

Form of Partnership Agreement

*Partnership Agreement*¹

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1. This form of partnership agreement has been drafted by the author, employing ideas suggested by the case law and by copies of partnership agreements from various law firms that, anonymously, supplied copies of their internal documents.

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THIS AGREEMENT (hereinafter "this Agreement") is made as of the ___ day of _____, 19 ___, having been executed on the dates set forth by each of the signatories hereto at the places indicated adjacent to his or her signature. Each signatory, for the purposes hereof, is designated a "Regular Partner," as hereinafter defined.

Sec. 1. PURPOSE OF AGREEMENT. The parties hereto desire to form and constitute a partnership solely for the practice of law (hereinafter "the Firm"). The Firm may acquire interests in other partnerships and corporations engaging in activities other than the practice of law but only if, in the opinion of legal counsel for the Firm, legal liability for such other activities is within the coverage of malpractice insurance covering the Firm and its partners.

Sec. 2. EFFECTIVE DATE. This Agreement shall be effective as of the date hereinabove first set forth, notwithstanding that one or more parties hereto may not execute and deliver this Agreement until a date subsequent thereto, except that any person executing this Agreement on a date after the date hereinabove first set forth shall be liable only for those acts or omissions of the Firm occurring after said date of execution; any such person shall be entitled to defense and indemnity by the Firm against claims arising out of any act or omission that occurred before said date of execution.

Sec. 3. NAME. The Firm shall be called "Jones, Smith & Roe." Each signatory hereto acknowledges that none of the names in the Firm name (except "_____") is intended to represent the surname of such signatory. Each signatory, on his or her own behalf and on behalf of his or her estate, agrees to make no present claim and no claim in the future for compensation on the ground that the Firm is employing a surname of such signatory. [_____, Esquire, on his/her own behalf and on behalf of his/her estate, waives any claim, now or in the future, for such compensation.] The Firm shall employ no trade name or style, other than as set forth above or as amended by the partners in accordance herewith, and shall not utilize in the partnership name the name of any person not admitted to practice law in the state of _____. Each partner whose name appears in the Firm name reserves the right, upon sixty (60) days' written notice to the Firm, to rescind the right of the Firm to the use of said name should any partner in the Firm be adjudged guilty of malpractice or violation of the Code of Professional Responsibility by the entity having jurisdiction in the state of _____ over such matters.

Sec. 4. TERM. The partnership shall exist for an indefinite term. Unless otherwise terminated in accordance with the provisions hereof, it shall continue in existence and shall not be dissolved notwithstanding the death, withdrawal, retirement, or expulsion of any partner or partners. The partnership may be terminated, upon the request of any Regular Partner (as defined herein), and after notice provided in the manner hereinafter described, upon the affirmative vote of seventy-five (75) percent of the Regular Partners taken in accordance with the procedures hereinafter set forth. Notwithstanding any termination of the partnership in accordance with the provisions of this paragraph, the partnership shall nevertheless continue in existence for the purposes of winding up its affairs in the manner prescribed in the Uniform Partnership Act, or any amendment or replacement thereof, in effect in the state of _____ on such date of termination.

The provisions of the preceding sentence shall not apply to proposals to dissolve the partnership voted upon pursuant to the provisions of Section 11 of this Agreement, concerning withdrawal, or Section 12, concerning expulsion, of a partner.

Sec. 5. HEADQUARTERS. The principal office of the Firm shall be situated in the city of _____, state of _____. The Firm may have such other office or offices as the Regular Partners may determine in the manner and in accordance with the procedures hereinafter set forth.

Sec. 6. LICENSE; CODE OF PROFESSIONAL RESPONSIBILITY. Each signatory to this Agreement undertakes to comply in every respect with all provisions of the Code of Professional Responsibility in effect in the state of _____ from time to time. Each signatory to this Agreement will take all reasonable steps to maintain his or her license to practice law in the state of _____, and in such United States courts as he or she may be admitted to practice. Failure of a partner to maintain such license or admission to practice, or to comply with provisions of the Code of Professional Responsibility, shall be grounds for expulsion of such partner from the Firm or other disciplinary action against such partner taken in the manner and in accordance with the procedures hereinafter set forth.

Sec. 7. CLASSES OF PARTNERS. The partnership shall comprise the Regular Partners who are signatories hereto, and such other Regular Partners as may be admitted to the partnership from time to time hereafter. The Firm shall also include Special Partners, Transition Partners, and Retired Partners.

Sec. 7.1 Regular Partners. A "Regular Partner" is a full-time working partner with an ownership interest in the Firm and the right to vote upon all matters pertaining to, and brought to a vote by, the Firm. A Regular Partner may be admitted to the Firm by vote of the Regular Partners in the affirmative number required and taken in the manner provided hereinafter in this Agreement. The admission of a Regular Partner shall not cause a dissolution of the partnership. Each Regular Partner shall devote substantially all of his or her working time and attention to the affairs of the Firm, except as the Executive Committee (hereinafter described) shall otherwise approve. If any Regular Partner requests part-time status or absence in excess of normal vacation or for purposes other than business of the Firm, he or she shall request the prior approval of the Executive Committee, which shall approve or disapprove the request; the Executive Committee

shall recommend to the Percentage Draw Committee (hereinafter described) whether any adjustment in the Regular Partner's compensation during such change in status or absence is appropriate.

Sec. 7.2 Special Partners. Any person not voted upon or, if voted upon, not voted upon favorably, for admission to the Firm as a Regular Partner may be admitted as a "Special Partner." Any person so admitted shall be a member of the class of Special Partners, but may have such other designation (such as Contract Partner, Nonequity Partner, or the like) as the Executive Committee shall determine. The vote for admission as a Special Partner shall be in the affirmative number required and taken in the manner hereinafter provided in this Agreement.

