

Matters to be considered when drafting a limited partnership agreement. See Title 1, chapter 3, subchapter A of the EOC for the required provisions to be set forth in the certificate of formation for a limited partnership.

PREVIEW

1. Limited partnership's name,
2. Limited partnership's address,
3. Limited partnership's registered agent and address,
4. Name and residence address of each general and limited partners for the certificate of limited partnership,

5. Marital status of each partner,

PLEASE DO NOT COPY

6. Amount of cash, description and agreed value of other property, contributed by each limited partner, and by each general partner,

7. Additional contributions, to be made by each limited partner, and the events, procedure and consequences for failure to make the additional contributions,

8. Time when each limited partner's contribution shall be returned,

9. Share of profits, or other compensation that each limited partner shall receive for his or her contribution,

10. Right of a limited partner to substitute an assignee as a contributor in his or her place, and the terms and conditions of such substitution,

THIS DOCUMENT

11. Right of partners to admit additional limited partners,

- a. With the consent of all partners,
- b. With the consent of all general partners, or
- c. Other.

12. Right of one or more limited partners to have priority over other limited partners, as to contributions or as to compensation and the nature of such priority,

THANK YOU

13. Right of a limited partner to demand and receive property other than cash in return for his or her contribution, and

14. Right of a limited partner to vote upon matters affecting the following:

LegalFormsForTexas.Com

- a. the basic structure of the partnership,

- PREVIEW**
- b. the election or removal of general partners,
 - c. the termination of the partnership,
 - d. the amendment of the partnership agreement,
 - e. the sale of all or substantially all of the assets of the partnership, and
 - f. any other matters of a similar nature.

PLEASE DO NOT COPY

THIS DOCUMENT

THANK YOU

LegalFormsForTexas.Com

Alternate form of a limited partnership agreement

PREVIEW

1. This alternate form for a limited partnership form permits a group of investors to purchase and lease capital equipment for the purposes of generating cash flow, certain tax deductions, and possible long-term capital gains from the ultimate sale of the equipment.
2. The form is designed for use as an exhibit in an offering memorandum. It contains current required disclaimers, though these requirements may change at any time. It reflects a mini-max offering, meaning the offering will close at a certain specified maximum but may close once it exceeds the specified minimum.
3. The agreement specifies at length the obligations of all parties to the agreement. The limited partners must make certain specified investment representations in order to comply with federal and state security private offering exemptions.
4. The form also severely restricts the transferability of limited partnership interests, both in order to meet security exemption requirements and in order to meet current IRS interpretative requirements to insure taxability of the partnership as a partnership and not a limited partnership.

PLEASE DO NOT COPY

THIS DOCUMENT

THANK YOU

LegalFormsForTexas.Com

Alternate form of a partnership agreement and certificate

PREVIEW

THE SECURITIES REPRESENTED BY THIS INSTRUMENT OR DOCUMENT HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED.

WITHOUT SUCH REGISTRATION, SUCH SECURITIES MAY NOT BE SOLD, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED AT ANY TIME WHATSOEVER, EXCEPT UPON DELIVERY TO THE PARTNERSHIP OF AN OPINION OF COUNSEL SATISFACTORY TO THE GENERAL PARTNERS OF THE PARTNERSHIP THAT REGISTRATION IS NOT REQUIRED FOR SUCH TRANSFER OR UPON THE SUBMISSION TO THE GENERAL PARTNERS OF THE PARTNERSHIP OF SUCH OTHER EVIDENCE AS MAY BE SATISFACTORY TO THE GENERAL PARTNERS TO THE EFFECT THAT ANY SUCH TRANSFER SHALL NOT BE IN VIOLATION OF THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS OR ANY RULE OR REGULATION PROMULGATED THEREUNDER.

PLEASE DO NOT COPY

AGREEMENT OF LIMITED PARTNERSHIP

This Agreement of Limited Partnership (the "Agreement") is entered into and will be effective on the date it is filed with the Secretary of State, Austin, Texas, by and between [name], and [name] as co-general partners ("General Partners"), and each of the individuals or entities who have executed a duplicate original of this Agreement as limited partners, ("Limited Partners").

THIS DOCUMENT

1.1 **Formation of Limited Partnership.** The parties hereby form, pursuant to the Texas Business Organizations Code, (the "BOC"). The rights and liabilities of the Partners shall be as provided for in this Agreement and in the BOC.

1.2 **Certificate of Limited Partnership.** The parties shall execute and file a Certificate of Limited Partnership, and other relevant documents ancillary to the Certificate, with the office of the Secretary of State of the State of Texas as required by the Act, and take all other appropriate action to comply with all legal requirements for the formation and operation of a limited partnership under the BOC.

1.3 **Partnership Name.** The name of the Partnership shall be [name]. If considered necessary in the opinion of counsel to the Partnership to preserve the limited liability of the Limited Partners, the business conducted by the Partnership shall be conducted under that name or under such other name or names as the General Partners may select and might be necessary to preserve such limited liability.

1.4 **Location of Office.** The principal business office of the Partnership shall be at [address], or such other place as may from time to time be determined by the General Partners.

THANK YOU

LegalFormsForTexas.Com

1.5 **Purpose of Partnership.** The purposes of the Partnership are:

- a. to acquire and lease [describe equipment to be leased];
 - b. to generate and distribute to the Limited Partners on a quarterly basis the net cash flow available from operations;
 - c. to obtain and distribute to the Limited Partners certain income tax benefits available from the intended purchase of the [describe equipment] by the Partnership;
 - d. to realize additional income from the potential sale of the Partnership property;
- and

to take any and all steps or actions that are necessary or appropriate to pursue the above purposes.

