

RUPA 2013 Section 105

(c) A partnership agreement may not:...

(5) alter or eliminate the duty of loyalty or the duty of care, except as otherwise provided in subsection (d);

(6) eliminate the contractual obligation of good faith and fair dealing under Section 409(d), but the partnership agreement may prescribe the standards, if not manifestly unreasonable, by which the performance of the obligation is to be measured;

(7) unreasonably restrict the right of a person to maintain an action under Section 410(b);

(8) relieve or exonerate a person from liability for conduct involving bad faith, willful or intentional misconduct, or knowing violation of law;

(9) vary the power of a person to dissociate as a partner under Section 602(a), except to require that the notice under Section 601(1) to be in a record;

(10) vary the grounds for expulsion specified in Section 601(5);

(11) vary the causes of dissolution specified in Section 801(4) or (5);

(12) vary the requirement to wind up the partnership's business as specified in Section 802(a), (b)(1), and (d);

(13) vary the right of a partner under Section 901(f) to vote on or consent to a cancellation of a statement of qualification;

(14) vary the right of a partner to approve a merger, interest exchange, conversion, or domestication under Section 1123(a)(2), 1133(a)(2), 1143(a)(2), or 1153(a)(2);

(15) vary the required contents of a plan of merger under Section 1122(a), plan of interest exchange under Section 1132(a), plan of conversion under Section 1142(a), or plan of domestication under Section 1152(a);

(16) vary any requirement, procedure, or other provision of this [act] pertaining to:

(A) registered agents; or

(B) the [Secretary of State], including provisions pertaining to records authorized or required to be delivered to the [Secretary of State] for filing under this [act]; or

(17) except as otherwise provided in Sections 106 and 107(b), restrict the rights under this [act] of a person other than a partner.

(d) Subject to subsection (c)(8), without limiting other terms that may be included in a partnership agreement, the following rules apply:

(1) The partnership agreement may:

(A) specify the method by which a specific act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one or more disinterested and independent persons after full disclosure of all material facts; and

(B) alter the prohibition in Section 406(a)(2) so that the prohibition requires only that the partnership's total assets not be less than the sum of its total liabilities.

(2) To the extent the partnership agreement expressly relieves a partner of a responsibility that the partner would otherwise have under this [act] and imposes the responsibility on one or more other partners, the agreement also may eliminate or limit any fiduciary duty of the partner relieved of the responsibility which would have pertained to the responsibility.

(3) If not manifestly unreasonable, the partnership agreement may:

(A) alter or eliminate the aspects of the duty of loyalty stated in Section 409(b);

(B) identify specific types or categories of activities that do not violate the duty of loyalty;

(C) alter the duty of care, but may not authorize conduct involving bad faith, willful or intentional misconduct, or knowing violation of law; and

(D) alter or eliminate any other fiduciary duty.

(e) The court shall decide as a matter of law whether a term of a partnership agreement is manifestly unreasonable under subsection (c)(6) or (d)(3). The court:

(1) shall make its determination as of the time the challenged term became part of the partnership agreement and by considering only circumstances existing at that time; and

(2) may invalidate the term only if, in light of the purposes and business of the partnership, it is readily apparent that:

(A) the objective of the term is unreasonable; or

(B) the term is an unreasonable means to achieve the term's objective.