Sec. 7.2.1 Voting by Special Partners. Special Partners shall receive notice of, and the right to attend, all meetings of the partnership, except a meeting, or such portion thereof, at which the distributive shares of the Regular Partners are to be discussed or voted upon. Special Partners shall have the right to vote upon all matters presented to the Regular Partners for vote, except that Special Partners shall have no vote upon any of the following:

- (i) Admission of partners of any class
- (ii) Matters related to the borrowing of money by the Firm
- (iii) Matters related to the leasing of office space, furniture, or equipment by the Firm
- (iv) Revocation of the authority of a partner of any class to act on behalf of the Firm
- (v) Expulsion from the Firm or other discipline of a partner of any class
- (vi) Establishment or amendment of the distributive share of any Regular Partner

Sec. 7.2.2 Financial Interests. Special Partners shall have no share in the net profits and losses of the Firm, and no interest in Firm Capital or Firm Inventory. The term "Firm Inventory," as used herein, shall mean the Firm's accounts receivable and unbilled work in process, including work performed pursuant to contingent fee agreements.

Sec. 7.2.3 Power and Authority. Special Partners shall have the power and authority to act in all client matters on behalf of the Firm and to sign opinions of counsel on behalf of the Firm, provided, however, that Special Partners shall have only such express powers to sign on bank accounts and trust accounts of the Firm as shall be granted individually to the Special Partner concerned by the Executive Committee. By the affirmative vote of the same percentage of Regular Partners as were required to vote affirmatively for admission of the Special Partner to the Firm, the Special Partner's association with the Firm may be terminated, without prior notice to the Special Partner and without specification of any reason therefor. By the affirmative vote of not less than two-thirds (66 and 2/3 percent) of the membership of the Executive Committee, any express power granted to the Special Partner may be terminated, without prior notice to the Special Partner and without specification of the reason therefor. In the event of an affirmative vote to terminate the Special Partner or to rescind any express power previously granted, the Executive Committee may take such action on behalf of the Firm as it considers reasonable or advisable to assure the Firm and the partners of the protection of such vote, including such publication thereof as the Executive Committee deems necessary to protect the interests of the Firm.

Sec. 7.2.4 Indemnification of Special Partners. The Firm shall at all times hold each Special Partner and his or her estate harmless from, and indemnify him, her, or it against, all obligations of the Firm incurred before as well as after his or her retirement, death, or disability, except such obligations of the Firm as arise in whole or in part from the actions of the Special Partner and as are excluded or excludable from coverage (other than by reason of such policies' deductible amount) under the terms of the Firm's liability insurance policies otherwise available to indemnify the Firm against such obligations.

Sec. 7.2.5 Other Matters Pertaining to Special Partners. The Executive Committee may, from time to time, establish such policies relating to the compensation, benefits, powers, and responsibilities and limitations thereof, regarding the Special Partners, as the Committee deems appropriate. Any Special Partner aggrieved by such action may bring the policy to the attention of any meeting of the Regular Partners, who shall have the authority to amend, modify, or rescind the policy by such vote of the Regular Partners as hereinafter specified.

Sec. 7.3 Transition Partners. A Regular Partner who elects to retire, may, upon not less than six (6) months prior written notice to the Firm, retire before age sixty-five (65), and if he or she has attained his or her sixty-fifth birthday, shall retire, commencing on the first day of the fiscal year of the Firm next following said election or birthday. Upon such retirement, he or she shall become a "Transition Partner," and shall continue in such capacity until attaining Retired Partner status. A Transition Partner is encouraged, but is not required, to continue to practice law as a partner in the Firm, but is expected to reduce his or her hours of active practice, to introduce to other members of the Firm those clients with whom the Transition Partner is most familiar, and to turn over to other members of the Firm such legal work on behalf of his or her clients as it may be feasible and appropriate to do. As soon as practicable after achieving the status of Transition Partner, such person shall resign all fiduciary positions (for example, trusteeships and conservatorships) held at the behest of clients of the Firm. A Transition Partner shall no longer be eligible for nomination or election to the Partnership Draw Committee or the Executive Committee of the Firm, but shall be entitled to attend all partnership meetings and to vote at such meetings. A Transition Partner shall not be liable for a capital assessment at any time from and after the date he or she attains the status of Transition Partner. The Firm reserves the right, upon the recommendation of the Firm's Executive Committee, to change the status of a Transition Partner to that of a Retired Partner by a vote of the Regular Partners in the percentage and manner hereinafter set forth. A Transition Partner whose status is thus changed shall continue to receive payments from the Firm equivalent to the payments he or she would have received, and during the same period he or she would have served, as a Transition Partner, but shall not be a partner in the Firm for any purpose whatsoever.

Sec. 7.3.1 Compensation of Transition Partner. A Transition Partner shall receive a distribution each year by applying the percentages in the table below to such partner's "Previous Annual Income." The term "Previous Annual Income" shall mean the dollar amount of the partner's average distribution received during the five years, not necessarily consecutive, out of the last ten years, in which such partner's compensation was the highest, and any other monies received by or credited to him or her in the form of taxable income reported to the Internal Revenue Service on Form K-1.

PERCENTAGE

Age at Payment	Age at Retirement					
	60	61	62	63	64	65
61	61.5					
62	41.0	64.2				
63	20.5	42.8	66.9			
64	20.5	21.4	44.6	69.6		
65	20.5	21.4	22.3	46.4	72.3	
66	20.5	21.4	22.3	23.2	48.2	75.0
67	20.5	21.4	22.3	23.2	24.1	50.0
68	20.5	21.4	22.3	23.2	24.1	25.0
69	20.5	21.4	22.3	23.2	24.1	25.0
70	20.5	21.4	22.3	23.2	24.1	25.0

[COMMENT: The above table is illustrative of a scaling down of payments to a retiring partner. Another, less complicated version might reduce the retiring partner's compensation in each year after retirement by an amount equal to 20 percent of his or her compensation in the preceding year.]