1.6 **Term of Partnership.** The Partnership shall become effective on the date that the Certificate of Limited Partnership of this Partnership is duly filed in the office of the Secretary of State of the State of Texas, and shall remain effective until [date of termination], or until such earlier date as the Partnership is dissolved pursuant to the BOC or the provisions of this Agreement.

1.7 **Admission of Limited Partners.** The General Partners shall admit to the Partnership, prior to the Effective Date, such Limited Partners as they may deem advisable and who shall be compatible with exemptions from federal securities laws on which the General Partners rely, provided the aggregate subscriptions of such Limited Partners do not exceed _____ Dollars (\$ _____).

a. Each person admitted as a Limited Partner shall execute counterparts of this Agreement and make such Initial Capital Contributions to the Partnership as subscribed to by him or her.

b. If, by the close of business on [date], unless extended by the General Partners to a date no later than [date], persons having commitments to make Initial Capital Contributions in the aggregate amount of at least _____ Dollars (\$ _____) have not been admitted to the Partnership as Limited Partners, this Agreement shall not become effective as to any person, and the Partnership shall be immediately dissolved at the expense of the General Partners and all subscription funds shall be forthwith returned to the respective subscribers without interest.

c. Otherwise, as soon after the Effective Date as practicable, the General Partners shall advise each Limited Partner of the Effective Date, the aggregate amount of Initial Capital Contributions made by all Limited Partners, and the respective percentage interest of each Limited Partner.

The following terms used in this Agreement shall, unless otherwise expressly provided in this Agreement or unless the context otherwise requires, have the following respective meanings:

PREVIEW

- 2.1 **Agreement:** shall mean this Certificate and Agreement of Limited Partnership.
- 2.2 **Effective Date:** shall mean the date this Agreement is filed with the Secretary of State of Texas.
- 2.3 **General Partners:** shall mean [names of general partners] or such substitute or different General Partners as may be subsequently named pursuant to the terms of this Agreement.
- 2.4 **Initial Capital Contributions:** shall mean the amount contributed to the Partnership on or before the Effective Date by any Partner.
- 2.5 **Limited Partner:** shall mean those persons who execute this Agreement or any counterpart of this Agreement as Limited Partners and whose names and residence addresses appear on Schedule A, which is attached to this Agreement and made a part of this Agreement for all purposes.
- 2.6 **Majority:** shall mean those Limited Partners who at the time of any determination of a majority have invested more than 50% of the combined Initial Capital Contribution of the Partnership.
- 2.7 **Memorandum:** shall mean the Confidential Offering Memorandum of the Partnership dated _____ as amended or supplemented.
- 2.8 **Partners:** shall mean the collective reference to the General Partners and the Limited Partners.
- 2.9 **Partnership Interest:** shall mean, as to any Partner, all of the interests of that Partner in the Partnership.
- 2.10 **Person:** shall mean any individual, corporation, partnership, trust, or other entity.
- 2.11 **Unit:** shall mean a Limited Partnership Unit in the Partnership representing a \$ _____ Initial Capital contribution.
- 2.12 **Winding Up:** shall mean the period following a dissolution of the Partnership after which its business is not continued as set forth in Section 12.

PLEASE DO NOT COPY

THIS DOCUMENT

THANK YOU

3. CAPITAL CONTRIBUTIONS AND PARTNERSHIP INTERESTS

3.1 **Initial Capital Contribution.** The aggregate Initial Capital Contributions of the Partners shall be not less than _____ Dollars (\$ _____), nor more than _____ Dollars (\$ _____) and shall be made solely by the Limited Partners, on a basis of \$ _____ per Unit payable all in cash on or before the Effective Date.

LegalFormsForTexas.Com

PREVIEW

3.2 **Limited Partners.** Each Limited Partner agrees to contribute to the Partnership in cash the amount of his or her Initial Capital Contribution as set forth on Exhibit "A" and on the signature page delivered by the Limited Partner to the Partnership.

3.3 **Additional Assessment.** No Limited Partner shall be required to make any capital contribution other than the Initial Capital Contribution.

3.4 **General Partners May Also Be Limited Partners.** The General Partners may in their sole discretion purchase Partnership Units at a price equal to that paid by the other Limited Partners and, thereby, be entitled to the same percentage interest in the Partnership per Unit purchased as all other Limited Partners.

3.5 **Deemed Capital Contribution.** Any person who acquires the Partnership Interest of a Limited Partner in accordance with Section 10 shall be deemed to have made a capital contribution equal to that of the Limited Partner whose Partnership interest was acquired.

PLEASE DO NOT COPY

4. PROFITS AND LOSSES

4.1 **Allocations.** Allocations of income, gains, deductions, losses and credits among the Limited and General Partners shall be as follows:

General Partners - _____ percent (____%)

Limited Partners - _____ percent (____%)

THIS DOCUMENT

a. Each Limited Partner in the ratio that his or her total Capital Contribution bears to the total of the Capital Contributions of all the Limited Partners.

