiveness of any Transfer pursuant to Sections 12.2(a) or 12.2(b), each transferee shall enter into appropriate arrangements, satisfactory to the Board in form and substance, to ensure that no such transferee shall be a Member in the Company (it being agreed that, unless admitted to the Company pursuant to Section 12.5, each such transferee shall have only the status and the rights of an assignee).

(e) The Members acknowledge and agree that any transferee of Class B Interests shall remain subject to the forfeiture provisions under Section 4.5 for the actions of Management Members and the Additional Employed Members.

Section 12.3 Other Restrictions on Transfer Notwithstanding the provisions of Sections 12.1, 12.2, 12.5, 12.6 and 12.7 no person shall make or suffer any Transfer of its, his or her Membership Interest if such Transfer would (i) affect the classification of the Company for income tax purposes or have other adverse tax consequences to the Company or any Members, (ii) cause the Company or any Member to become subject to regulation under either the Investment Company Act of 1940, as amended, or the Investment Advisers Act of 1940, as amended, (iii) violate the registration provisions of the Securities Act or the registration or qualification provisions of any applicable securities law or (iv) violate or cause the Company or any Portfolio Company to violate the Communications Act or the rules and regulations of the FCC.

Section 12.4 Effect of Assignment. No transferee (other than any transferee that is a Management Member) shall become a Management Member for any purposes hereunder.

Section 12.5 Right of First Offer. Subject only to Section 12.3, at any time following the third anniversary of the Effective Date, an Investor Member may, subject to its obligations under Section 12.6, Transfer its Membership Interest in accordance with this Section 12.5 as follows:

(a) The Investor Member proposing to Transfer Membership Interests (for purposes of this section the "Section 12.5 Offeror") shall first deliver to the Company a written notice (a "Section 12.5 Offer Notice"), which shall (i) state the Section 12.5 Offeror's intention to Transfer Membership Interests to one or more Persons, the Membership Interests to be Transferred, the purchase price of such Transfer therefor and a summary of the other material terms of the proposed Transfer and (ii) offer, in accordance with this Section 12.5, to the Company and then to the other Class A Members the option to acquire all or a portion of such Membership Interests upon the terms and subject to the conditions of the proposed Transfer as set forth in the Section 12.5 Offer Notice (the "Section 12.5 Offer"), provided that such Section 12.5 Offer may provide that it must be accepted by the Company and the other Class A Members (in the aggregate) on an all or nothing basis (an "All or Nothing Transfer"). The Section 12.5 Offer shall remain open and irrevocable for the periods set forth below (and, to the extent the Section 12.5 Offer is accepted during such periods, until the consummation of the sale contemplated by the Section 12.5 Offer). The Company shall have the right and option, for a period of ten Business Days after delivery of the Section 12.5 Offer Notice (the "Section 12.5(a) Acceptance Period"),

to accept all or any part of the offered Membership Interest at the purchase price and on the terms stated in the Section 12.5 Offer Notice. Such acceptance shall be made by delivering a written notice of such acceptance to the Section 12.5 Offeror and each of the other Class A Members within the Section 12.5(a) Acceptance Period.

(b) If the Company shall fail to accept all of the Membership Interest offered for sale pursuant to, or shall reject in writing, the Section 12.5 Offer (the Company being required to notify in writing the Section 12.5 Offeror and each of the other Class A Members of its rejection or failure to accept in the event of the same) then, upon the earlier of the expiration of the Section 12.5(a) Acceptance Period or the receipt of such written notice of rejection or failure to accept such offer by the Company, each other Class A Member shall have the right and option, for a period of ten Business Days thereafter (the "Section 12.5(b) Acceptance Period"), to accept all or any part of the Membership Interest so offered and not accepted by the Company (the "Refused Membership Interest") at the purchase price and on the terms stated in the Section 12.5 Offer Notice ; provided, however, that, if the Section 12.5 Offer contemplated an All or Nothing Transfer, the Company and the other Class A Members, in the aggregate, may accept, during the Section 12.5(a) Acceptance Period, all, but not less than all, of the Refused Membership Interest, at the purchase price and on the terms stated in the Section 12.5 Offer Notice. Such acceptance shall be made by delivering a written notice to the Company and the Section 12.5 Offeror within the Section 12.5(b) Acceptance Period specifying the Membership Interest such other Class A Member will purchase (the "First Offer Membership Interest"). If, upon the expiration of the Section 12.5(b) Acceptance Period, the aggregate amount of First Offer Membership Interest exceeds the amount of Refused Membership Interest, the Refused Membership Interest shall be allocated among the other Class A Members as follows: (i) First, each Class A Member shall be entitled to purchase no more than its Proportionate Percentage (as defined below) of Refused Membership Interest; (ii) Second, if any shares of Refused Membership Interest have not been allocated for purchase pursuant to (i) above (the "Remaining Membership Interest"), each Class A Member (an "Oversubscribed Class A Member") which had offered to purchase Membership Interests in excess of the amount of Membership Interest allocated for purchase to it in accordance with previous allocations, shall be entitled to purchase an amount of Remaining Membership Interest equal to no more than its Proportionate Percentage (treating only Oversubscribed Class A Members as Class A Members for these purposes) of the Remaining Membership Interest; and (iii) Third, the process set forth in (ii) above shall be repeated with respect to any Refused Membership Interest not allocated for purchase until all Refused Membership Interest are allocated for purchase.

(c) If effective acceptance shall not be received pursuant to Sections 12.5(a) and 12.5(b) above with respect to all of the Membership Interests offered for sale pursuant to the Section 12.5 Offer Notice, then the Section 12.5 Offeror may Transfer all or any portion (or, in the case of an All or Nothing Transfer, all but not less than all) of the Membership Interest so offered for sale and not so accepted, at a price not less than 95% of the price, and on terms not materially more favorable to the purchaser thereof than the terms, stated in the Section 12.5 Offer Notice at any time within 180 days after the expiration of the Section 12.5(b) Acceptance Period (the "Transfer Period"). To the extent the Section 12.5 Offeror Sells all of the Membership Interest so offered for Transfer during the Transfer Period, the Section 12.5 Offeror shall promptly notify the Company, and the Company shall promptly notify the other Class A Members, as to (i) the Membership Interests, if any, that the Section 12.5 Offeror then owns, (ii)

the Membership Interests that the Section 12.5 Offeror has Transferred, (iii) the terms of such Transfer and (iv) the name of the owner(s) of any Membership Interests Transferred. In the event that all of the Membership Interests is not Transferred by the Section 12.5 Offeror during the Transfer Period, the right of the Section 12.5 Offeror to Sell such Membership Interest shall expire and the obligations of this Section 12.5 shall be reinstated; provided, however, that, in the event that the Section 12.5 Offeror determines, at any time during the Transfer Period, that the Transfer of all of the Membership Interest on the terms set forth in the Section 12.5 Offer Notice is impractical, the Section 12.5 Offeror may terminate the offer and reinstate the procedure provided in this Section 12.5 without waiting for the expiration of the Transfer Period.

(d) All Transfers of Membership Interest to the Company and/or the other Class A Members that are subject to a Section 12.5 Offer Notice shall be consummated contemporaneously at the offices of the Company on a mutually satisfactory Business Day within 30 days after the expiration of the Section 12.5(b) Acceptance Period or, if later, the fifth Business Day following the expiration or termination of all waiting periods under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act") applicable to such Transfers.

(e) Anything contained herein to the contrary notwithstanding, the Section 12.5 Offeror shall, in addition to complying with the provisions of this Section 12.5 in the event of a proposed sale of Membership Interest, comply with the provisions of Section 12.6 hereof.

(f) For purposes of this Section, "Proportionate Percentage" shall mean, as to each Class A Member, the quotient obtained by dividing, in accordance with Section 1.2 hereof, (i) the Membership Interests owned, as of the first day of the Section 12.5(b) Acceptance Period (as defined in Section 12.5(b) above) by such Class A Member by (ii) the aggregate Membership Interests owned by all Class A Members who exercise their option to purchase Refused Membership Interest (as defined in Section 12.5(b) above).