Sec. 7.3.2 Other Benefits. A Transition Partner shall continue to enjoy all of the benefits and emoluments pertinent to him or her as a Regular Partner, including the right to attend and vote at (to the extent permitted by the provisions hereof) all meetings of the partnership.

Sec. 7.4 Retired Partners. Any person who has retired from the Firm pursuant to the provisions of this section is a "Retired Partner." A Regular Partner or a Special Partner may retire from the Firm at the end of any fiscal year of the Firm in which he or she attains age sixty (60), or at such later date as he or she selects. Any expression of intent to withdraw before age sixty (60) shall be deemed an election to withdraw from the Firm and shall be subject to the provisions of Section 11 hereof. A partner must retire from the Firm not later than the end of the fiscal year of the Firm in which he or she attains age seventy (70). Unless the retiring partner and the Executive Committee of the Firm shall otherwise agree, such partner's membership in the Firm in the case of a Regular Partner, and the partner's association with the Firm in the case of any other partner, shall terminate at the end of the Firm's fiscal year in which retirement is requested.

Sec. 7.4.1 Benefits to Retired Partners. Each partner who retires from the firm shall be entitled to receive a retirement benefit, calculated in accordance with, and subject to the conditions expressed in, Section 15 hereof. In addition, the Firm will use its best efforts to enable each Retired Partner to participate, at his or her election, in the Firm's medical plan; provided, however, that the entire cost of his or her coverage under such plan shall be paid by the Retired Partner. A Retired Partner will not be covered under the Firm's life insurance plan for classes of partners other than Retired Partners; should the Firm decide to make available any form of group life insurance to Retired Partners, the Firm will use its best efforts to advise each Retired Partner

of such availability. The Firm will purchase and pay the premium upon such malpractice insurance as may be necessary to provide defense for, and indemnity to, the Retired Partner against any claim, regardless of when made, regarding matters arising on or before the effective date of his or her retirement.

Sec. 7.4.2 Partnership Obligations. No Retired Partner shall have any liability whatsoever for any liability or indebtedness of the Firm, regardless of whether the liability or indebtedness arose before or after the retirement from the Firm of the Retired Partner. The provisions of Section 22 of this Agreement, regarding indemnity, shall apply to such liability.

Sec. 7.4.3 Of Counsel Status. Unless a retiring partner notifies the Firm of his or her desire not to do so, any partner who retires from the Firm shall continue in "Of Counsel" status with the Firm until the end of the Firm's fiscal year in which such Retired Partner attains age seventy-two (72). The Executive Committee may, in its discretion, terminate the Of Counsel status of any Retired Partner at any time following two (2) years after the effective date of his or her retirement if it shall determine that continuation of such status is not in the mutual best interests of the Firm and such Retired Partner. The Executive Committee may, in its discretion, invite a Retired Partner to extend Of Counsel status beyond age seventy-two (72), on a year-by-year basis, if it determines that such extension would be of significant benefit to the Firm.

Sec. 7.4.4 Of Counsel Agreement. Each Retired Partner shall be entitled to receive from the Firm, in addition to the benefits hereinabove mentioned and such other benefits as mutually may be agreed upon, an office and office services, provided that the Retired Partner and the Firm enter into an Of Counsel agreement that sets forth a description of benefits to be provided the Retired Partner pursuant to Section 7.4.1 and Section 7.4.2, and a specification of status pursuant to Section 7.4.3 and of duties pursuant to Section 7.4.5.

Sec. 7.4.5 Duties. Each Retired Partner continuing in Of Counsel status shall be expected to be available to the Firm upon request for reasonable periods of time for client development and for assistance with special Firm projects as requested by the Executive Committee. The amount of time to be devoted to such matters without compensation, and the rate of compensation to be provided for time expended in excess thereof, shall be set forth in the Of Counsel agreement between the Firm and the Retired Partner. A Retired Partner shall not be expected to perform legal services for clients of the Firm. Such Retired Partner may, however, perform reduced levels of legal services to such clients to the extent authorized by the Executive Committee.

Sec. 7.4.6 Malpractice Insurance; Indemnity. Should the Retired Partner be requested or authorized to perform legal services or to assist with special Firm projects, the Firm will provide, at Firm expense, malpractice insurance to defend and indemnify the Retired Partner through the period of limitation for the commencement of any legal action against the Retired Partner. Such Retired Partner shall be indemnified by the Firm and held harmless from and against any liability, loss, cost, or expense arising in connection with the performance of any such duty.

Sec. 7.5 Restrictions on Authority. No partner of the Firm, of any class, may perform any

of the following acts on behalf of the Firm without the prior express written approval of the Executive Committee of the Firm:

- (i) Open a bank account
- (ii) Sell, transfer, or pledge any asset of the Firm
- (iii) Issue a guaranty or agree to indemnify any person or firm
- (iv) Lease any real or personal property, except as permitted by subparagraph (v), below
- (v) Contract for any goods or services not required in the ordinary course of representation of a client (Examples of permitted contracts required in the ordinary course of representation are those related to the rental of temporary office space during extended court trials, hiring of court reporters, utilization of electronic research data services, provision of temporary office services, service of process, and printing of court records, briefs, and other documents.)

Sec. 8. PROCEDURAL MATTERS.

