

This sample document is the work product of a national coalition of attorneys who specialize in venture capital financings, working under the auspices of the NVCA. This document is intended to serve as a starting point only, and should be tailored to meet your specific requirements. This document should not be construed as legal advice for any particular facts or circumstances. Note that this sample document presents an array of (often mutually exclusive) options with respect to particular deal provisions.

NVCA Model Limited Partnership Agreement Insert Language on CFIUS

Definitions – Add in the appropriate alphabetical order

“**CFIUS**” shall mean the Committee on Foreign Investment in the United States or any member agency thereof acting in its capacity as a member agency.

“**Covered Transaction**” shall have the meaning set forth in the DPA.

“**DPA**” shall mean Section 721 of the Defense Production Act of 1950, as amended, including all implementing regulations thereof.

“**Foreign Person**” shall have the meaning set forth in the DPA.

“**Foreign Person LP**” shall mean any Limited Partner that is a Foreign Person.

“**LP Affiliate**” shall mean, with respect to any Limited Partner, any director, officer, manager, partner, member, or similar Person, or 5% or greater equity holder of such Limited Partner, and any Person controlling or under common control with such Limited Partner.

“**Material Nonpublic Technical Information**” shall have the meaning set forth in the DPA.

“**Non-Foreign Person LP**” shall mean any Limited Partner that is not a Foreign Person.

“**Portfolio Investment**” shall mean any investments made by the Partnership, including investments in Portfolio Companies or Portfolio Securities or any Idle Funds Investments, and shall include both the Partnership investment itself and the entity that is the target of that investment.

“**Substantial Interest**” shall have the meaning set forth in the DPA.

Add as a new section XXX (with reference to section YYY below):

XXX CFIUS.

(a) General. The General Partner is hereby authorized to take such actions as may be necessary or appropriate to cause the Partnership to (i) avoid being or becoming a Foreign Person and (i) make no Portfolio Investment that constitutes a Covered Transaction. For the avoidance of doubt, however, the General Partner shall be under no obligation to (A) cause the Partnership to forego an investment that would constitute a Covered Transaction or (B) take any action to avoid the Partnership being or becoming a Foreign Person. To the extent the Partnership is or becomes a Foreign Person or enters into a Covered Transaction, the General Partner shall seek to manage the affairs of the Partnership in a manner that manages any CFIUS risk related to the Portfolio Investments. Notwithstanding any provision of this Agreement to the contrary, the General Partner may take such steps in managing the affairs of the Partnership as it determines to be necessary or appropriate to ensure that the Partnership does not qualify as a Foreign Person. Prior to exercising the foregoing right, the General Partner and/or its counsel shall notify any affected Limited Partner in writing and agree to consult with such Limited Partner and its counsel in good faith regarding the

necessity of any such action, including taking into consideration any attempt by the Limited Partner to change the circumstances prompting the need for such action.

(b) Determination of Foreign Person LP Status. A Limited Partner shall be deemed to be a Foreign Person LP for purposes of this Agreement (i) upon any determination by the General Partner that such Limited Partner is a Foreign Person LP hereunder or (ii) if such Limited Partner is a Foreign Person under the DPA. Each Limited Partner acknowledges and agrees that (i) it has accurately responded to the questions in the section labeled “CFIUS Foreign Person Status” in its Subscription Agreement and (ii) it will promptly provide notice of any changes to its status that would alter the responses provided in its Subscription Agreement. Each Non-Foreign Person LP acknowledges and agrees that it shall not accept any investment or engage in any activity that would cause it to become a Foreign Person without providing advance written notice to the Partnership. Whether or not such notice is provided, any Non-Foreign Person LP that becomes a Foreign Person acknowledges and agrees that upon such change in status it will immediately become a Foreign Person LP subject to the restrictions in Section XXX(c).