Section 12.6 Tag Along Rights. Subject to Section 12.3, and except for any transfer of Membership Interests under Section 12.2, each Investor Member shall not, alone or in concert with others in one or a series of transactions, Transfer any Membership Interests to any Person other than to the Company or to any existing Member, except in accordance with the following procedures:

(a) Any Investor Member or Investor Members proposing to Transfer any Membership Interests (for purposes of this Section, the "Section 12.6 Transferor") shall first deliver to each other Investor Member a written notice (the "Section 12.6 Notice"), which shall specifically identify the identity of the proposed transferee (the "Section 12.6 Transferee"), the Profit Percentage of such Membership Interest (the "Transferor Percentage Membership Interest") proposed to be Transferred, the purchase price therefor, and a summary of the other material terms and conditions of the proposed Transfer, and shall contain an offer (the "Section 12.6 Offer") by the Section 12.6 Transferee to each other Investor Member, which shall be irrevocable for a period of five Business Days after the later of delivery thereof and the expiration of the Section 12.5(b) Acceptance Period, to the extent applicable (the "Section 12.6 Acceptance Period") (and, to the extent the Section 12.6 Offer is accepted during such five Business Days period, until the closing of the Transfer contemplated by the Section 12.6 Offer),

to purchase the Section 12.6 Membership Interest at the price set out in the Section 12.6 Notice, and upon the other terms offered by the Section 12.6 Transferee to the Section 12.6 Transferor as set forth in the Section 12.6 Notice. The Transferor Percentage Membership Interests proposed to be sold by the Section 12.6 Transferor shall be reduced if and to the extent necessary to provide for such sale of Membership Interests by any other Investor Member electing to exercise their right to Transfer Membership Interests under this Section 12.6. A copy of the Section 12.6 Notice shall promptly be sent to the Company. Notice of another Investor Member's intention to accept a Section 12.6 Offer, in whole or in part, shall be evidenced by a writing signed by such other Investor Member and delivered to the Section 12.6 Transferor, the Section 12.6 Transferee and the Company prior to the end of the Section 12.6 Acceptance Period, setting forth Membership Interest that such other Investor Member elects to sell. If effective acceptance by any other Investor Member has been received pursuant to this paragraph (a), then the Section 12.6 Transferor shall not consummate such Transfer of Membership Interest without participation of such other Investor Members.

(ii) For purposes of this Section 12.6, the following terms shall have the meanings set forth below:

"Section 12.6 Membership Interests" shall mean, with respect to each Investor Member other than the Section 12.6 Transferor, the proportion of their Membership Interest equal to the quotient obtained by dividing (i) the Transferor Percentage Membership Interest by (ii) the Profit Percentage of the Membership Interests owned by the Section 12.6 Transferor.

"Section 12.6 Membership Interest Purchase Price" shall mean with respect to each one percent of Profit Percentage, or portion thereof, of an Investor Member's Membership Interest, the quotient obtained by dividing (i) the aggregate purchase price to be paid by the Section 12.6 Transferor in respect of the Transferor Percentage Membership Interest by (ii) the Profit Percentage represented by the Transferor Percentage Membership Interest. Notwithstanding the foregoing, if the Section 12.6 Membership Interest Purchase Price is being calculated for a Membership Interest for which distributions under Section 4.1(a) would be calculated differently than for the Membership Interest proposed to be Transferred by the Section 12.6 Transferor, then the Section 12.6 Membership Interest Purchase Price shall be adjusted as appropriate to take into account such different distribution entitlement.

(b) All Transfers of Membership Interest to the Section 12.6 Transferee shall be consummated contemporaneously at the offices of the Company on a mutually satisfactory Business Day as soon as practicable, but in no event more than 30 days after the expiration of the Section 12.6 Acceptance Period, or, if later, the fifth Business Day following the expiration or termination of all waiting periods under the HSR Act applicable to such Transfers.

Section 12.7 Admission of Members. Subject to Section 12.3, upon any Transfer permitted under this Agreement, each transferee shall automatically be admitted as a new Member without any further action and such admission shall not require the consent of the Board. Upon such Transfer, the Investor Member shall be released from any liabilities under this Agreement or relating to the Membership Interest so Transferred (other than any liability for any breach of this Agreement by such Investor Member prior to such Transfer). The Members hereto agree to amend and restate this Agreement to reflect any changes in the identity of the Members

resulting from such Transfer (for example, amendments to the Profit Percentages, appointment of Board Seats and other similar rights).

ARTICLE 13
DISSOLUTION AND WINDING UP

Section 13.1 Dissolution. The Company shall dissolve upon the first to occur of any of the following events (and upon any such dissolution, the Board shall file the notice of dissolution required by the Act):

(a) eight years after the Original Effective Date;

(b) the election of the Board to dissolve the Company at any time with the consent of Members then representing a Majority in Interest of All Members;

(c) the election of the Board to dissolve the Company at any time with the consent of the Class A Members then representing a Majority in Interest of the Class A Members at such time as (i) either of the Key Management Members shall cease to devote substantially all of his business time to originating and managing Investments for the Company or (ii) the Engagement of either of the Key Management Members shall terminate pursuant to Section 16.5;

(d) if all or substantially all Company Assets shall have been sold or disposed of or shall consist of cash or marketable securities; or

(e) upon the consummation of a Qualified IPO, other than a Qualified IPO consummated by a successor of the Company.

Section 13.2 Accounting on Dissolution. Following the dissolution of the Company (without reconstitution) pursuant to Section 13.1, and subject to Section 3.1(b)(v), the books of the Company shall be closed, and a proper accounting of Company Assets, the Company's liabilities and its operations shall be made by the Board, all as of the most recent practicable date. Subject to any rights of a Member or a creditor to apply to a court of competent jurisdiction in respect of the dissolution of the Company under the Act, the Board shall serve as the liquidator of the Company unless it fails or refuses to serve or unless the Company has been dissolved (without reconstitution) as a result of any event specified in any of clauses (e) through (h) of Section 13.1. If the Board does not serve as the liquidator, one or more other persons may, to the extent permitted by law, be elected to serve by consent or vote of Class A Members then representing a Majority in Interest of the Class A Members. The liquidator shall have all rights and powers that the Act confers on any person serving in such a capacity. The expenses incurred by the liquidator in connection with the dissolution, liquidation, and termination of the Company shall be a Company Cost and Expense.

Section 13.3 Termination. As expeditiously as practicable, but in no event later than one year (except as may be necessary to realize upon any material amount of property that may be illiquid), after the dissolution of the Company (without reconstitution) pursuant to Section 13.1, the liquidator shall cause the Company (i) to pay and discharge the liabilities of the Company (other than those to the Members) and to establish a reserve fund (which may be in the form of cash or other property, as the liquidator shall determine) for any and all other liabilities,

including contingent liabilities, of the Company in a reasonable amount determined by the liquidator to be appropriate for such purposes or otherwise to make adequate provision for such other liabilities, (ii) to pay any debts or liabilities to the Members and (iii) to distribute proceeds to the Members in accordance with Section 4.1. The liquidator may sell Company Assets for cash or other consideration and shall cause all remaining cash or other property, if any, of the Company (after payment of the sums required to be paid pursuant to clauses (i) and (ii) above) to be distributed to the Members in accordance with clause (iii) above. At the time final distributions are made in accordance with clause (iii) above, all required filings shall be made in accordance with law, and the legal existence of the Company shall terminate; *provided, however*, that if at any time thereafter any reserved cash or property is released because in the judgment of the liquidator the need for such reserve has ended, then such cash or property shall be distributed in accordance with clause (iii) above.

Section 13.4 **No Negative Capital Account Obligation**. Notwithstanding any other provision of this Agreement, in no event shall any Member who has a negative Capital Account upon final distribution of all cash and other property of the Company be required to restore such negative account to zero.

Section 13.5 **No Other Cause of Dissolution.** The Company shall not be dissolved, or its legal existence terminated, for any reason whatsoever except as expressly provided in this Article 13.

Section 13.6 **No Obligation to Make Further Contributions.** The Members shall look solely to the Company Assets for the return of their Capital Contributions, and if the funds remaining after the payment or discharge of the debts and liabilities of the Company pursuant to this Article 13 are insufficient to return such Capital Contributions, no Member shall have any recourse against any other Member for that purpose.

ARTICLE 14
OPTION OF CLASS A MEMBERS TO PURCHASE INTERESTS

Section 14.1 **Option.** If a Management Member's or Additional Employed Member's relationship with the Company or any Portfolio Company is terminated (including termination of the Engagement or termination of any employment agreement with a Portfolio Company for any reason) (such terminated Management Member or Additional Employed Member being hereinafter referred to as the "*Terminated Management/Employed Member*"), then the Class A Members (other than the Management Members and the Additional Employed Members) or any Affected Member, other than Alta (unless the exercise of such Purchase Option by Alta would cause the Company to violate the foreign ownership limitations of Section 310(b) of the Communications Act, provided that the limitation of such Purchase Option shall be limited only to the extent necessary to prevent such violation) and/or their designee(s) (the "*Purchasing Members*") shall have the option (the "*Purchase Option*") to purchase and, if the option is exercised, such Terminated Management/Employed Member (or his executor or the administrator of his estate or the Person or Persons who acquired part or all of such Member's Purchasable Interests (as defined below) by bequest or inheritance in the event of the death of the holder, or the holder's legal representative in the event of the holder's incapacity and collectively with such Member and any direct or indirect transferee of such Member) (hereinafter, the

"*Grantor*") shall sell to the Purchasing Members all or any portion (at the Purchasing Members' option) of such Member's Class B Interests then held by the Grantor (other than any interest simultaneously forfeited as a result of such termination)("*Purchasable Interests*").