Sec. 8.1 Notice. Each partner shall be entitled to receive a notice of each meeting of the partnership, except as stated in Section 8.2, below, addressed to him or her at such place as he or she shall specify in writing from time to time to the Secretary of the Executive Committee, or such other employee of the firm as the Executive Committee shall from time to time designate. Such notice may be delivered by mail, facsimile transmission, or computer, unless a partner has indicated that notice may not be given by one or more of such means. Such notice shall state the time, place, and purpose of the meeting and shall be accompanied by an agenda and brief description of the action to be taken by the partners entitled to vote. Failure to give such notice to any partner not entitled to vote at such meeting shall not invalidate any action taken by the partnership at such meeting. Failure to deliver such notice at least five (5) business days before such meeting to a partner entitled to vote at such meeting shall invalidate any action taken at such meeting, unless the partner failing to receive notice shall nonetheless be present at such meeting or shall waive such notice before or after such meeting. Notice by mail shall be deemed delivered on the third (3d) day after the date of postmark; notice delivered by facsimile or computer transmission shall be deemed delivered on the date of dispatch.

Sec. 8.2 Notice Not Required. No notice is required to be given to a partner of any meeting at which the partnership shall consider expulsion of, or shall take a vote to expel, such partner.

Sec. 8.3 Quorum. Unless otherwise specified herein, a quorum at any meeting for the taking of any action by the partnership shall be a majority of the partners entitled to vote at such meeting.

Sec. 8.4 Proxies. Any partner entitled to vote and unable to attend a meeting or any portion thereof at which a vote will be taken may give a proxy to another partner. The proxy may be in writing, at the election of the grantor, and may direct the proxyholder to vote for or against a particular item, or may give the proxyholder discretion to vote as he or she may see fit. In the event of a controversy, the Chair of the meeting shall determine which of two or more partners is the holder of a valid proxy, and shall decide that the holder of a written proxy, signed by the grantor, possesses the valid proxy. If the decision of the Chair is contested, or if the Chair deems no person to hold a valid proxy, the Chair shall not announce the outcome of the vote until he or

she has determined, from the grantor, at or after the meeting, which of the persons claiming to be a proxyholder holds the valid proxy.

Sec. 8.5 Electronic Conference Meetings. Meetings of the partnership, noticed in accordance with the provisions of this Agreement, may be held by use of electronic device, as long as such device permits each participant in the meeting to hear each other person when such other person is addressing the meeting.

Sec. 8.6 Voting.

Sec. 8.6.1 Unanimous Votes Required. The unanimous vote, in person or by proxy, of all partners entitled to vote shall be required for approval of the following actions, provided that the vote of the affected partner in the case of votes upon items (ii) and (iii) below, and the votes of the objecting partners in the case of item (viii) below, shall be excluded in determining the partners entitled to vote:

- (i) Admission of a Regular Partner
- (ii) Expulsion of a partner of any class
- (iii) Changing the status of a Transition Partner to that of Retired Partner
- (iv) Borrowing of money by the Firm
- (v) Leasing of office space, furniture, or equipment for a term of one (1) year or more
- (vi) Decision to bring legal action against a client of the Firm
- (vii) Decision to resign the representation of a client of the Firm
- (viii) Decision to represent a client upon objection of two or more partners of any class
- (ix) Assessment of a capital contribution upon the Regular Partners
- (x) Decision to (a) change the fiscal year of the Firm, or (b) change the accounting principles from the cash to the accrual method of accounting for the Firm

Sec. 8.6.2 Ninety Percent Vote Required. The vote of ninety (90) percent of all partners entitled to vote shall be required for the following actions:

- (i) Approval of the admission of a Special Partner to the Firm
- (ii) Adoption of a penalty against any Regular Partner failing to meet an assessment to provide additional capital to the Firm

Sec. 8.6.3 Majority Vote Required. Unless otherwise specifically provided in this Agreement, any other matter voted upon by the partners entitled to vote may be decided by a majority of such partners present and voting, in person or by proxy, at any meeting of the Firm called for the purpose.

Sec. 9. COMMITTEES.

Sec. 9.1 Executive Committee. The Executive Committee of the Firm shall comprise seven persons elected by the Regular Partners from among their number. Each shall serve for a period of three (3) years and until his or her successor has been chosen and qualified. Each such term shall commence on January 1 of the year following election and shall expire on the third December 31st thereafter. Each member of the Executive Committee may serve a second

consecutive term in that position if so elected, but may not serve in that position again for at least one (1) year following the completion of the second consecutive term. The Executive Committee shall oversee the financial operations and controls utilized by the Firm; shall recommend to the partnership the structure, form of organization, and personnel to provide the legal and nonlegal staffing of the various departments of the Firm; and shall serve as the supervisory body for the management personnel of such departments. The Executive Committee shall have such other powers and duties as may be assigned to it by the partnership. The Executive Committee shall meet not less than once per calendar month and shall report its activities to the partnership at least once per calendar quarter. The Executive Committee shall select from among its members a Chair and a Vice Chair, and shall choose from the nonlegal staff of the Firm an appropriate person to perform the duties of Secretary to the Committee. The Chair may serve a second consecutive term in that position if so elected but may not serve on the Executive Committee in any capacity for at least one (1) year following the completion of the second consecutive term as Chair or the earlier completion of service in that capacity. The presence of at least five (5) members of the Executive Committee at a meeting thereof shall constitute a quorum. All actions by the Executive Committee, unless otherwise provided in this Agreement, shall be taken by majority vote of the whole committee.

Sec. 9.2 Partnership Shares.

Sec. 9.2.1 Establishment of Shares. The Regular Partners may, by unanimous consent, agree upon the percentage share of each Regular Partner of the Firm, which percentage shall govern for purposes of determining each Regular Partner's interest in Firm assets and in his or her share of distributive Net Income. Such agreed share shall continue until one (or more) Regular Partners advises the Executive Committee that he or she is no longer satisfied with the percentage assigned to him or her. Failing such agreement, the percentage share of each Regular Partner shall be determined by the Partnership Draw Committee.