4.2 **Transfer-Transferee Allocations.** If a Partnership Interest is transferred in accordance with Section 10 during any year, the income, gains, losses, and deductions allocable in respect to that Partnership Interest shall be prorated between the transferor and the transferee on the basis of the number of days in the year that each was the holder of that Interest, without regard to the results of the Partnership operations during the period before and after the transfer, unless the transferor and transferee agree to an allocation based on the result as of the record date of transfer and agree to reimburse the Partnership for the cost of making and reporting their agreed allocation.

THANK YOU

4.3 **Recapture.** In the event that the Partnership recognizes income, gain, or addition to tax by virtue of the recapture of any previously deducted or credited item, such recaptured income or gain or addition to tax shall be allocated to the Partners in the same percentage as allocated at the time of its deduction.

5. CASH DISTRIBUTIONS

5.1 **Distribution of Net Cash Flow.** All excess cash of the Partnership, which term shall mean cash held by the Partnership that in the sole judgment of the General Partners is not required or reasonably expected to be required for the obligations or business needs of the Partnership, shall be distributed to the Partners from time to time at such times and in such amounts as the General Partners may, in their sole discretion, deem appropriate.

a. The General Partners intend to make such distributions, if any, not less often than quarterly, beginning within three months after the Effective Date.

b. All distributions made prior to Winding Up shall be made in accordance with the percentages set forth in Section 4.1.

c. Distributions made during Winding Up shall be made as set forth in Section 12.

PLEASE DO NOT COPY

6. COMPENSATION OF GENERAL PARTNERS

6.1 For services of the General Partners over and above their distributive share in the Partnership profits and losses, the Partnership shall pay to the General Partners the following amounts:

a. The General Partners shall be paid a minimum fee of \$ _____ and a maximum fee of \$ _____, depending upon the number of Partnership Units sold, and from which the General Partners shall pay any and all sales commissions, not to exceed _____ percent (____%) of the price of each Unit sold, for their services in managing and operating the affairs and business of the Partnership during the first _____ [12 months] after the Effective Date of the Partnership;

b. Thereafter, the General Partners shall be paid a \$ _____ annual management fee;

c. The General Partners shall also be entitled to be reimbursed by the Partnership for reasonable expenses incurred by them on behalf of the Partnership, e.g. postage, travel, bank charges, and accounting fees.

d. This reimbursement is subject to a maximum of \$ _____ per month.

The foregoing payments shall be made whether or not the Partnership is operating on a profitable basis. Any past due amounts owing to the General Partners shall bear interest at the rate of _____ percent (____%) per annum.

6.2 The Partnership shall be responsible for and shall pay all other costs and expenses incurred by the General Partners on behalf of the Partnership, including those relating to the formation and organization of the Partnership.

6.3 The General Partners may also benefit through the ownership by each of [number] shares or an aggregate of _____ percent (____%) of the total shares issued and outstanding in

LegalFormsForTexas.Com

[name], Inc. which each purchased in [year] at \$ _____ per share for an aggregate total of \$ _____.

PREVIEW

7. BOOKS AND RECORDS

7.1 **Elections.** The Partnership shall elect as a fiscal year the calendar year. The Partnership shall elect to be taxed on such method of accounting as the General Partners shall determine. The Partnership shall not elect to be taxed other than as a partnership.

7.2 **Capital Accounts of Partners.** The Partnership shall maintain a capital account for each Partner, the initial balance of each of which shall be zero.

a. Each Partner's capital account shall be increased (1) by any income and gains allocated to that Partner for federal income tax purposes pursuant to Section 4 of this Agreement, and (2) by the amount of cash contributed to the Partnership by that Partner.

b. The Partner's capital account shall be decreased (1) by any deductions and losses allocated to that Partner for federal income tax purposes pursuant to Section 4 of this Agreement, and (2) by the amount of cash distributed by the Partnership to that Partner.

7.3 **Financial Statements.** Annually, the General Partners shall cause to be prepared statements showing the financial condition of the Partnership, copies of which shall be transmitted to all Partners.

7.4 **Tax Returns.** The General Partners shall use their best efforts to cause the Partnership to file all tax and information returns required of the Partnership and to furnish to the Limited Partners the tax information required by them for federal, state and local tax purposes in a timely fashion.

7.5 **Maintenance and Inspection of Books.** The Partnership shall maintain a complete and accurate set of books, records, and supporting documents. The books of account and all other financial records of the Partnership shall be kept at the Partnership's principal place of business, and may be inspected at any reasonable time by the Limited Partners or their representatives.

7.6 **Bank Accounts, Funds and Assets.** The funds of the Partnership shall be deposited in such bank or banks as the General Partners shall deem appropriate.

a. Subject to the provisions of this Agreement, the funds may be withdrawn only by the General Partners or their duly authorized agents.

b. The General Partners shall have a fiduciary responsibility for the safekeeping and use of all funds of the Partnership, whether or not in their immediate possession or control, and they shall not employ, or permit another to employ, the funds or assets in any manner, except for the exclusive benefit of the Partnership.

LegalFormsForTexas.Com

c. The General Partners shall not commingle or permit the commingling of the funds of the Partnership with the funds of any other person.

PREVIEW

8. RIGHTS AND OBLIGATIONS OF LIMITED PARTNERS

8.1 **Admission of Limited Partners.** The General Partners shall admit to the Partnership as Limited Partners such persons as the General Partners deem advisable, who properly subscribe to purchase Units, and who meet the suitability standards set forth in the Memorandum.

a. No other additional Limited Partners shall be admitted to the Partnership except upon amendment of the Agreement, although substituted Limited Partners may be admitted pursuant to Section 10 below.