Section 14.2 Notice of Option Exercise. The applicable Purchasing Members shall give notice (the "*Repurchase Notice*") in writing to the Grantor of the exercise of the Purchase Option (a) in the case of a termination of the Engagement (other than resulting from the death of the Grantor), within thirty days after the date of such termination of the Engagement, (b) in the case of a termination of the Engagement upon the death of the Grantor, within six months after the date of such death and (c) in all other cases, within 90 days after the date of the event that results in the Purchase Option becoming exercisable pursuant to Section 14.1. Such notice shall state the portion of the Purchasable Interests to be purchased and the determination of the Fair Interest Value (as defined in Section 14.4 hereof) of such Purchasable Interests. If no Repurchase Notice is given within the time limit specified above, the Purchasing Members shall be deemed to have elected not to exercise the Purchase Option and the Purchase Option shall terminate.

Section 14.3 Exercise of Option. The purchase price to be paid for the Purchasable Interests purchased pursuant to the Purchase Option shall be the Fair Interest Value of such Purchasable Interests as of the date of the Repurchase Notice, as adjusted pursuant to Section 14.5, if applicable. The purchase price shall be paid in cash. The closing of such purchase shall take place at the Company's principal offices within ten days after the purchase price has been determined. At such closing, the Grantor shall deliver to the applicable Purchasing Members instruments evidencing the transfer of the Purchasable Interests, against payment of the purchase price by check of the applicable Purchasing Members. In the event that, notwithstanding the foregoing, the Grantor shall have failed to obtain the release of any pledge or other encumbrance on any Purchasable Interest by the scheduled closing date, at the option of the purchaser(s), the closing shall nevertheless occur on such scheduled closing date, with the cash purchase price being reduced to the extent of all unpaid indebtedness for which such Purchasable Interest is then pledged or encumbered.

Section 14.4 Fair Interest Value. For purposes of Article 9.3 and this Article 14, "*Fair Interest Value*" shall mean, with respect to the Purchasable Interests or any portion thereof, the value of such interests, as reasonably determined by the Purchasing Members, based on the assumptions (a) that the value of the Purchasable Interests is not reduced because the interest is a minority interest or is illiquid and (b) that (i) the value of shares of stock held by the Company is the average of the high and low prices of such stock as reported on the principal national securities exchange on which the shares of stock are then listed for the twenty trading days prior to the date specified (or such shorter period as such shares have been listed), or (ii) if such stock is not listed on a national securities exchange, the average of last reported bid prices in the over-the-counter market for the twenty trading days prior to the date specified (or such shorter period as such bid prices have been reported in such over-the-counter market), or (iii) if such shares are not traded in the over-the-counter market, the per share cash price for which all of the outstanding stock could be sold to a willing purchaser in an arms length transaction (without regard to minority discount, absence of liquidity, or transfer restrictions imposed by any applicable law or agreement) at the date of the valuation. In the event the Grantor fails to object within thirty days following the date that such determination is communicated in writing to the

Grantor, such determination shall be final and binding on the parties. In the event the Grantor objects in writing to the Purchasing Members' determination of Fair Interest Value within thirty days following the date that such determination is communicated in writing to the Grantor, such Fair Interest Value shall be determined by a valuation by a qualified appraiser of media broadcast or similar assets (a "*Qualified Appraiser*") chosen by the Purchasing Members and the Grantor. In the event the Purchasing Members and the Grantor cannot agree on a Qualified Appraiser to perform the valuation described above within five days following the expiration of the thirty day period described above, the Purchasing Members and the Grantor shall each select a Qualified Appraiser and the Qualified Appraisers so selected shall select an additional Qualified Appraiser, which additional Qualified Appraiser shall determine the Fair Interest Value. The Qualified Appraiser selected shall not have a direct or indirect interest in the Company or any Member and may not otherwise be affiliated with, or have provided services within the preceding two years to, any such party. The fees and expenses incurred in connection with the determination of Fair Interest Value shall be borne 50% by the Purchasing Members and 50% by the Grantor. Any determination of the Qualified Appraiser selected in accordance herewith shall be final and binding on the parties.

Section 14.5 Adjustment to Fair Interest Value.

(a) If any Purchasing Member has exercised its Purchase Option in respect of any Purchasable Interests pursuant to Section 14.1, but only where the termination of the Management Member or the Additional Employed Member was without Cause (such Purchasable Interests being hereinafter referred to as the "Look Back Interests", it being agreed that if the Purchase Option is exercised pursuant to Section 14.1 where the termination of the Management Member or Additional Employed Member is for Cause, the Purchasable Interest of such Grantor shall not be a Look Back Interest) and a Liquidity Event (as hereinafter defined) occurs within six months after the closing of such Purchase Option, then the Purchasing Members shall make another determination of the Fair Interest Value of such Look Back Interests in the manner and based upon the assumptions set forth in the first sentence of Section 14.4; *provided* that such new determination shall take into account the occurrence of the Liquidity Event as if such Liquidity Event had occurred as of the date of the Repurchase Notice (the "*Recalculated Fair Interest Value*"). The Purchasing Members shall notify the Grantor within thirty days following the occurrence of the Liquidity Event of its determination of the Recalculated Fair Interest Value. In the event the Grantor fails to object within thirty days following the date that such determination is communicated in writing to the Grantor, such determination shall be final and binding on the parties. In the event the Grantor objects in writing to the Purchasing Members' determination of the Recalculated Fair Interest Value within thirty days following the date that such determination is communicated in writing to the Grantor, such Recalculated Fair Interest Value shall be determined by a valuation by the same Qualified Appraiser chosen by the Purchasing Members and the Grantor for the purposes of determining the Fair Interest Value pursuant to Section 14.4, or, if no such Qualified Appraiser was chosen, by a Qualified Appraiser chosen by the Grantor and the Board in the manner provided in Section 14.4.

(b) If the Recalculated Fair Interest Value of the Look Back Interests is greater than the Fair Interest Value of the Look Back Interests, then the applicable Purchasing Members shall deliver to the Grantor, within ten days after the final determination of the Recalculated Fair

Interest Value, a check in an amount equal to the amount by which (A) the Recalculated Fair Interest Value exceeds (B) the sum of the Fair Interest Value *plus* the Time Increment. The "*Time Increment*" shall mean (I) the Fair Interest Value, *multiplied by* (II) 8%, *multiplied by* (III)(A) the number of days elapsed between the closing referenced in Section 12.3 and the date of the Liquidity Event, *divided by* (B) 365. If the Recalculated Fair Interest Value of the Look Back Interests is less than the Fair Interest Value of the Look Back Interests, then there shall be no payment to or by the Grantor with respect to such Look Back Interests under this Section 14.5(b).

(c) As used in this Section 14.5, the term "*Liquidity Event*" shall mean (i) the conversion, directly or indirectly, in one transaction or a series of related transactions, of at least 25% of the Company Assets into cash, notes, or securities of another entity, (ii) the conversion, directly or indirectly, in one transaction or a series of related transactions, of Class A Interests whose Profit Percentages exceed 25% into cash, notes, or securities of another entity, or (iii) the Initial Public Offering of Membership Interests of the Company or any of its direct or indirect subsidiaries, or (iv) the agreement to do any of the foregoing.

ARTICLE 15
POWER OF ATTORNEY

Section 15.1 Grant. Each Member has irrevocably constituted, appointed and empowered the Board and its designees with full power of substitution, as the true and lawful attorney-in-fact of such Member, with full power and authority in such Member's name, place and stead and for such Member's use or benefit, to make, execute, sign, acknowledge, certify, publish, consent to, record or file with respect to the Company:

(a) Amendments. All instruments or documents that the Board deems appropriate or necessary to reflect any amendment, change or modification to this Agreement which has been approved by the requisite parties pursuant to the terms of this Agreement;

(b) Dissolution, Amendment or Termination. All conveyances and other instruments or documents that the Board deems appropriate or necessary to effectuate or reflect the dissolution, termination and liquidation of the Company pursuant to the terms of this Agreement;

(c) Encumbrances. Any and all financing statements, continuation statements, or other documents necessary to grant or perfect for creditors of the Company a security interest, mortgage, pledge or lien on all or any of the Company Assets pursuant to the terms of this Agreement;

(d) Continuation of Business. All instruments or documents required to continue the business of the Company;

(e) Admission of Members. All instruments or documents relating to the admission of any Member pursuant to the terms of this Agreement; and

(f) Other Instruments. All other instruments or documents as the Board may deem necessary or advisable to carry out fully the provisions of this Agreement.