Sec. 9.2.2 Partnership Draw Committee. The Partnership Draw Committee shall consist of five (5) Regular Partners elected by them from among its number. Each shall serve for a period of three (3) years and until his or her successor is chosen and qualified. Each member of the Partnership Draw Committee may serve second and third consecutive terms in that position if so elected but may not serve in that position again for at least one (1) year following the completion of the second, or, if so elected, a third consecutive term. The Partnership Draw Committee shall select a Chair from among its number. The Chair may serve a second and third consecutive term in that position if so elected but may not serve on the Partnership Draw Committee in any capacity for at least one (1) year following the completion of the second or, if so elected, third consecutive term as Chair or the earlier completion of service in that capacity. The presence of at least three (3) members of the Partnership Draw Committee shall constitute a quorum at any meeting thereof. All actions by the Partnership Draw Committee, unless otherwise provided in this Agreement, shall be taken by majority vote of the whole committee. The committee shall report annually to the partnership the criteria to be utilized by the committee in recommending the percentage of net income of the Firm to be distributed to each Regular Partner during the course of the ensuing fiscal year. The members of the committee shall meet with each Regular Partner during the final quarter of the fiscal year of the Firm and discuss the criteria as applied to such Regular Partner. The committee shall then determine the percentage

amounts of net Firm income to be awarded to each individual Regular Partner in the ensuing year, and advise each Regular Partner of the percentage to be recommended for him or her. Any Regular Partner who, within ten (10) days after receipt of such advice, fails to object by letter to the Chair of the Partnership Draw Committee, shall be deemed to have accepted the recommended amount of distribution. The committee shall then report the recommended percentages to the Executive Committee. The Executive Committee shall, within twenty (20) days after receipt of such report, either (a) approve the recommendations as submitted, whereupon they will become the assigned percentages of each Regular Partner for the year, or (b) return the recommendations to the Partnership Draw Committee, indicating the disapproval of the Executive Committee and requesting further review. Within ten (10) days after receipt of any disapproval by the Executive Committee, the Partnership Draw Committee shall complete a review of its recommendations, make such changes therein, if any, as it deems appropriate, and forward any such changes to the Executive Committee. Such reviewed recommendations, as and if amended, shall become the final awards to each Regular Partner for the ensuing year. No individual Regular Partner's percentage shall be changed after determination of a final award as specified in the preceding sentence, except upon the affirmative vote at a meeting of the Regular Partners of eighty (80) percent of the Regular Partners, present in person or voting by proxy, including the vote of the Regular Partner objecting to the recommended percentage.

[COMMENT: As discussed in the text of this book, the manner of fixing partnership draws needs the closest scrutiny to assure that the process will be one having the support of all partners. The initial fixing should be in the hands of a small cadre of well-respected partners. The appeal procedure should be available, simple, and expeditious. The above paragraph suggests just one method of achieving that result.]

Sec. 9.3 Successors. Should seats become vacant on the Executive Committee or the Partnership Draw Committee, for any reason, before the end of the normal term, successors shall be elected by the Firm, in the manner and according to the procedures prescribed for the election of regular members of said committees, for the balance of the unexpired term, except that no such election shall be held if less than six (6) months remain in the term of any member whose seat on either committee has become vacant. Service as a member of the Executive Committee or the Partnership Draw Committee for more than two (2) years in completing an unexpired term shall constitute a term on the respective committee for purposes of the term limitations set forth in the preceding sections concerning the Executive Committee and the Partnership Draw Committee. If the seat of the Chair of the Executive Committee or the Partnership Draw Committee shall become vacant, the remaining members of the respective committee shall forthwith elect a successor to hold the temporary office of Chair until a successor is elected by the Firm and a new Chair is elected and qualified; the full committee shall proceed to elect such Chair promptly upon the filling, by the Firm, of the vacancy on the committee.

Sec. 10. FINANCIAL MATTERS.

Sec. 10.1 Assessments. The Firm may from time to time call upon the Regular Partners to provide additional capital for the Firm. The vote upon such proposal, as provided in Section 8.6, shall be limited to the Regular Partners and must be unanimous. Any such assessment shall allow each Regular Partner a reasonable period of time to deliver the funds required. The proposal shall

include a statement of the penalty, if any, to be suffered by any Regular Partner who fails to provide the amount assessed against him or her. Should any Regular Partner fail to provide the additional capital called for by the assessment, any other Regular Partner(s) may agree to supply the deficiency, and that partner (or those partners) shall have his or her capital account adjusted accordingly upon receipt of the additional funds so provided. No penalty shall be imposed upon any Regular Partner whose deficiency is met in full by any other Regular Partner(s).

Sec. 10.2 Compensation of Partners. Partners shall be entitled to draw against their percentage of the estimated Net Income of the Firm for the applicable fiscal year as such percentage is established by the Percentage Draw Committee from time to time. No partner shall be entitled to draw more than such established percentage, and should the actual Net Income of the Firm for the applicable fiscal year be less than the estimated Net Income upon which the percentage draw of the partner was based, the difference between the amount to which the partner would have been entitled based upon actual Net Income and the amount actually drawn by the partner shall be carried upon the books of account of the Firm as a loan to such partner, to be repaid as the Executive Committee and the Percentage Draw Committee, acting as a single committee, shall by a two-thirds vote determine.

[COMMENT: In providing for partnership draws, many firms assume that each year will always produce net income. For some firms, in some economic times, that may not be true. Consequently, if the firm is to borrow money in a particular year, then the funds forwarded to the partners should be considered loans to them and a method of repayment should be adopted to parallel the firm's obligations. Alternatively, the agreement can provide that there will be no partnership draws in any year in which the firm fails to have sufficient net income.]