8.2 **Participation in Management.** No Limited Partner shall have the right, power, or authority to take any part in the control or management of, or to transact any business for, the Partnership, or to sign for or bind the Partnership in any manner.

PLEASE DO NOT COPY

8.3 **Limited Liability.** No Limited Partner shall be liable for losses, debts, or obligations of the Partnership in excess of his or her Initial Capital Contribution, plus his or her undistributed share of the Partnership profits.

8.4 **Participation in Other Activities.** No Limited Partner, or any officer, director, shareholder, or other person holding a legal or beneficial interest in any Limited Partner, shall, by virtue of the interest in the Partnership, be in any way prohibited or restricted from engaging in, investing in, or possessing an interest in any business activity of any nature or description, including those which may be equivalent or in competition with the Partnership.

THIS DOCUMENT

a. Neither the Partnership nor any Partner shall have any right by virtue of this Agreement or any relationship created by this Agreement in or to such other ventures or activities or to the income or proceeds derived from them.

8.5 **General Rights and Limitations of the Limited Partners.** A Limited Partner who is not also a General Partner shall not be:

a. Personally liable because of his or her Interest in the Partnership for any losses of any other Limited Partner;

b. Entitled to be paid any salary or to have a Partnership drawing account;

THANK YOU

c. Entitled to receive any interest on his or her Initial Capital Contribution or balance in his or her capital account; or

d. Entitled to priority over any other Limited Partners.

8.6 **Voting.** Each Limited Partner shall be entitled to vote in all matters for which this Agreement gives Limited Partners the right to vote, consent, or agree.

LegalFormsForTexas.Com

PREVIEW

a. Each Limited Partner shall be equal in percentage to the ratio that his or her Initial Capital Contribution bears to the total Capital Contributions of all Limited Partners.

8.7 **Investment Representations.** Each Limited Partner understands that the issuance to him or her of Units in the Partnership is subject to state and federal securities laws.

a. In connection with assisting Partnership compliance with such laws, each Limited Partner individually represents and warrants the following with respect to the acquisition of his or her Unit(s) in the Partnership, and each Limited Partner agrees that the General Partners may consider the following representations in granting or denying the approval required by Section 1.7 above:

PLEASE DO NOT COPY
(1) That he or she is acquiring the Units in the Partnership for his or her own account, as an investment, and not with a view to the "distribution" of the Unit(s) as that term is used in the securities laws.

(2) That a legend in substantially the following form may be placed on any certificate or other documents evidencing the Units:

THE SECURITIES REPRESENTED BY THIS INSTRUMENT OR DOCUMENT HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED.

THIS DOCUMENT
WITHOUT FURTHER REGISTRATION, SUCH SECURITIES MAY NOT BE SOLD, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED AT ANY TIME WHATSOEVER, EXCEPT UPON DELIVERY TO THE PARTNERSHIP OF AN OPINION OF COUNSEL SATISFACTORY TO THE GENERAL PARTNERS OF THE PARTNERSHIP THAT REGISTRATION IS NOT REQUIRED FOR SUCH TRANSFER OR UPON THE SUBMISSION TO THE GENERAL PARTNERS OF THE PARTNERSHIP OF SUCH OTHER EVIDENCE AS MAY BE SATISFACTORY TO THE GENERAL PARTNERS TO THE EFFECT THAT ANY SUCH TRANSFER SHALL NOT BE IN VIOLATION OF THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS OR ANY RULE OR REGULATION PROMULGATED THEREUNDER.
THANK YOU

(3) That he or she understands that the Partnership relies upon the accuracy of the representations and warranties in this Agreement and in the Subscription Agreement in selling Units to him in compliance with the securities laws.

(4) That he or she agrees to indemnify the Partnership and the Partners against all liability, costs, and expenses, including reasonable attorneys' fees, incurred by the Partnership as a result of a violation by him or her of the securities laws in connection with this Partnership.

8.9 Limitations on Transferability. The Units owned by a Limited Partner shall not be transferable except under the conditions set forth in Section 10 of this Agreement.

9. THE GENERAL PARTNERS

9.1 **Duties.** Subject to any specific limitation contained in this Agreement or provided by applicable law, the General Partners, and each of them, shall have exclusive responsibility and authority to take all action necessary or desirable to accomplish the purposes of the Partnership, and shall have exclusive control over the management and affairs of the Partnership.

a. The General Partners agree to manage and control the affairs of the Partnership to the best of their ability and to conduct the operations contemplated under this Agreement in a careful and prudent manner and in accordance with good industry practice.

b. The General Partners may subcontract to others all or a portion of their duties.

9.2 **Specific Limitations.** The General Partners agree that they shall not:

a. Commingle the Partnership's funds or assets with those of any other person, or employ or permit any person to employ such funds or assets in any manner except for the exclusive benefit of the Partnership;

b. Bind or obligate the Partnership with regard to any matter outside the scope of the Partnership business; and

c. Use the Partnership name, credit, or property for other than Partnership purposes.