Section 15.2 **Authorization of Execution and Delivery**. Nothing in this Agreement shall be construed as authorizing any Person acting as attorney-in-fact for any Member to increase in any way the liability of Members beyond the liability expressly set forth in this Agreement or to amend this Agreement except in accordance with the provisions of Section 17.6. Each Member shall execute and deliver to the Board, within fifteen days after receipt of the Board's request therefor, all such further designations, powers of attorney and other instruments as the Board deems necessary to effectuate this Agreement and the purposes of the Company.

Section 15.3 **Scope of Power.** The grant of authority in Section 15.1:

(a) is a special power of attorney coupled with an interest, is irrevocable and shall survive the death, incapacity, disability, bankruptcy, incompetency, termination or dissolution of any Member;

(b) may be exercised by the Board or its designee for each Member by a facsimile signature or by listing all of the Members executing any instrument with the Board's signature as attorney-in-fact for all of them; and

(c) shall extend to the Members' heirs, successors and assigns.

ARTICLE 16
ENGAGEMENT OF MANAGEMENT

Section 16.1 **Engagement of Management.** The Company hereby engages the Management Members and the Additional Employed Members, subject to the control and direction of the Board, for the purpose of rendering management services to the Company from time to time (the "*Engagement*"), including managing the Investments and the Portfolio Companies, implementing business strategies formulated by the Board, and recruiting and overseeing other day-to-day management personnel. Each Management Member and Additional Employed Member hereby accepts such Engagement and each Management Member and Additional Employed Member agrees to devote a sufficient amount of business time and effort to ensure the adequate performance of such responsibilities. The termination of the Engagement Term as to any one Management Member or Additional Employed Member in accordance with Section 16.5 shall not be regarded as a termination of the Engagement Term for any other Management Member or Additional Employed Member.

Section 16.2 **Term of Engagement.** The term of the Engagement hereunder shall continue for the term of this Agreement, unless earlier terminated in accordance with the provisions hereof (the "*Engagement Term*").

Section 16.3 **Compensation**.

(a) During the Engagement Term, no Management Member or Additional Employed Member shall receive any compensation from the Company for the services rendered to the Company and to be rendered pursuant to this Agreement other than any grant of the Class B Interests to the Management Members or Additional Employed Members in accordance with the terms and conditions of this Agreement, and no Management Member or Additional Employed Member shall receive any compensation from a Portfolio Company other than pursuant to a

formal employment agreement with such Portfolio Company, approved in advance by the Board pursuant to paragraph (c) of this Section 16.3; *provided, however*, that the Members acknowledge that Matthew L. Leibowitz shall be a Management Member of the Company but shall not be employed by any Portfolio Company and may receive fees for professional services he renders to the Company and the Portfolio Companies.

(b) During the Engagement Term and to the extent not otherwise reimbursed by a Portfolio Company, the Company will pay or reimburse each Management Member or Additional Employed Member for all normal and reasonable travel and entertainment expenses incurred by such Management Member or Additional Employed Member during the Engagement Term in connection with their responsibilities to the Company.

(c) No Management Member or Additional Employed Member shall enter into any employment agreement or accept any compensation from any Portfolio Company (including, without limitation, any grants of stock options or other non-cash compensation) without the prior written consent of a majority of all of the members of the Board, nor shall any Management Member or Additional Employed Member amend any previously approved employment agreement, without the prior written consent of a majority of all of the members of the Board (not including the Management Member or Additional Employed Member whose employment agreement or compensation is under discussion). The employment agreements of the Management Members and the Additional Employed Members listed on Schedule E, the form of which is attached hereto as Exhibit A, have been approved by the Board.

Section 16.4 Inter-Relationships of Responsibilities. Each Management Member and each Additional Employed Member acknowledges and agrees that all of the duties and responsibilities as a Management Member or as an Additional Employed Member and all of the duties and responsibilities as an employee of a Portfolio Company are inter-related. Accordingly, in the event, such Management Member's or Additional Employed Member's (i) Engagement Term is terminated by the Company or (ii) employment agreement with any Portfolio Company is terminated, such terminated Management Member or Additional Employed Member shall (a) resign from all offices held with the Company and all Portfolio Companies and (b) be deemed to have been terminated in respect of any employment agreements with other Portfolio Companies. Except as otherwise set forth herein, all rights and remedies of the Portfolio Companies and each Management Member or Additional Employed Member in respect of the termination of a Management Member's or Additional Employed Member's Engagement Term shall be solely as set forth in any employment agreements between such Management Member or Additional Employed Member and the Portfolio Companies.

Section 16.5 Termination. The Engagement Term may be terminated as to any Management Member or Additional Employed Member at any time by the Company by written notice of the termination of such Management Member's or Additional Employed Member's Engagement (a "*Termination Notice*"). Any such termination shall be effective upon the first to occur of the following events:

(a) the effective date specified in the Company's Termination Notice (which cannot be prior to the date of such notice) sent as a result of such Management Member's or Additional Employed Member's failure to devote substantially all of its business time to originating and

managing the Company's Investments or the breach of the provisions of Section 9.4(b), if applicable;

(b) the effective date specified in the Company's Termination Notice (which cannot be prior to the date of such notice) sent as a result of such Management Member's or Additional Employed Member's dismissal or other termination of employment by any of the Company's Portfolio Companies;

(c) the date of death of such Management Member or Additional Employed Member or the effective date specified in the Termination Notice sent as a result of a Permanent Disability. "*Permanent Disability* shall mean such Management Member's or Additional Employed Member's inability to perform the duties contemplated by this Article 16 by reason of a physical or mental disability or infirmity which has continued for more than ninety working days in any twelve consecutive month period as determined by the Board; and

(d) the effective date specified in the Termination Notice sent in respect of any other termination, whether for Cause, without Cause, or for any other reason, including any termination of an employment agreement with a Portfolio Company.

ARTICLE 17
MISCELLANEOUS

Section 17.1 **Specific Performance.** Each Member acknowledges that damages are not necessarily an adequate remedy for the breach by any Member of this Agreement and that the non-breaching Member shall be entitled to specific performance, injunction, and other appropriate equitable remedies, without the posting of any bond.

Section 17.2 **Authority.** Each Member hereby represents and warrants that it, he or she has all requisite power and authority to enter into this Agreement and to perform its, his or her obligations hereunder, that this Agreement constitutes a legal, valid, and binding obligation of such Member, enforceable against such Member in accordance with its terms, subject to bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium, and similar laws affecting creditors rights and remedies generally and further subject, as to enforceability, to general principles of equity, and that the execution, delivery, and performance by such Member of this Agreement does not violate any law, rule, regulation, injunction or other order of any court or governmental authority, or any agreement or other instrument to which such Member is a party or by which it, he or she is bound.

Section 17.3 **Waiver of Partition.** Each Member hereby irrevocably waives any and all rights that it may have to maintain an action for partition of any Company Assets.

Section 17.4 **Waivers.** Neither the waiver by a Member of a breach of or a default under any of the provisions of this Agreement nor the failure of a Member, on one or more occasions, to enforce any of the provisions of this Agreement or to exercise any right, remedy or privilege under this Agreement shall be construed as a waiver of any subsequent breach or default of a similar nature, or as a waiver of any such provisions, rights, remedies or privileges.

Section 17.5 Amendments. Amendments to this Agreement may be proposed by the Board. The Board shall submit in writing the text of any such amendment to all Members and shall seek the written consents of the Members with respect to the proposed amendment. If the Board and a Majority in Interest of All Members shall have given their written consents, then such proposed amendment shall become effective as of the date specified in such proposal; *provided, however*, that, except as otherwise provided in this Agreement:

(a) Consent Requirements. Without the consent of each Member to be adversely affected, the Agreement shall not be amended so as to:

(i) modify the limited liability of a Member;

(ii) amend Sections 4.1 or 5.1 (or any defined term used in such sections) to affect adversely the interest of a Member in distributions or in the income and loss of the Company;

(iii) amend Section 1.3 to change the purpose of the Company

(iv) amend Section 3.1 or Section 13.4 to increase a Member's obligations to contribute to the capital of the Company or to affect adversely any Member;

(v) amend Articles 12, 13, 14, 15 or 16 (or any defined term used in such sections) to affect adversely any Member; or

(vi) amend Section 4.5, 6.1(a), 6.2, 6.3, 6.4, 6.7, 6.11, 9.4, or 17.5 (or any defined term used in such sections) to affect adversely any Member.