Sec. 10.3 Firm Capital.

Sec. 10.3.1 Capital Contributions. Each Regular Partner shall contribute to the Firm the amount of capital, in cash, as specified in the Schedule of Capital Contributions annexed hereto. Each person admitted to the Firm as a Regular Partner shall contribute an amount equal to the least amount shown on such annexed schedule. Capital so contributed shall be used only for the purpose of making capital expenditures and in no event may be used for normal operating and maintenance costs of the Firm. Whether a particular expenditure is a capital expenditure shall be determined by the Firm's certified public accounting firm.

Sec. 10.3.2 Working Capital. The Executive Committee shall have the authority to borrow, from time to time and for a period not exceeding one (1) year, sufficient funds to meet the cash requirements of the Firm for its operating expenses, provided that any borrowings in excess of \$ _____ shall first be approved, at a meeting of the Firm, by the unanimous vote of the Regular Partners.

Sec. 10.4 Net Income. The term "Net Income," whenever used in this Agreement, shall mean net income determined by the Firm's independent certified public accountant applying uniform accounting principles on a consistent basis under the cash method of accounting.

Sec. 10.5 Insurance. The Executive Committee shall have the responsibility to solicit bids for coverage of the Firm and its partners against the risk of claims for malpractice and other risks

of liability, losses due to injury to property, workers' compensation claims, and the like. No partner shall make any statement or withhold any information on any application of the Firm for insurance that would tend to make such application false; any partner in violation of this provision may be expelled, and shall be liable in damages to the Firm for such conduct. The Executive Committee shall report to the partners the bids for coverage received, and shall recommend approval of such bids as the committee deems appropriate. Any bid so recommended may be approved at any meeting of the Firm, and the insurance purchased upon the affirmative vote of a majority of the partners entitled to vote.

Sec. 10.6 Benefit Programs. The Executive Committee shall solicit, review, and recommend to the partnership such benefit programs, for coverage of partners and employees of the Firm regarding life and health insurance, as the committee may deem advisable. Any employee benefit program recommended by the committee may be approved at any meeting of the Firm, and the program implemented upon the affirmative vote of three-quarters of the partners entitled to vote.

Sec. 10.7 Vacations and Sabbatical Leave. Each partner shall be entitled to the equivalent of one (1) calendar month of vacation during each calendar year, which vacation may be taken at one time or in increments of time during the year. Each partner with ten (10) or more years of service as a partner with the Firm shall be entitled to a sabbatical leave not to exceed six (6) months in duration. During such sabbatical leave, such partner shall receive an amount equivalent to fifty (50) percent of such partner's compensation during the preceding fiscal year. No partner may enter upon sabbatical leave without the prior approval of the head of the department to which he or she is assigned, and the concurrence of the Executive Committee in such approval. Each partner is expected to arrange for proper attention, by another partner or other partners during his or her absence on vacation or sabbatical leave, to matters for which the partner on vacation or leave normally would be responsible. The provisions of this Section 10.7 may be amended by the affirmative vote of two-thirds of the Regular Partners.

Sec. 11. WITHDRAWAL; EFFECT. A partner may withdraw from the Firm at any time upon not less than three (3) months' notice in writing, addressed to the Chair of the Executive Committee. Unless otherwise mutually agreed between the Firm and the withdrawing partner, all interest of the withdrawing partner in the Firm shall cease as of the date given in the notice (hereinafter "Effective Date"), except the right of the partner to receive such payments as may be due him or her pursuant to provisions of this Agreement. Unless otherwise determined by the unanimous vote of the remaining partners, the withdrawal of a partner shall not cause the dissolution of the partnership.

Sec. 11.1 Payments to Withdrawing Partner. A partner who withdraws from the Firm pursuant to Section 11 of this Agreement shall be entitled to receive the payments described in this Section 11. A partner who withdraws and fails to give the notice specified in Section 11, shall be subject to any penalty voted in the manner prescribed and in accordance with Section 8.6.2 of this Agreement.

Sec. 11.2 Capital Account. The Firm shall pay to the withdrawing partner, in one (1) payment or, at the Firm's option, in calendar quarterly installments over a period not to exceed

three (3) years (together with interest on the unpaid amount at not more than the prime rate then prevailing), the amount, if any, standing in the capital account of the withdrawing partner as of the Effective Date.

Sec. 11.3 Percentage Draw; Compensation. The Firm shall pay to

(a) the withdrawing Regular Partner or Transition Partner, within sixty (60) days after the Effective Date, that portion of the percentage draw of the withdrawing partner earned by him or her to the Effective Date and not theretofore paid to him or her, or

(b) the withdrawing Special Partner, within thirty (30) days after the Effective Date, that portion of the compensation of the Special Partner earned but unpaid as of the Effective Date,

less any amounts owed to the Firm by the withdrawing partner for repayment of sums theretofore advanced to him or her by the Firm, or for services performed by the Firm for him or her, plus any amounts owed by the Firm to the withdrawing partner for reimbursement of expenses incurred by the withdrawing partner on behalf of, and theretofore unpaid by, the Firm. Notwithstanding the foregoing, the payment to any partner who withdraws from the Firm at any date within five (5) years of the date of his or her return from a sabbatical shall be reduced (but not to an amount less than zero) by an amount equal to the total paid to such partner while he or she was on sabbatical leave, multiplied by the following fraction: 1 minus N/60, where N is the number of months (not to exceed sixty (60)) worked after such return.