9.3 **Specific Powers.** The General Partners or their agents or assigns shall without limitation have the authority to:

(1) Acquire the _____ [describe equipment to be acquired by Partnership] from the manufacturer after taking whatever steps necessary to ensure their compliance with technical specifications;

(2) Negotiate leases of the equipment with prospective Lessees;

(3) Collect from Lessees all rental payments due;

(4) Terminate leases and recover possession of the equipment and enforce all rights regarding the equipment;

(5) Maintain, inspect, and repair the equipment;

(6) Obtain insurance to protect the interest of the Partnership in the equipment;

LegalFormsForTexas.Com

(7) Pay all charges, assessments or levies imposed upon or against the equipment other than those chargeable to a lessee;

(8) Maintain accurate records of all monies received and disbursed;

(9) Manage the equipment in full compliance with the requirements of all applicable laws;

(10) Borrow money on behalf of the Partnership and use as security for that money any property of the Partnership;

(11) Sell, lease or otherwise dispose of any interest in the equipment or other assets of the Partnership for any Partnership purpose;

(12) Establish and maintain books of account and financial and accounting controls;

(13) Open bank accounts in the name of the Partnership for Partnership funds;

(14) Prepare and submit any required reports to government agencies;

(15) Execute with binding effect on the Partnership all instruments necessary or desirable in the opinion of the General Partners to conduct, promote, and further the business and purposes of the Partnership;

(16) Perform any other act that the General Partners deem necessary or desirable to conduct, promote, and further the business and purposes of the Partnership;

(17) Make any election on behalf of the Partnership and the Partners which is or may be permitted under the Internal Revenue Code, as amended and to be amended, relating to adjustments to basis;

(18) Employ attorneys and accountants for Partnership purposes. Any fees and expenses of such persons incident to their employment by the Partnership shall be an expense of the Partnership; and

(19) Cure any ambiguity, formal defect, or omission, or correct or supplement any provision contained in this Agreement that may be inconsistent with any other provision contained in this Agreement or make such other changes or provisions in regard to matters or questions arising under this Agreement that will not adversely affect the interest of any Limited Partner.

9.4 **Reliance.** Persons dealing with the Partnership shall be entitled to rely conclusively on the authority and power of any of the then acting General Partners as set forth in this Agreement.

9.5 **Inquiry.** In no event shall any person dealing with the General Partners or any of their representatives with respect to any business or property of the Partnership be obligated to

PREVIEW

PLEASE DO NOT COPY

THIS DOCUMENT

THANK YOU

LegalFormsForTexas.Com

ascertain that the provisions of this Agreement have been complied with or be obligated to inquire into the necessity or expediency of any act or action of such persons.

PREVIEW

a. Every contract, agreement, security agreement, promissory note, or other instrument or document executed by either a General Partner or their representatives with respect to any business or property of the Partnership shall be conclusive evidence in favor of any and every person relying on or claiming thereunder that:

(i) at the time of the execution and/or delivery of the instrument or document this Agreement was in full force and effect;

(ii) the instrument or document was duly executed in accordance with the terms and provisions of this Agreement and is binding upon the Partnership and all of the Partners, and

(iii) the General Partners or their representatives were duly authorized and empowered to execute and deliver any such instrument or document for and on behalf of the Partnership.

PLEASE DO NOT COPY

9.6 **Tax Matters Partner.** [Name], one of the General Partners, is hereby designated as a Tax Matters Partner as defined in the Internal Revenue Code as amended for so long as he shall remain a General Partner. If [name] is removed or resigns, then [name], the other General Partner, shall be designated the Tax Matters Partner.

a. In the event that an audit of the Partnership occurs, and the Tax Matters Partner does not reach a settlement agreement with the Internal Revenue Service, the Tax Matters Partner shall in his sole discretion choose whether to file a petition for readjustment of the Partnership items with either the Tax Court, the District Court of the United States for the district for which the Partnership's place of business is located, or the Court of Claims.

THIS DOCUMENT

9.7 **Obligations Not Exclusive.** The General Partners shall be required to devote only such time as is reasonably necessary to manage the Partnership's business, it being understood that the General Partners have other business activities and therefore shall not devote their time exclusively to the Partnership.

a. Neither the Partnership nor any of the Partners shall have any rights by virtue of this Agreement in any independent business ventures of any other Partner, Limited or General.

THANK YOU

9.8 **General Partners' Net Worth.** The General Partners represent and covenant that they shall have as of the Effective Date and shall thereafter continue to maintain an aggregate net worth of not less than \$ _____.

9.9 **Liability of General Partners to Limited Partners.** The General Partners, their representatives, employees, and agents shall not be liable to the Partnership or to the Limited Partners for losses sustained or liabilities incurred as a result of any or possible judgment, or mistake of law or fact, including simple negligence, or for any act done or omitted to be done in good

LegalFormsForTexas.Com

faith in conducting the Partnership business, unless the error, mistake, act, or omission was performed or omitted fraudulently or constituted gross negligence or willful misconduct.

PREVIEW

9.10 Indemnification of General Partners. The General Partners and each representative, assign, or agent of a General Partner shall be protected, defended, indemnified, and held harmless by the Partnership from and against any loss, expense, damage, or injury suffered or sustained by them by reason of any acts, omissions, or alleged acts or omissions, even if such acts or omissions constitute simple negligence, arising out of the activities of either General Partner on behalf of the Partnership or in furtherance of the interests of the Partnership, including, but not limited to, any judgment, accord, settlement, reasonable attorney's fees, and other costs or expenses incurred in connection with the defense of any actual or threatened action, proceeding, or claim; provided, however, that the General Partners shall not be entitled to indemnification under this paragraph if the acts, omissions or alleged acts or omission on which any actual or threatened action, proceeding, or claim is based were:

PLEASE DO NOT COPY

- a. performed or omitted fraudulently;
- b. resulted from the gross negligence by or willful misconduct of the General Partners or
- c. resulted from a breach by the General Partners of a material provision of this Agreement.