(b) Additional Consent for Certain Amendments. In the case of any provision of this Agreement which requires the action, approval or consent of Members holding a specified interest in the Company, such provision may not be amended without the consent of Members holding such specified interest. Any amendment of this Agreement that effects the Membership Interests represented by the Membership Interests issued in respect of New Contributions adversely and differently from the manner it effects Membership Interests issued in respect of the Existing Contributions, shall require the consent of the Class A Members and Class C Members holding a majority by dollar value of all New Contributions. Any amendment of this Agreement that affects the rights or obligations of the GS Investors under Section 3.1(b)(v) shall require the consent of the GS Investors.

(c) Notification. The Board shall notify all Members upon the final adoption or rejection of any proposed amendment.

(d) Equity Issued at Reduced Price. If the Company issues Class A Interests or Class C Interests, or Membership Interests in any newly created class having substantially similar rights and preferences as the Class A Interests or the Class C Interests ("*Further Issuances*"), other than Capital Contributions made pursuant to the Capital Commitments existing as of the Effective Date or Capital Contributions made pursuant to the PNE Agreement, at a valuation that reflects a price per Membership Interest that is lower than the price per Membership Interest paid in respect of the New Contributions made after the Effective Date by the GS Investors, any

Members, or Affiliates thereof, pursuant to the Additional Thomas Weisel Commitment and PNE pursuant to their Capital Commitments or to the PNE Agreement respectively (i.e. $1.16 for every $1.00 initially contributed or deemed contributed as Existing Contributions), then the parties agree to amend this Agreement to make appropriate adjustments to the Profit Percentage for each Member, together with any other adjustments properly required, including, without limitation, adjustments to the Implied Investment Amount, the Existing Contribution Premium, the Existing Contribution Percentage and the New Contribution Percentage, so that the price per Membership Interest paid or to be paid in respect of the New Contributions of the kind referred to in clause (x) of the definition of New Contributions made for Class A Interests after the Effective Date is equal to the price paid pursuant to such Further Issuances. Notwithstanding anything to the contrary herein, the Company may not consummate any transaction that would otherwise trigger this Section 17.5(d), without the consent of the Class A Members and Class C Members holding a majority by dollar value of all Existing Contributions.

Section 17.6 Amendment by the Board. The Board (pursuant to the powers of attorney from the Members granted as provided in Article 15), without the consent or approval at the time of any Member (each Member, by acquiring a Membership Interest, being deemed to consent to any such amendment), may amend any provision of this Agreement or the Certificate, and may execute, swear to, acknowledge, deliver, file and record all documents required or desirable in connection therewith, to reflect:

(a) Change in Name or Location. A change in the name of the Company or the location of the principal place of business of the Company;

(b) Change of Members. The admission, dilution, substitution, termination or withdrawal of any Member in accordance with the provisions of this Agreement;

(c) Qualification to Do Business. A change that is necessary to qualify the Company as a limited liability company or a Company in which the Members have limited liability;

(d) Changes Which are Inconsequential, Curative, or Required. A change that is:

(i) Of an inconsequential nature and does not adversely affect any Member in any material respect;

(ii) Necessary or desirable to cure any ambiguity or to correct or supplement any provisions of this Agreement;

(iii) Required or specifically contemplated by this Agreement; or

(iv) Necessary to reflect the current Profit Percentages or Class B Percentage, as the case may be, on Schedule A or the current Membership Interests of the Members from time to time as contemplated by this Agreement; and

(e) Changes Under Applicable Law. A change in any provision of this Agreement which requires any action to be taken by or on behalf of the Board or the Company pursuant to the requirements of Act or any other applicable law if the provisions of applicable law are amended, modified, or revoked so that the taking of such action is no longer required. The

authority set forth in this Section 17.6(e) shall specifically include the authority to make such amendments to this Agreement and to the Certificate as the Board deems necessary or desirable in the event that the Act or any other applicable law is amended to eliminate or change any provision now in effect.

Section 17.7 Notices.

(a) Procedure For Giving Notice. All notices or other communications required or permitted to be given pursuant to this Agreement to a Member shall be given in writing and shall be considered as properly given or made if personally delivered, if sent by a recognized overnight courier (such as Federal Express) or if mailed by registered or certified mail, return receipt requested, postage prepaid, and addressed, in the case of a Member, to such Member's address for notices as it appears on the records of the Company and, in the case of the Board, to the Board at the Company's principal office.

(b) Change of Address. Any Member may change such Member's address for notices by giving notice in writing to the Board, stating the new address for notices. Commencing on the tenth day after the giving of such notice, such newly designated address shall be such Member's address for the purpose of all notices or other communication required or permitted to be given pursuant to this Agreement.

(c) Delivery. Any notice or other communication shall be deemed to have been given as of the date on which it is personally delivered or sent by overnight courier or, if mailed, the date on which it is deposited in the mail.

Section 17.8 Other Terms. All references to "Articles" and "Sections" contained in this Agreement are, unless specifically indicated otherwise, references to articles, sections, subsections, and paragraphs of this Agreement. Whenever in this Agreement the singular number is used, the same shall include the plural where appropriate (and *vice versa*), and words of any gender shall include each other gender where appropriate. As used in this Agreement, the following words or phrases all have the meanings indicated: (a) "*or*" shall mean "*and/or*"; (b) "*day*" shall mean a calendar day; (c) "*including*" or "*include*" shall mean "*including without limitation*" where appropriate; and (d) "*law*" or "*laws*" shall mean statutes, regulations, rules, judicial orders, and other legal pronouncements having the effect of law. Whenever any provision of this Agreement requires or permits the Board to take or omit to take any action, or make or omit to make any decision, unless the context clearly requires otherwise, such provision shall be interpreted to authorize an action taken or omitted, or a decision made or omitted, by the Board acting alone and in good faith.

Section 17.9 Entire Agreement. This Agreement constitutes the entire agreement of the Members with respect to the transactions contemplated by the Members and supersedes all prior oral or written agreements, commitments or understandings with respect to the matters provided for in this Agreement.

Section 17.10 Execution in Counterparts. This Agreement may be executed in one or more counterparts, all of which shall constitute one and the same instrument.

Section 17.11 Binding Effect. Subject to the restrictions on Transfers set forth in Article 12, this Agreement shall be binding upon and shall inure to the benefit of the Board and the Members and their heirs, devisees, executors, administrators, legal representatives, successors and assigns.

Section 17.12 Governing Law. This Agreement, the rights and obligations of the parties hereto and any claims or disputes relating thereto, shall be governed by and construed and enforced in accordance with the laws of the State of Delaware (without regard to principles of conflicts of laws).

Section 17.13 Severability. The invalidity of any one or more provisions of this Agreement or any instrument given in connection herewith shall not affect the remaining provisions of this Agreement or any other agreement or instrument, all of which are used subject to the condition of their being held valid at law. In the event that one or more of the provisions of this Agreement should be invalid, or should operate to render this Agreement or any other agreement or instrument invalid, this Agreement and such other agreements and instruments shall be construed as if such invalid provisions had not been included in this Agreement.

Section 17.14 Compliance with Certain Laws. It is the intention of the Members to comply with applicable usury laws and no provision of this Agreement is intended or shall be construed to permit the charging or receipt of any amount which may be characterized as interest in excess of the maximum rate or amount permitted by applicable law.

Section 17.15 Representations and Covenants.

(a) Each of the Members hereby (i) represents and warrants that such Member is an "accredited investor," as such term is defined in Rule 501(a) of Regulation D promulgated under the Securities Act (except in the case of Alta Associates VIII, LLC, which has not more than 4 members or NextMedia Select Partners, LLC) and that the investment made by such Member in the Company is for such Member's own account for investment and (ii) covenants that such Member shall not sell, transfer, hypothecate or assign such Member's interest in the Company in contravention of the Securities Act, or any securities laws of any applicable jurisdiction.

(b) Each Member acknowledges and agrees that such Member has been provided, to such Member's full satisfaction, with the opportunity to ask questions concerning the terms and conditions of an investment in the Company and has knowingly and voluntarily elected instead to rely solely on such Member's own investigation. No Member has relied upon any representation or warranty of any kind by the Board regarding the interests in the Company or the business to be conducted thereby, and each Member acknowledges that such Member is not relying on the Board's advice or expertise in entering into or managing this investment. Each Member represents and warrants to the Board that such Member is capable of bearing the economic risks of the investment in the Company and is able to bear a complete loss of such Member's investment in the Company.