Sec. 11.4 Interest in Inventory. The Firm shall pay to the withdrawing partner, in quarterly installments over a period not to exceed three (3) years as the Firm in its discretion shall determine, the amount of the interest (hereinafter "Percentage Interest"), if any, of the withdrawing partner in the Firm's accounts receivable and unbilled work in process (together with interest on the unpaid amount at the prime rate then prevailing). It is agreed that such Percentage Interest shall be determined as of the last day of the Firm's fiscal year if it coincides with the Effective Date or, otherwise, the last day of the Firm's fiscal year preceding the Effective Date. It is agreed that to the extent the withdrawing partner would have a Percentage Interest in any contingent fee unearned at the Effective Date, the obligation of the Firm to pay the withdrawing partner's Percentage Interest in respect thereof, including the privilege of installment payment, shall be deferred until the amount of the fee is determined and received by the Firm.

Sec. 11.5 Personal Effects. The withdrawing partner shall remove from the premises of the Firm, on or before the Effective Date, all personal furniture, office equipment, effects, and files, and shall not remove any such items that are the property of the Firm. All files, records, forms, discs, tapes, software, memoranda, correspondence, and all documents and writings of any kind or nature pertaining to the business or clients of the Firm shall, as between the Firm and the withdrawing partner, remain in the sole and exclusive possession of the Firm.

Sec. 12. EXPULSION. A partner may be expelled immediately and without cause by the affirmative vote of that same number of partners required for his or her election to partnership if the vote for election were taken at the same time the vote for expulsion is taken. No notice of such meeting shall be required and, if given, such notice need state only the date, time, and place

of the meeting. Upon such expulsion, the partner so expelled thereafter shall have no right or interest in the Firm or any of its assets, clients, files, records, or affairs. Payments to a partner expelled shall be as set forth in Section 11 regarding a withdrawing partner. The expulsion of a partner shall not cause a dissolution of the partnership unless otherwise determined by vote of the remaining partners taken in the same manner as provided in Section 8.6.1 of this Agreement.

Sec. 13. DEATH OR PERMANENT DISABILITY OF A PARTNER.

Sec. 13.1 Death. The death of a partner shall terminate all of his or her interest in the Firm, its property and assets, and, in the case of a Regular Partner, in the partnership. The Firm shall pay to the designee of the deceased partner, within thirty (30) days of the date of death,

(a) in the case of a partner other than a Special Partner, the percentage interest of the partner earned but unpaid plus his or her interest in Inventory, as of the date of death, and

(b) in the case of a Special Partner, the compensation earned by him or her and unpaid as of the date of death,

less any amount representing funds advanced to the partner for expenses unaccounted for by the deceased partner, plus, at the request of, and against presentation of appropriate bills from the designee of the deceased partner, any amount representing amounts expended by the deceased partner for client or Firm matters, and for which the deceased partner previously was not reimbursed. In addition, within sixty (60) days after the date of death, the Firm will pay to the designee of the deceased partner, other than a Special Partner, his or her capital account as shown on the books of the Firm. The surviving Regular Partners of the Firm shall indemnify the estate of the deceased partner against any liability for bank or other debt of the Firm existing at the time of death.

Sec. 13.2 Permanent Disability. A partner may be determined to be permanently disabled upon the affirmative vote of eighty (80) percent of the partners entitled to vote, including the partner whose permanent disability is in issue. Upon a determination that a partner is permanently disabled, effective on the date of the vote so determining, the partner shall have no further interest in the Firm and shall receive the payments otherwise payable to the designee of a deceased partner, as in Section 13.1 above provided.

Sec. 14. TAX EFFECT. It is contemplated by the parties to this Agreement that any payments hereunder for the interest in the Firm of a withdrawing, permanently disabled, or deceased partner are, to the extent that they represent payment for partnership properties, capital payments falling under Section 736(b) of the Internal Revenue Code. All other payments for the interests of such persons are intended by the partners as payments of partnership income under Section 736(a) of the Internal Revenue Code. Each partner covenants for himself/herself and his/her heirs and assigns that he or she will make no claims or representations with reference to the income tax nature of any such amounts that are inconsistent with the intent expressed in this Section 14.

Sec. 15. RETIREMENT BENEFIT.

Sec. 15.1 Amount Payable. Each partner who retires from the Firm pursuant to Section 7.4 shall be entitled to a retirement benefit from the Firm. A partner who has served as a partner of the Firm for ten (10) or more years at the time of retirement shall be paid an amount equal to seventy-five (75) percent of such partner's Average Earned Income (as defined). In the case of a partner who has served as a partner of the Firm for less than ten (10) years at the time of retirement, the retirement benefit shall be reduced to an amount determined as follows: the amount calculated by the formula in the preceding sentence shall be multiplied by a fraction, the numerator of which is the number of years the retired partner served as a partner in the Firm and the denominator of which is ten (10).

Sec. 15.2 Condition to Receipt. Any partner who retires from the Firm shall, as a condition of receiving payments under Section 15.1 hereof, agree with the Firm that he or she will not engage in the practice of law in competition with the Firm in the state of _____, or in any other state where the Firm then has an office, for the time period during which retirement payments are being made under Section 15.1. Any partner who does not so agree shall be treated as a withdrawing partner and entitled only to the payments provided in Section 11 hereof. If the Executive Committee determines that any retired partner who is receiving benefits determined under this Section 15 is engaging in activities in competition with the Firm or has solicited or received other than an insignificant amount of business from clients of the Firm, the Firm may, forthwith, terminate the remaining payments to such retired partner.

[COMMENT: The provisions above regarding retirement payments suggest an uncomplicated formula. Other provisions can be drawn to cover other arrangements to offer more generous payments to founding members, or members with longer service, of the firm. Some firms have related adjustments in the amount of the payment to changes in the cost-of-living index, or to variations in partners' average annual income, or to some combination of both. It may also be desirable to provide a cap on the total amount of benefits the firm is obligated to pay. This will obviate a situation where, following the retirement of a large group of very senior partners, the burden on the income of the firm might leave an amount insufficient to meet the compensation needs of the remaining active partners. In short, considerable thought, ingenuity, and innovation needs to go into the design of the retirement pay provision of the partnership agreement.]