10. TRANSFERS OF PARTNERSHIP INTEREST

10.1 Transfer of General Partners' Interest. The Partnership Units of the General Partners are not transferable without the approval of a Majority in Interest of the Limited Partners. However, the General Partners may, without the consent of any of the other Partners, transfer their Partnership Units between themselves.

THIS DOCUMENT

10.2 Withdrawal or Removal of General Partner. One or more of the General Partners may:

- a. resign or withdraw from the Partnership as General Partner without the consent of the Limited Partners; or
- b. be removed at any time, for cause, by the affirmative vote of a Majority of the Limited Partners; provided, however, that no removal for cause under this Section shall be effective until a court of competent jurisdiction shall have finally determined that cause existed.
- c. As used in this paragraph "Cause" shall mean (i) a material violation by a General Partner of his or her fiduciary duties, (ii) willful misconduct, (iii) gross negligence, or (iv) a material violation of this Agreement.

THANK YOU

LegalFormsForTexas.Com

d. Immediately on withdrawal or removal of one General Partner, the other shall serve as sole General Partner. If no General Partner remains, a successor General Partner shall be selected by an affirmative vote or written consent of a Majority of the Limited Partners.

e. A General Partner departing voluntarily shall continue to receive his or her share of any Partnership distributions arising out of his or her interest in the Partnership but shall forfeit the right to receive any further compensation as a General Partner.

10.3 **Substituted Limited Partner.** Each Limited Partner hereby consents to the admission as a substituted Limited Partner of any person complying with Section 10.7.

a. When compliance with this Agreement has been shown, the General Partners shall cause the necessary amendments to be filed as required by law.

10.4 **Transfer On Death of a Limited Partner.** On the death of a Limited Partner, his or her successor in interest shall succeed to the decedent's Partnership Interest, and shall be liable for the obligations of the decedent, but shall not become a substituted limited partner until compliance with Section 10.6 and 10.7.

10.5 **Withholding of Distributions.** From the date of the receipt of any instrument relating to the transfer of a Partnership Interest, or at any time the General Partners are in doubt as to the person entitled to receive distributions in respect of any such Partnership Interest, the General Partners may withhold any such distributions until the transfer is completed or abandoned or any dispute is resolved.

10.6 **Right of First Refusal.** Any Limited Partner who has offered to sell or has received an offer to buy ("the outside offer") all or any portion of his or her Partnership Interest for a consideration in money or money's worth shall offer to sell the Partnership Interest first to the General Partners in accordance with the terms of this Section.

a. The offer to sell to the General Partners:

(1) shall be in writing and identical in terms and consideration to the Outside Offer, and

(2) shall not expire until a date forty-five days from the date the General Partners acknowledge in writing receipt of the offer (the "Expiration Date").

b. For purposes of this Section, a signed return receipt for United States Post Office certified mail shall constitute written acknowledgement by the General Partners.

c. The date the offer to sell is accepted shall be the date the notice of acceptance is postmarked, or, if not mailed, the date the offeror acknowledges in writing receipt of the notice of acceptance.

LegalFormsForTexas.Com

d. If the offer to sell is not accepted by the General Partners, the Partner who received the Outside Offer may transfer the Partnership Interest under the terms of the Outside Offer at any time during a period that ends thirty days after the Expiration Date.

f. If the Partner who received the Outside Offer does not dispose of the Partnership Interest during that time period, the Outside Offer shall constitute a new offer, and, consequently, shall again be subject to the restrictions of this section.

g. Notwithstanding the foregoing, and subject to Section 10.7 below, a Limited Partner may sell or otherwise transfer all or any portion of a Partnership Interest to the spouse or any direct ascendants or descendants of the Limited Partner or to a trust, corporation, partnership, or other entity in which all of the beneficial interest is held by or for the Limited Partner, spouse, ascendants, or descendants, provided the transfer would not result in a termination of the Partnership.

10.7 Conditions of Effective Transfer. A purported transfer of a Partnership Interest by a Limited Partner shall be valid as to the Partnership and the General Partners on the first day of the month following the month in which (1) the General Partners have consented in writing to the transfer; and (2) the General Partners are satisfied that the following conditions, any of which may be waived by the General Partners, have been met:

a. The transferor and transferee have agreed to provide the Partnership with the information in their possession required to permit the Partnership to make any basis adjustments required by the Internal Revenue Tax Code;

b. The transferee has delivered an instrument satisfactory to the General Partners by which the transferee accepts and adopts the terms and provisions of this Agreement, including the assumption of any obligations of the transferor to the Partnership;

c. The transferor has agreed to pay a reasonable fee to reimburse the Partnership for the costs incurred in connection with the admission of the transferee as a substitute limited partner, including any costs incurred or to be incurred by the Partnership in connection with the basis adjustments and additional accounting operations required;

d. The transferor has delivered to the General Partners an opinion of counsel in form and substance satisfactory to the General Partners to the effect that neither the transfer nor any offering in connection with the transfer violates any provision of any federal or state securities or comparable law;

e. The General Partners have determined that the transfer would not cause a termination of the Partnership, within the provisions of the Internal Revenue Code;

f. The transfer is evidenced by an instrument in writing signed by the transferor and transferee stating, among other things, that the transferor has the right to transfer, and the transferee has the right to acquire, the transferor's Partnership Interest, and acknowledging that the transferee is bound by the terms of this Agreement, and

LegalFormsForTexas.Com

PREVIEW

g. The transferee has delivered a statement in form and substance reasonably satisfactory to the General Partners making appropriate representation and warranties with respect to the satisfaction of applicable federal and state securities laws.