(c) Each Member hereby represents and warrants that as of the Effective Date (i) such Member owns attributable interests in the Media Enterprises listed for such Member on Schedule D attached hereto; and (ii) that its Limited Partnership Agreement contains the

necessary terms and conditions to insulate its limited partners pursuant to FCC rules and regulations. Each Member agrees: (i) to notify the Board prior to making any investment in any Media Enterprise other than through the Company; and (ii) not to make any investment in any Media Enterprise if the Company, following such notification, reasonably informs such Member that consummation of such investment would place the Company in violation of the FCC's Multiple Ownership Rules.

(d) Each Member hereby represents and warrants that Schedule F attached hereto sets forth the percentage of foreign ownership in such Member's limited partnership as of the Effective Date. Each Member agrees: (i) to notify the Board prior to increasing its percentage of foreign ownership above the level specified in Schedule F; and (ii) not to increase its foreign ownership if the Company, following such notification, reasonably informs such Member that such increase of foreign ownership would place the Company in violation of Section 310(b) of the Communications Act.

(e) Each Member hereby warrants that (i) the execution, delivery and performance of this Agreement constitutes a legal, valid and binding obligation of each Member, enforceable against each Member in accordance with its terms, except to the extent that enforceability may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights generally, and (ii) the execution, delivery and performance of its obligations under this Agreement and the consummation of the transactions contemplated hereby, do not (A) violate any provision of law, statute, rule or regulation, and (B) conflict with or result in any breach of any of the terms, conditions or provisions of, or constitute (with due notice or lapse of time, or both) a default (or give rise to any right of termination, cancellation or acceleration) under, or result in the creation of any encumbrance upon any of the properties or assets of the Company.

Section 17.16 Public Announcements. No Member will issue any public announcements or disseminate any advertising or marketing material concerning the existence, or terms of, this Agreement or without the prior written approval of all of the other Members, except, in the case of an announcement, where such announcement is required by law. If a public announcement is required by law, the Members will consult with each other before making the public announcement. To the extent any announcement or any advertising or marketing material permitted under this Section 17.16 expressly refers to any Member or their Affiliates, such Member shall, in its sole discretion, have the right to revise such announcement or advertising or marketing material prior to granting such written approval.

Section 17.17 No Implied Duties Of The Board. NOTWITHSTANDING ANY PROVISION TO THE CONTRARY ELSEWHERE IN THIS AGREEMENT, TO THE EXTENT THAT, AT LAW OR IN EQUITY, THE BOARD OR ANY MEMBER HAS ANY DUTIES (FIDUCIARY OR OTHERWISE) AND LIABILITIES RELATING THERETO TO THE COMPANY OR ANOTHER MEMBER OF THE COMPANY, (A) NEITHER THE BOARD NOR ANY MEMBER SHALL BE LIABLE TO THE COMPANY OR THE OTHER MEMBERS FOR ACTIONS TAKEN BY THE BOARD, ANY MEMBER OR ANY OF THEIR AFFILIATES IN RELIANCE UPON THE PROVISIONS OF THIS AGREEMENT AND (B) THE BOARD'S AND EACH MEMBER'S DUTIES (FIDUCIARY OR OTHERWISE) AND LIABILITIES ARE INTENDED TO BE MODIFIED AND LIMITED TO THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT, AND NO IMPLIED COVENANTS,

FUNCTIONS, RESPONSIBILITIES, DUTIES, OBLIGATIONS OR LIABILITIES SHALL BE READ INTO THIS AGREEMENT, OR OTHERWISE EXIST AGAINST THE BOARD OR ANY MEMBER.

Section 17.18 Confidentiality. Each Member will refrain from disclosing to any other Person or entity (a) any confidential documents or confidential information concerning the Company or its Affiliates furnished to it in connection with this Agreement (including, in the case of a Management Member or Additional Employed Member, the services performed by such Management Member or Additional Employed Member for the Company), and (b) any confidential documents or confidential information concerning the Company ("*Confidential Information*"). The term "Confidential Information" does not include any information which (i) at the time of disclosure or thereafter is generally available to the public (other than as a result of its disclosure by a Member in breach of this Agreement), (ii) was available to a Member on a non-confidential basis prior to disclosure, or (iii) was, is, or becomes available to a Member on a non-confidential basis from a Person who, to the Member's knowledge, is not otherwise bound by a confidentiality agreement or is not otherwise prohibited from transmitting the information to the Member. In the event that a Member is required by law, judicial or governmental order, discovery request, or other legal process, or a Member deems it advisable (upon written advice of legal counsel to the Member) to disclose any Confidential Information, such Member will notify the Company reasonably promptly so that the Company may seek a protective order or other appropriate remedy and /or waive compliance with this Section.

Section 17.19 Legal Counsel Relationships.

(a) The Members acknowledge and agree that Weil, Gotshal & Manges LLP and Wiley, Rein & Fielding have represented the Company and certain Class A Members (other than the Management Members), McDermott, Will and Emery have represented Alta and Fried, Frank, Harris, Shriver & Jacobson and Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. have represented the GS Investors, in connection with this Agreement and other transactions related hereto (the "*Transactions*"). Except for Weil, Gotshal & Manges LLP's, Wiley, Rein & Fielding's, McDermott, Will and Emery's, Fried, Frank, Harris, Shriver & Jacobson's and Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.'s, representation of certain Class A Members with respect to the Transactions, in no event shall an attorney-client relationship exist between Weil, Gotshal & Manges LLP, Wiley, Rein & Fielding, or McDermott, Will and Emery, Fried, Frank, Harris, Shriver & Jacobson or Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. on the one hand any other Class A Members or the Management Members and/or their Affiliates, on the other hand.

(b) The Members acknowledge and agree that Thompson Hine LLP, and Leibowitz & Associates have represented the Management Members in connection with the Transactions. Except for Thompson Hine LLP's and Leibowitz & Associates' representation of the Management Members with respect to the Transactions (or any other law firm representing any individual Member), in no event shall an attorney/client relationship exist between Thompson Hine LLP and Leibowitz & Associates (or any such other law firm representing any individual Member), on the one hand, and the Company or certain Class A Members (other than the Management Members) and/or their Affiliates, on the other hand.

(c) The Members agree and consent that Weil, Gotshal & Manges LLP and/or Wiley, Rein & Fielding and/or McDermott, Will and Emery and/or Fried, Frank, Harris, Shriver & Jacobson and/or Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. and/or Thompson Hine LLP and/or Leibowitz & Associates shall each be permitted to render legal advice and to provide legal services to the Members or the Company from time to time, and each of the Members covenant and agree that such representation of a Member and/or the Company by either or both such firms from time to time, shall not disqualify such firms from providing legal advice and legal services to their respective client Members or Affiliates in matters related or unrelated to this Agreement and the Transactions.

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FIRST AMENDMENT
TO
SECOND AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT
OF
NEXTMEDIA INVESTORS LLC

This First Amendment (this "Amendment") to the Second Amended and Restated Limited Liability Company Agreement of NextMedia Investors LLC (the "Agreement"), is entered into effective as of August 31, 2001 (the "Effective Date"). Capitalized terms used without definition herein have the meanings specified in the Agreement (as in effect immediately prior to the effectiveness of this Amendment).

WHEREAS, the Agreement was entered into as of June 13, 2001;

WHEREAS, Alta VIII Associates, LLC ("Alta VIII") is supposed to be a Member;

WHEREAS, all references in the Agreement to Alta VIII are incorrect; the correct legal name of Alta VIII should be as referenced above and should not be references to "Alta Associates VIII, LLC" as the Agreement currently provides;

WHEREAS, Section 17.6 of the Agreement provides that the Board (pursuant to the powers of attorney from the Members granted in Article 15 thereof) may amend any provision of the Agreement without the consent or approval of any Member to, among other things, reflect a change that is of an inconsequential nature and does not adversely affect any Member in any material respect;

WHEREAS, the Board has approved and adopted this Amendment and granted certain officers of the Company the authority to enter into this Amendment; and

WHEREAS, Alta VIII, as the affected Member, desires to acknowledge and give its consent to this Amendment.

NOW, THEREFORE, as of the Effective Date, the Agreement is hereby amended as follows:

1. Amendment. Each reference in the Agreement to "Alta Associates VIII, LLC" is hereby amended by deleting such reference in its entirety and substituting in its place "Alta VIII Associates, LLC."

2. Effect; Governing Law. Except as specifically amended by this Amendment, the Agreement shall remain unmodified and in full force and effect. This Amendment shall be binding upon and shall inure to the benefit of the Members and their respective heirs, successors, and permitted assigns. This Amendment shall be governed by the laws of the State of Delaware.