Sec. 15.3 Consent. No amendment of the provisions of this Section 15 made after the retirement of a partner may change the method of calculating the amount of the benefit payable to a partner who has retired from the Firm, if the calculation required by such amendment would result in a reduction in the amount of the benefit receivable by the retired partner.

[COMMENT: Just as it may be desirable to protect the firm by including a cap on payments, so also it is appropriate to include this, or a similar, provision to prevent a reduction in benefit payments to a retired partner, other than through the normal operation of the formula in existence when the partner retires.]

Sec. 16. ACCOUNTING. Any partner (or, in the case of a deceased partner, his or her estate) who shall withdraw, be expelled, or die, who is not satisfied with the amounts determined by the Firm to be payable to him or her pursuant to the provisions of this Agreement, shall be entitled to an accounting, to be rendered by the firm of certified public accountants retained by the Firm. Should the partner (or, in the case of a deceased partner, his or her estate) be unwilling to accept

such firm of certified public accountants, a representative of that firm and the representative of a firm selected by the unwilling party shall select a third firm of certified public accountants that shall conduct the audit and render the accounting.

Sec. 17. PRIOR AGREEMENTS. Any and all agreements by or among the parties hereto made before the date hereof, excepting only such agreements as pertain to the life insurance, health insurance, and retirement plans of the Firm, are hereby rescinded, replaced, and superseded by this Agreement.

Sec. 18. PROHIBITION ON ASSIGNMENT. No partner shall directly or indirectly sell, assign, or encumber such partner's interest in the Firm, nor shall such partner permit such interest in the Firm to be directly or indirectly sold. No partner whose membership in the Firm shall have terminated, nor any person claiming on such partner's behalf, shall have any interest in the Firm's practice, business, assets, or profits other than for payments specifically provided for herein.

Sec. 19. RECORDS. All records, reports, files, computerized data, case materials, research memoranda, correspondence, and similar documents, compiled in the course of the performance of services with or for the Firm, except to the extent that a client or clients of the Firm may have rights thereto, shall be the exclusive property of the Firm. Any retired, withdrawn, or terminated partner shall have no rights in or with respect to any such records upon and after such partner's withdrawal, retirement, or other termination from the Firm, and, after the death of any partner, no personal representative of such partner or his or her estate shall have such right, except as expressly granted, in writing, by such client(s) or by the Executive Committee of the Firm.

Sec. 20. CONFIDENTIALITY. Any retired, withdrawn, or terminated partner shall maintain in strict confidence all information concerning the Firm's business and the business of its clients, its internal operations, profitability, and related matters, and shall not, without the express written consent of the Executive Committee, disclose any such information to any person not associated with the Firm.

Sec. 21. REVIEW. The provisions of this Agreement shall be reviewed by the partners, with a view to possible amendment or modification, during the second half of the Firm's fiscal year ending in the year 20___. Notwithstanding the foregoing, any partner may request a reconsideration of any provision of this Agreement by written petition to the Executive Committee, which petition shall set forth the requested change in the provision. The Executive Committee shall consider the proposal within sixty (60) days after receipt. If the Executive Committee, by majority vote, recommends consideration of the proposal by the Regular Partners, it shall be placed on the agenda of a regular meeting of the Firm for such consideration not later than one hundred twenty (120) days after receipt of such recommendation from the Executive Committee.

Sec. 22. INDEMNIFICATION. Each retired, withdrawn, or terminated partner, other than a partner expelled pursuant to the provisions of Section 12 hereof, shall be indemnified and held harmless by the Regular Partners from and against any Firm liability incurred after the date of such partner's retirement, withdrawal, or termination.

Sec. 23. SEVERABILITY. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof.

Sec. 24. AMENDMENT. This Agreement may be amended at any time by the vote of two-thirds of the Regular Partners, unless otherwise specifically provided herein with respect to discrete issues, and provided that no provision hereof requiring a greater vote than two-thirds of the Regular Partners may be amended except by the same greater vote.

Sec. 25. ARBITRATION. Any dispute or controversy arising under this Agreement, if not resolved by mutual agreement of the parties hereto, shall be submitted to arbitration before a panel of three arbitrators in the city of _____ for settlement under the commercial arbitration rules of the American Arbitration Association as then in effect, and judgment upon the award may be entered in any court of competent jurisdiction, provided, however, that the panel of arbitrators shall be chosen as follows: the Firm shall select one arbitrator and the other party to the controversy shall select one arbitrator, each of whom shall be a partner in a law firm in the United States having not less than the number of partners of the Firm; the two arbitrators thus selected shall select a third arbitrator, who shall also be a partner in a law firm in the United States having not less than the number of partners of the Firm. If the two arbitrators selected by the Firm and by the other party to the controversy are unable to agree upon the third arbitrator within thirty (30) days after their selection, the third arbitrator, satisfying the criterion aforesaid, shall be selected by the American Arbitration Association.

Sec. 26. COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same agreement.

Sec. 27. JOINDER. Each partner admitted to the Firm after the effective date hereof shall execute a joinder agreement to this Agreement, as it may be amended from time to time. Each such partner shall be deemed a party to and bound by this Agreement as of the effective date of his or her admission to the Firm.

Sec. 28. GOVERNING LAW. This Agreement shall be governed and interpreted in accordance with the laws of the state of _____.

IN WITNESS WHEREOF, the partners have executed this Partnership Agreement as of _____, ____.

[Names, typewritten, and signatures of all partners]

ATTACHMENT: Schedule of Capital Contributions (Name of partner, amount of contribution, and date of contribution).