10.8 Assignments by Operation of Law. If any Limited Partner shall die, with or without leaving a will, become non compos mentis, or become bankrupt or insolvent, or if a corporate or partnership Limited Partner dissolves during the Partnership term, the legal representatives, heirs, and legatees, and the spouse, if the Partnership Units of the Limited Partner have been community property of the Partner and the Partner's spouse, bankruptcy assignees, or corporate or partnership distributees shall not become substitute Limited Partners but shall have, subject to the other terms and provisions thereof, such rights as are provided with respect to such persons under the Act; provided, however, such legal representatives, heirs and legatees, bankruptcy assignees and corporate or partnership distributees may become substitute Limited Partners with the consent of the General Partners.

10.9 Expenses of Transfer. The person acquiring a Partnership Unit pursuant to any of the provisions of this Section 10 shall bear all costs and expenses necessary to effect a transfer of that Partnership Interest including, without limitation, reasonable attorney's fees incurred in preparing amendments to this Agreement and Certificate of Limited Partnership to reflect the transfer or acquisition and the cost of filing the amendments with the appropriate governmental officials.

10.10 Amendment of Certificate and Agreement of Limited Partnership. For the admission to the Partnership of any Partner, the General Partners shall take all steps necessary and appropriate to prepare and record an amendment of the Certificate and Agreement of Limited Partnership.

a. For this purpose, they may exercise the powers of attorney granted pursuant to Section 13.5.

b. An amendment of this Agreement required to add new Limited or General Partners need only be filed at the end of the month in which each new Limited or General Partner is to be added.

10.11 Survival of Liabilities. No sale or assignment of a Partnership Interest, even if it results in substitution of the assignee or vendee as a Limited Partner, shall release the assignor or vendor from those liabilities to the Partnership that survive the assignment or sale as a matter of law.

11. AMENDMENTS

11.1 Procedure. Amendments to this Agreement may be proposed by the General Partners or by those Limited Partners whose Initial Capital Contributions are at least _____ percent (____%) of the total Initial Capital Contributions of all Limited Partners.

LegalFormsForTexas.Com

a. The General Partners shall submit any such proposed amendment to all of the Partners, and, if within such reasonable period of time as may be specified in the proposal, those Limited Partners whose Initial Capital Contributions equal at least _____ percent (____%) of the total Initial Capital Contributions of all Limited Partners shall have given their written consent to the amendment, the proposed amendment shall become effective as of the date specified in the proposal.

b. Each Limited Partner shall promptly execute or cause to be executed one or more amendments to this Agreement and such other documents as may be required under the laws of the jurisdictions in which the Partnership does business at the time.

11.2 **Effect.** Any amendment to this Agreement that increases the liability of any Partner, or changes the contributions required by any Partner or the rights of any Partner in interest in the profits, losses, deductions, credits, revenues or distributions of the Partnership rights upon dissolution, or any voting rights specifically set forth in this Agreement, shall become effective as to that Partner only on his or her written acceptance of the amendment.

12. DISSOLUTION AND TERMINATION

12.1 **Dissolution and Termination of the Partnership.** The Partnership shall be dissolved upon the occurrence of any of the following:

a. The bankruptcy or insolvency of both General Partners or the occurrence of any other event that would permit a trustee or receiver to acquire control of the affairs of both General Partners;

b. The withdrawal from the Partnership, death, or insanity of both General Partners;

c. Agreement of the General Partners and a Majority of the Limited Partners to dissolve;

d. Any disposition of all of the equipment;

e. The termination of the Partnership or

f. The occurrence of any other circumstances that by law would require the Partnership to be dissolved.

12.2 The dissolution shall be effective on the day on which the event causing dissolution occurs, but the Partnership shall not terminate until its assets have been distributed in accordance with the provisions of this Agreement.

a. If either General Partner is a general partner at the time of the withdrawal, death, insanity, bankruptcy, or insolvency of the other General Partner, the Partnership shall not be dissolved and the remaining general partner shall continue the business of the Partnership as the sole General Partner.

12.3 Continuation of Business Enterprise.

PREVIEW

a. On dissolution of the Partnership, the Partners may elect to continue the Partnership by the Majority vote of the Limited Partners taken within 90 days of any event of dissolution, with any election to continue being binding on all the Partners.

b. If they elect to continue the Partnership, the Partners shall also by Majority vote elect a new general partner or general partners.

c. On dissolution of the Partnership after which the business enterprise of the Partnership is not continued, the liquidating trustee, which shall be a General Partner if the dissolution is one described herein and otherwise shall be a person selected by a Majority in Interest of the Limited Partners or by a court having jurisdiction over the affairs of the Partnership, shall proceed diligently to wind up the affairs of the Partnership and distribute its assets.

PLEASE DO NOT COPY THIS DOCUMENT

d. The liquidating trustee shall use its best efforts to sell the equipment and otherwise convert Partnership assets into cash as promptly as possible but in an orderly and businesslike manner so as not to involve undue sacrifice.

e. No Partner shall have any right to demand or receive property other than cash during Winding Up.