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SECOND AMENDMENT
TO
SECOND AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT
OF
NEXTMEDIA INVESTORS LLC

This Second Amendment (this "Amendment") to the Second Amended and Restated Limited Liability Company Agreement of NextMedia Investors LLC (as amended, the "Agreement"), is entered into as of January 6, 2003, to be effective as of the Effective Date (as defined in Section 2 hereof). Capitalized terms used without definition herein shall have the meanings specified in the Agreement (as in effect immediately prior to the effectiveness of this Amendment).

WHEREAS, two of the Company's indirect wholly-owned subsidiaries, NextMedia Operating, Inc. ("Operating") and NM Licensing LLC ("Licensing") entered into that certain Purchase Agreement dated October 30, 2002 by and among Operating, Licensing, Wilks Broadcasting LLC, and Wilks License Co. LLC (the "Wilks Agreement"), pursuant to which Operating and Licensing have agreed to acquire all of the assets (including FCC licenses) used or useful in the operation of radio broadcast stations WSGW-AM, WGER-FM, WTCF-FM, WCEN-FM and WTLZ-FM, serving the Saginaw, Michigan market;

WHEREAS, following the execution of the Wilks Agreement, as the Company was preparing its FCC application to approve the transfer of the Commission Authorizations (as defined in the Wilks Agreement) to Licensing (the "Wilks Application"), the Company became aware that the GS Investors have Attributable Interests in the Morning Sun newspaper located in Mt. Pleasant, Michigan;

WHEREAS, under the current management structure of the Company, as a result of the Attributable Interests held by the GS Investors in the Morning Sun, the FCC likely would not approve the transfer of the Commission Authorization for WCEN-FM to Licensing as part of the Wilks acquisition because such transfer, if consummated, would violate the Multiple Ownership Rules, absent the FCC's grant of a waiver with respect to the Multiple Ownership Rules;

WHEREAS, the Company and the GS Investors deem it to be in the best interests of the Company to alter the management structure of the Company to insulate the GS Investors so that the FCC may consider the Wilks Application without the prospect of a violation of the Multiple Ownership Rules;

WHEREAS, in order to insulate the GS Investors, the Agreement must be amended;

WHEREAS, the Agreement was entered into as of June 13, 2001 and was subsequently amended by that certain First Amendment to Second Amended and Restated Limited Liability Company Agreement dated August 31, 2001 (the "First Amendment");

WHEREAS, Section 17.5 of the Agreement provides that the Board shall submit the text of any amendment to the Agreement to all Members for approval, and that any such amendment shall be approved if the Board and a Majority in Interest of All Members have given their written consent to such amendment; and

WHEREAS, the Board and a Majority in Interest of All Members have approved this Amendment and granted certain officers of the Company the authority to enter into this Amendment.

THEREFORE, as of the Effective Date, the Agreement shall be amended as follows:

1. Amendments to the Agreement.

(a) The following definitions are added to Section 2.1 of the Agreement, inserted therein in the appropriate alphabetical order:

> "'*Affected GS Member*' shall mean any GS Investor for so long as all of the following shall apply: (i) such GS Investor has an Attributable Interest in the Morning Sun, (ii) the Company has an Attributable Interest in WCEN-FM and (iii) such GS Investor's Attributable Interest in the Morning Sun when held in common with the Company's Attributable Interest in WCEN-FM would result in a violation of the Multiple Ownership Rules and (iv) a Waiver is not in effect.
>
> "'*Morning Sun*' shall mean the Morning Sun newspaper located in Mt. Pleasant, Michigan.
>
> "'*Special Majority of the Members*' shall mean a Majority in Interest of the Class A Members, and which shall include the express prior written consent of the GS Investors, the TWP Members, the Western Presidio Member, the Alta Member and any other Class A Member that is on the Board at the time such approval is required.
>
> "'*Waiver*' shall have the meaning set forth in Section 9.3(b)(vi) of this Agreement.
>
> "'*WCEN-FM*' shall mean radio broadcast station WCEN-FM, serving the Saginaw, Michigan market.
>
> "'*Wilks Acquisition*' shall mean the acquisition by NextMedia Operating, Inc. and NM Licensing LLC of all of the assets used or useful in the operation of radio broadcast stations WSGW-AM, WGER-FM, WTCF-FM, WCEN-FM and WTLZ-FM, serving the Saginaw, Michigan market, pursuant to that certain Purchase Agreement dated October 30, 2002 by and among Wilks Broadcasting LLC, Wilks License Co. LLC, NextMedia Operating, Inc. and NM Licensing LLC."

(b) The second sentence of Section 6.1(b) of the Agreement is deleted in its entirety, and in its place the following is inserted:

> "Subject to Sections 6.11(d) and (e), the Board will be responsible for making all Major Decisions and for managing all other business and affairs of the Company (including managing the business and affairs of any Investment of which the Company is the general partner or managing member)."

(c) The footnote contained in third line of Section 6.11(b) of the Agreement is deleted.

(d) The following is added immediately following Section 6.11(d) of the Agreement:

> "(e) Notwithstanding anything to the contrary contained herein, at any time during which a GS Investor is an Affected GS Member, every Unanimous Major Decision: (i) shall cease to be Unanimous Major Decision, (ii) shall become a Majority

Major Decision and (iii) may be taken only with the express prior written consent of a Special Majority of the Members."

(e) Section 8.6 of the Agreement is hereby deleted in its entirety, and in its place the following is inserted:

"**Section 8.6 Voting.** (a) Voting and Voting Power. All Class A Members shall, except as hereinafter provided, be entitled to vote at meetings. Such Members may vote either in person or by proxy at any meeting. Each Class A Member shall be entitled to one vote. No Class B Member or Class C Member shall be entitled to vote at meetings, other than for matters specifically requiring the affirmative vote of a specified percentage of the Class B Members or the Class C Members or a Majority in Interest of All Members. No Affected Member shall be entitled to vote except for those matters set forth in Section 9.3(a), and no Affected GS Member shall be entitled to vote except for those matters set forth in Section 17.5 and Section 9.3(b). (b) Voting on Matters Other than the Designation of Board Members. With respect to any matter other than (i) the designation of Board Members (which shall be governed by Section 6.2(b)), (ii) a matter for which the affirmative vote of Members owning a specified percentage of the interests is required by the Act, the Certificate or this Agreement or (iii) a matter requiring the express prior written consent of a Special Majority of the Members, the affirmative vote of a Majority in Interest of the Class A Members actually present at a meeting at which a quorum is present shall be the act of all the Members. Subject to Sections 6.11(d) and (e), the Members have no independent power or right to vote on any Major Decisions, the determination of which matters are specifically reserved to the Board pursuant to Section 6.11.

(c) Change in Voting Percentages. No provisions of this Agreement requiring that any action be taken only upon approval, vote or action of the Members holding a specified percentage of the Membership Interests of the Members may be modified, amended or repealed unless such modification, amendment or repeal is approved by Members holding at least such specified percentage of such Membership Interests."

(f) Subsections (b) and (c) of Section 9.3 are re-numbered subsections (c) and (d), respectively, and the following is added immediately following Section 9.3(a) of the Agreement:

"(b) The determination that a GS Investor is an Affected GS Member shall be made by the Board based upon a written opinion of the Company's FCC counsel, in consultation with the GS Investor's FCC counsel, and for so long as any GS Investor is an Affected GS Member, the following provisions shall be applicable to the Affected GS Member and the Company, as applicable:

(i) neither the Affected GS Member nor any officer, director, member or partner of the Affected GS Member nor any Person who owns 5% or more of any class of equity securities of the Affected GS Member shall:

(1) be an employee of the Company whose functions directly or indirectly relate to any Company Media Enterprise;

(2) serve in any material capacity as an independent contractor or agent with respect to any Company Media Enterprise; *provided, however*, that the Affected GS Member and its Affiliates shall not be restricted from providing investment banking services to the Company (including acting as underwriter to the Company);

(3) serve as a Board Member of the Company;

(4) communicate with the Company's Board Members, with any Member that is not an Affected GS Member or the management of any Company Media Enterprise on matters pertaining to the day-to-day operations of any Company Media Enterprise; *provided, however*, that clauses (xiv) and (xvi) of this Section 9.3(b) will apply in all such cases;

(5) perform any services for the Company that materially relate to any Company Media Enterprise; *provided, however*, that the Affected GS Member and its Affiliates shall not be restricted from providing investment banking services to the Company (including acting as underwriter to the Company); or

(6) become actively involved in the management or operation of any Company Media Enterprise; and