(c) Limitations on Foreign Person LPs. Notwithstanding anything to the contrary in this Agreement, and except as the General Partner shall, in its sole discretion, otherwise determine, each Foreign Person LP acknowledges and agrees that neither it nor any of its LP Affiliates shall:

(i) have the authority to approve, disapprove, or otherwise control any decision of the General Partner, including any decision of the Partnership to engage in a Portfolio Investment; or

(ii) have the authority to unilaterally dismiss, prevent the dismissal of, select, or determine the compensation of the General Partner;

and in addition, without the written consent of the General Partner, each Foreign Person LP acknowledges and agrees that neither it nor any of its LP Affiliates shall, by virtue of its status as a Limited Partner:

(iii) have the right to communicate with the Partnership, any Portfolio Investment or the management thereof regarding the day to day operations of its business (outside of participation on the LP Advisory Committee);

(iv) become actively involved, directly or indirectly, in the management or operation of the Partnership or any Portfolio Investment (outside of participation on the LP Advisory Committee);

(v) obtain or seek to obtain access to Material Nonpublic Technical Information of the Partnership or any Portfolio Investment;

(vi) obtain or seek to obtain membership or observer rights on the board of directors or equivalent governing body of the Partnership, if any, or any Portfolio Investment (outside of participation on the LP Advisory Committee);

(vii) become involved with or engage in any substantive decision-making of the Partnership or any Portfolio Investment regarding U.S. critical infrastructure, critical technologies, or sensitive personal data as defined under the DPA; or

(viii) become involved with or engage in the purchase, lease, or concession of U.S. real estate by the Partnership or any Portfolio Investment.

(d) Limitations on All Limited Partners. Each Limited Partner acknowledges and agrees that it shall notify the General Partner within fifteen (15) days of the date upon which any foreign government holds a Substantial Interest in it or its LP Affiliates during the Term.

(e) CFIUS Information Requests. Each Limited Partner acknowledges and agrees that it shall cooperate with any requests for information from the General Partner made from time to time for the purpose of determining compliance with this Section XXX and with the DPA. Each Limited Partner acknowledges and agrees that such requests may include requests for additional information on that Limited Partner's (and its LP Affiliates') ownership, holdings, investments, and relationships with U.S. and foreign persons. Each Limited Partner acknowledges and agrees that it shall cooperate with the General Partner with respect to any reporting and disclosure requirements imposed upon the Partnership under the DPA or by CFIUS. Each Limited Partner shall use reasonable best efforts to provide relevant information requested by CFIUS or other U.S. government authorities on behalf of and on matters related to CFIUS.

(f) CFIUS Isolation Mechanisms. The Partners acknowledge and agree that the General Partner may determine that it is in the best interests of the Partnership or any of the Partners (i) to make or hold the investments of any Foreign Person LP through an Alternate Investment Vehicle as described in Section YYY, (ii) to allocate profits and/or losses from a particular Portfolio Investment, or (iii) to otherwise isolate any Foreign Person LP from one or more Portfolio Investments, in each case (i)-(iii) in order to reduce the likelihood of the Partnership entering into or having been deemed to have entered into a Covered Transaction. In the event of such determination, the General Partner is hereby authorized to take all such actions as may be necessary to effect the foregoing.

(g) Cooperation with the General Partner. Each Limited Partner acknowledges and agrees that it shall cooperate with the Partnership in any such action as the General Partner deems necessary in its reasonable discretion to comply with the DPA or CFIUS laws, rules, regulations, directives or special measures.

(h) Compliance with CFIUS. Notwithstanding anything to the contrary contained in this Agreement, the General Partner shall be authorized without the consent of any Person, including any other Partner, to take such action as it determines as it reasonably determines to be necessary or advisable to comply with the DPA or CFIUS laws, rules, regulations, directives or special measures, including the actions contemplated by this Agreement.

(i) Indemnification and Limitation of Liability. Each Foreign Person LP shall, to the maximum extent permitted by applicable law, indemnify and hold the Partnership and each Indemnified Person harmless from and against any loss, claim, demand, cost, expense of any nature, judgment, penalty, settlement, compromise, damage, injury suffered or sustained, or any other amount, or any nature whatsoever, known or unknown, liquid or illiquid, suffered by the Partnership or any such Indemnified Person arising, directly or indirectly, from such Foreign Person LP's breach of any of the provisions of this Agreement applicable to Foreign Person LPs or any inaccuracy in its response to the questions in the section labeled "CFIUS Foreign Person Status Representations" in its Investor Questionnaire. Notwithstanding the generality of the foregoing, the General Partner shall be held harmless for any of its acts and omissions in connection with the enforcement of the provisions of this Section XXX(i). Except in cases of fraud or willful misconduct, neither the Partnership nor any Indemnified Person shall be liable to the Foreign Person LP or to any other Partner in connection with: (i) any determination of Foreign Person status; or (ii) any other matter related to compliance with the DPA or CFIUS laws, rules, regulations, directives, or special measures.