12.3 Winding Up. The cash proceeds of the Partnership shall be applied or distributed on the winding up of the Partnership in the following order of priority:

THIS DOCUMENT

a. In payment of all liabilities of the Partnership to creditors other than Partners. If any liability is contingent or uncertain in amount, a reserve equal to the maximum amount for which the Partnership could be reasonably held liable shall be established.

b. On the satisfaction or other discharge of that contingency, the amount of the reserve remaining, if any, will be treated as income to the extent previously treated as a deduction.

c. In payment of any loans to the Partnership by the Partners.

d. After all allocations provided for herein have been made, to each Partner in the proportion that the balance in his or her capital account bears to the sum of the balance of the capital accounts of all Partners, to the extent of such balances.

THANK YOU

e. To the Partners in proportion to their applicable interests in profits and losses.

13. MISCELLANEOUS

LegalFormsForTexas.Com

13.1 **Meetings of Partners.** Meetings of the Partners may be called by the General Partners or the Limited Partners holding more than _____ percent _____% of the then outstanding Partnership Units for any matters for which the Partners may vote as set forth in this Agreement, or for a report from the General Partners on matters pertaining to the Partnership business and activities.

a. A list of the names and addresses and percentage interest of all Limited Partners shall be furnished each Limited Partner and shall be maintained as a part of the books and records of the Partnership.

b. Within seven (7) days after receipt of a written request in compliance with the above terms, either in person or by registered or certified mail, stating the purpose of the meeting, the General Partner shall mail to all Partners written notice of the place and purpose of such meeting to be held on a date not less than fourteen (14) nor more than twenty-eight (28) days after receipt of the request.

c. When a vote of the Limited Partners is called, the Limited Partners may vote at the meeting in person or by proxy.

13.2 **Action without Meeting.** Any matter as to which the Limited Partners are authorized to take action under this Agreement or by law may be taken by the Limited Partners without a meeting and shall be as valid and effective as action taken by the Limited Partners at a meeting assembled, if written consents to the action by the Limited Partners (1) approve the action and (2) are delivered to the General Partners.

13.3 **Tax Returns.** Each Partner hereby agrees to execute promptly, together with acknowledgement or affidavit, if requested by a General Partner, all such agreements, certificates, tax statements, tax returns, and other documents as may be required of the Partnership or its Partners by the laws of the United States of America, the State of Texas, or any other state in which the Partnership conducts or plans to conduct business, or any political subdivision or agency thereof.

13.4 **Notices.** All notices, offers, or other communications required or permitted to be given pursuant to this Agreement shall be in writing and either delivered or deposited in the United States Mail, postage prepaid, addressed to the respective Partners at the addresses appearing in the records of the General Partners.

a. Any Limited Partner may change his or her address for notice by giving notice in writing to the General Partners stating the new address.

b. The General Partners may change their addresses for notice by giving written notice of the change to the Limited Partners.

13.5 **Power of Attorney.** By the execution of this Agreement, each Limited Partner and any assignee or transferee of a Limited Partner's Partnership Unit in the local jurisdiction and appoints each General Partner his or her true and lawful attorney-in-fact and agent to execute,

LegalFormsForTexas.com

acknowledge, verify, swear to, deliver, record, and file in that Partner's or assignee's name, place and stead, all documents which may from time to time be required by any federal or state law, including the execution, verification, acknowledgement, delivery, filing and recording of this Agreement, as well as all authorized amendments to any such document, all assumed name certificates, documents, bills of sale, assignments, and other instruments or conveyances, leases, contracts, loan documents and/or counterparts of any such document, and all other documents that may be required to effect a continuation of the Partnership and that the General Partners deem necessary or reasonably appropriate.

a. The power of attorney granted in this paragraph shall be deemed to be coupled with an interest, shall be irrevocable and survive the death, bankruptcy, incompetency or legal disability of a Limited Partner, and shall extend to that Limited Partner's heirs, successors and assigns.

b. Each Limited Partner agrees to be bound by any representations made by the General Partners acting in good faith pursuant to the Power of Attorney, and each Limited Partner waives any and all defenses that may be available to contest, negate, or disaffirm any action of the General Partners taken in good faith under this Power of Attorney.

13.6 **Effective Law.** This Agreement and the rights of the Partners shall be governed by and interpreted in accordance with the laws of the State of Texas.

13.7 **Assigns.** This Agreement shall be binding on and shall inure to the benefit of the Partners and their spouses as well as their respective legal representatives, heirs, successors and assigns.

13.8 **Counterpart Execution.** This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one (1) instrument.

13.9 **Gender and Number.** Whenever the context requires, the singular shall include the plural and the masculine shall include the feminine and neuter, as the identification of the person, corporation, or other entity may require.

13.10 **Severability.** This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules, and regulations of the State of Texas.

a. If any provision of this Agreement or its application to any person or circumstances shall, for any reason and to any extent, be held invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be effective and in force to the greatest extent permitted by law.

Signed on **LegalFormsForTexas.Com**

PREVIEW

[Typed name]

Attorney-in-Fact for all Limited Partners

[Typed name]

Attorney-in-Fact for all Limited Partners

PLEASE DO NOT COPY

Address for Notice:

**SCHEDULE A
LIMITED PARTNERS**

THIS DOCUMENT

Name	Address	Amount of Initial Capital Contribution	% Interest in Partnership

THANK YOU

LegalFormsForTexas.Com