(ii) the Affected GS Member shall not vote on the election of any new Board Member of the Company unless such new Board Member is approved by the existing Board Members; and

(iii) with respect to the replacement rights set forth in Section 6.2 and 6.3, the Affected GS Member shall not have the right to vote for the replacement of Board Members, unless such replacement Board Member is approved by the existing Board Members; and

(iv) the Affected GS Member shall not have the right to vote to remove a Board Member from the Company except where the Board Member is subject to bankruptcy proceedings, has been adjudicated incompetent by a court of competent jurisdiction, or has been removed for cause which was determined by an independent party to have constituted malfeasance, criminal conduct, wanton or willful neglect, or such other extraordinary conduct with respect to which a prudent investor would require the right to remove a Board Member; and

(v) the Company shall, upon the request of the GS Investors, deliver to the GS Investors a management rights letter in a form to be agreed between the parties, as may be reasonably required for VCOC

purposes, *provided* that such management rights letter would not be in violation of FCC rules and regulations; and

(vi) the Company will use its best efforts to obtain from the FCC a permanent waiver as promptly as practicable following the consummation of the Wilks Acquisition, or if not obtainable, a temporary waiver or other order with respect to the Multiple Ownership Rules (in each case, a '*Waiver*') such that if the restrictions set forth in this Section 9.3(b) were not operative, the Affected GS Member's Attributable Interest in the Morning Sun, when held in common with the Company's Attributable Interest in WCEN-FM, would not result in a violation of the Multiple Ownership Rules; in the event that the FCC grants such a Waiver and for so long as such Waiver remains in effect, any Affected GS Member shall not be deemed to be an Affected GS Member for all purposes hereunder; and

(vii) the Affected GS Member shall be under no obligation to take any action with respect to its Attributable Interest in the Morning Sun and shall not be under any obligation to take any action, other than assisting the Company in obtaining the Waiver, with respect to its investment in the Company (including, without limitation, further amending this Agreement in any manner or disposing of all or any part of its Membership Interests), in the event that the FCC finally determines not to grant a Waiver; and

(viii) if a Waiver is not in effect and the FCC determines that the application of clauses (i) through (iv) of this Section 9.3(b) is insufficient to insulate the Company from a violation of the Multiple Ownership Rules, then, unless the Affected GS Member agrees in its sole discretion to further amend this Agreement or to take other action with respect to its investment in the Company to remedy such violation, the Company shall take such action as the Board determines is necessary to remedy such violation, including, without limitation:

(1) selling or otherwise transferring the ownership or control of WCEN-FM so that the GS Investors cease to be Affected GS Members; or

(2) offering to purchase all or any portion of an Affected GS Member's ownership interest in the Company on terms and conditions agreed between the Company and the Affected GS Member, it being understood that the Affected GS Member shall not be required to sell such ownership interest to the Company on terms and conditions not acceptable, in its sole discretion, to such Affected GS Member; and

(ix) if a GS Investor remains an Affected GS Member at the time of an Initial Public Offering, then, as a condition to the consummation of the Initial Public Offering, the Company shall, unless the Company shall have received advice from its FCC counsel that a proposed action or arrangement is in violation of FCC rules and

regulations, take such action and enter into such arrangements as is requested by the Affected GS Member (with the advice of the Affected GS Member's FCC counsel), to give such GS Investor, to the maximum extent permitted by FCC rules and regulations, the same designations and rights as any other Class A Member at that time. Notwithstanding the previous sentence, in order for the Company (or any of its subsidiaries) to proceed with an Initial Public Offering, in all cases, the GS Investors will have the same rights as the other Class A Members, and the GS Investors' securities shall have the same rights as the securities granted to other Class A Members and, except for restrictions on voting rights and any limitations set forth in clauses (i) through (iv) of this Section 9.3(b). Without limitation, the Company (or its subsidiary) will not be permitted to proceed with an Initial Public Offering and the GS Investors will not be required to accept in connection with such Initial Public Offering any limitations on its ownership of its securities (including, without limitation any limitations on the transferability of its securities or any limitation on its ability to pledge or otherwise encumber its securities or other restrictions) in a manner that is different than the limitations placed on other comparable Class A Members. The types of arrangements that the GS Investors might request pursuant to the first sentence of this clause (ix) include, among other things, a requirement that:

(1) the Company issue convertible non-voting securities (to the minimum extent required to insulate the Company against a violation of the FCC rules and regulations) to the GS Investors with identical rights, other than voting rights to the extent prohibited by FCC rules and regulations, and designations as the voting securities issued to the other Class A Members, convertible into the class of voting securities issued to the other Class A Members upon the transfer thereof by the GS Investors to a third party or at such other time as such conversion would not violate FCC rules and regulations;

(2) the Company issue identical securities to the GS Investors as are issued to the other Class A Members, with the proviso that the GS Investors place such securities in a voting trust in a manner determined by the GS Investor; and

(3) any other proposal to ensure that the GS Investors have the same rights as other investors to the extent permitted by FCC rules and regulations; and

(x) the rights of the Affected GS Members set forth in the provisos in items (4) and (5) of clause (i) of this Section 9.3(b) and in clause (xiv) of this Section 9.3(b) will continue following an Initial Public Offering for so long as a GS Investor remains an Affected GS Member; and

(xi) if a GS Investor is an Affected GS Member at the time of an Initial Public Offering, and subsequently ceases to be an Affected

GS Member, then immediately upon such GS Investor's ceasing to be an Affected GS Member, the Company shall procure or shall have procured that the Person making the Initial Public Offering shall, appoint a representative of the GS Investors to the board of directors of the applicable entity provided the GS Investors are not Defaulting Members at such time; and

(xii) in connection with the matters set forth in this Section 9.3(b), including without limitation the efforts to obtain a Waiver and any arrangements set forth in clauses (viii) and (ix) hereof, the Company will pay all reasonable costs and expenses, including without limitation the reasonable expenses of counsel, of the GS Investors; and

(xiii) the restrictions in (i) through (iv) above shall be in addition to the restrictions set forth in Section 9.4 below; and

(xiv) at any time when a GS Investor is an Affected GS Member, such GS Investor shall be entitled to consult with the Company, to the extent permitted under applicable FCC rules and regulations, on the Company's overall strategy and performance. Such GS Investor may examine the books and records of the Company and inspect its facilities and request information at reasonable times and intervals concerning the general status of the financial condition and operation of the Company, and may request full information pertinent to any covenant, provision or condition hereof."

(xv) notwithstanding anything to the contrary contained herein, at any time when a GS Investor is an Affected GS Member, the Place 7 Board Seat and the Place 8 Board Seat will remain vacant; and

(xvi) at any time when a GS Investor is an Affected GS Member (A) the Affected GS Member shall receive from the Company copies of all materials distributed to Board Members at the same time as such materials are made available to the Board (including notices and actions by written consent), and (B) the Affected GS Member shall have the right to designate persons to attend all meetings of the Board in person, telephonically or by any other means by which the Board may meet as a non-voting observer;

(g) The following is added immediately following Section 9.3(d) of the Agreement, as re-numbered pursuant to subsection (f) of this Amendment:

"(e) The Company and each of the GS Investors, the TWP Members, the Western Presidio Member and the Alta Member may, in their absolute discretion, collectively agree, as set forth in the following sentence, to resolve any other violation or potential violation of the Multiple Ownership Rules applicable to any such Member in the same manner as the GS Investors are treated pursuant to Section 9.3(b) hereof. In the event that (i) any such violation or potential violation occurs, and (ii) the Board and each of the GS Investors, the TWP Members, the Weston Presidio Member and the Alta Member so agree, the

provisions set forth in Section 9.3(b) shall apply to the applicable affected Member as if such Member were an Affected GS Member."

2. Effective Date. This Amendment shall become effective upon the closing of the Wilks Acquisition (the "Effective Date").

3. Costs and Expenses. The Company will pay all reasonable costs and expenses, including without limitation the reasonable costs and expenses of counsel, of the GS Investors in connection with the preparation, review and execution of this Amendment and all matters related to this Amendment.

4. Effect; Governing Law. Except as specifically amended by this Amendment, the Agreement shall remain unmodified and in full force and effect. From and after the Effective Date, all references in the Agreement to the "Agreement" shall be deemed to be references to such Agreement as amended by the First Amendment and this Amendment. This Amendment shall be binding upon and shall inure to the benefit of the Members and their respective heirs, successors, and permitted assigns. This Amendment represents the entire agreement of the parties hereto, and supercedes all prior agreements or understandings of such parties, in respect of the subject matter hereof. This Amendment shall be governed by the laws of the State of Delaware.

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