REAL ESTATE

AGREEMENT OF PARTNERSHIP

Dated as of \_\_\_\_\_\_\_\_\_,\_\_\_\_\_\_\_\_

PARTNERSHIP

AGREEMENT OF PARTNERSHIP

THIS AGREEMENT OF PARTNERSHIP of is entered into and shall be effective as of the \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, by and among  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as managing partner (the “Managing Partner“), and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as partners (the Managing Partner and the other partners being hereinafter collectively referred to as the “Partners“), pursuant to the provisions of the Act (this and other capitalized terms used and not otherwise defined herein shall have the respective meanings set forth in Section 1.10), on the following terms and conditions:

ARTICLE 1

THE PARTNERSHIP

1.1  Organization.  The Partnership is hereby organized as a \_\_\_\_\_\_\_\_\_\_\_      general partnership effective as of the date hereof pursuant to, in accordance with and for purposes of the provisions of the Act.

1.2  Partnership Name.  The name of the Partnership shall be \_\_\_\_\_\_\_\_\_\_   and all business of the Partnership shall be conducted in such name. The Partnership shall hold all of its property in the name of the Partnership and not in the name of any Partner.

1.3  Purpose.  The purpose of the Partnership is to acquire, develop, construct, improve, finance, mortgage, hold, lease, own, operate, refinance and sell or otherwise dispose of the Property and to engage in actions necessary, convenient or incidental to all of the foregoing.  The Partnership shall not engage in any other activity or business and no Partner shall have any authority to hold himself out as a general agent of another Partner in any other business or activity.

1.4  Principal Place of Business.  The principal place of business of the Partnership shall be located at or at such other place within or without the State of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ as may be determined by the Managing Partner.

1.5  Term.  The term of the Partnership shall commence on the date hereof and shall continue until the winding up and liquidation of the Partnership and its business is completed following a Liquidating Event.

1.6  No Payments of Individual Obligations.  The Partners shall use the Partnership’s credit and assets solely for the benefit of the Partnership.  No asset of the Partnership shall be transferred or encumbered for or in payment of any individual obligation of a Partner.

1.7  Statutory Compliance.  The Partnership shall exist under and be governed by, and this Agreement shall be construed in accordance with, the applicable laws of the State of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.  The Partners shall make all filings and disclosures required by, and shall otherwise comply with, all such laws.  The Partners shall execute and file in the appropriate records any assumed or fictitious name certificates and other documents and instruments as may be necessary or appropriate with respect to the formation of, and conduct of business by, the Partnership.

1.8  Title to Property.  All real and personal property owned by the Partnership shall be owned by the Partnership as an entity and, insofar as permitted by applicable law, no Partner shall have any ownership interest in such property in such Partner’s individual name or right, and each Partner’s interest in the Partnership shall be personal property for all purposes.

1.9  Independent Activities.  The Partners hereby acknowledge and agree that each Partner may engage in any activity whatsoever (as an owner, employee, consultant or otherwise), whether or not such activity competes with or is enhanced by the Partnership’s business and affairs, and no Partner shall be liable or accountable to the Partnership or any other Partner for any income, compensation or profit that such Partner may derive from any such activity.  Further, no Partner shall be liable or accountable to the Partnership or any other Partner for failure to disclose or make available to the Partnership any business opportunity that such Partner becomes aware of in such Partner’s capacity as a Partner or otherwise.

1.10 Definitions.  Capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings set forth below or in the Section to this Agreement referred to below:

(a)  “Act” means the \_\_\_\_\_\_\_\_\_\_ Uniform Partnership Law, as amended from time to time and including any successor statute of similar import.

(b)  “Adverse Act” means, with respect to any Partner, any of the following:

(i)  a failure of such Partner to make any Capital Contribution required pursuant to any provision of this Agreement;

(ii) a Transfer of all or any portion of such Partner’s interest in the Partnership except as expressly permitted or required by this Agreement;

(iii)  any termination or dissolution of a corporation or partnership which is a Partner, unless substantially all assets of the terminated or dissolved corporation or partnership are transferred to an Affiliate;

(iv)  a determination that such Partner has taken an action, or has failed to take an action within the scope of such Partner’s duties hereunder, that results, or can reasonably be expected to result in, such Partner becoming liable to indemnify the Partnership for a material sum pursuant to any provision of this Agreement or that would justify a decree of dissolution of the Partnership under the Act.  The determination whether a Partner has so acted or failed to act shall be made conclusively by vote of the Partners holding a majority of the Partnership Interests (determined without regard to the Partnership Interest of such Partner); or

(v)  the occurrence of an Event of Bankruptcy with respect to such Partner.

An “Adverse Partner” is any Partner with respect to whom an Adverse Act has occurred.

(c)  “Affiliate” means, with respect to any Person, (i) any Person directly or indirectly controlling, controlled by or under common control with such Person, (ii) any Person owning or controlling ten percent (10%) or more of the outstanding voting interests of such Person, (iii) any officer, director or general partner of such Person, or (iv) any Person who is an officer, director, general partner, trustee or holder of ten percent (10%) or more of the voting interests of any Person described in clauses (i) through (iii) of this sentence.

(d)  “Agreement” means this Agreement of Partnership, including Exhibits  through  attached hereto, as it and they may be amended, restated or supplemented from time to time. Words such as “herein,” “hereinafter,” “hereof,” “hereto” and “hereunder” refer to this Agreement as a whole, including Exhibits  through  attached hereto, unless the context otherwise requires.

(e)  “Annual Business Plan” means any plan approved by the Partners pursuant to Section 6.2 hereof.

(f)  “Capital Account” means, with respect to any Partner, the Capital Account maintained for such Partner in accordance with the following provisions:

(i)  To each Partner’s Capital Account there shall be credited such Partner’s Capital Contributions, such Partner’s distributive share of Profits, and any items in the nature of income or gain which are specially allocated pursuant to Section 3.4 hereof, and the amount of any Partnership liabilities assumed by such Partner or which are secured by the Property or any other Partnership assets distributed to such Partner.

(ii)  To each Partner’s Capital Account there shall be debited the amount of cash and the Gross Asset Value of the Property and any other Partnership assets distributed to such Partner pursuant to any provision of this Agreement, such Partner’s distributive share of Losses, and any items in the nature of expenses or losses which are specially allocated pursuant to Section 3.4 hereof, and the amount of any liabilities of such Partner assumed by the Partnership or which are secured by any property contributed by such Partner to the Partnership.

(iii)  In the event any interest in the Partnership is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the transferred interest.

(iv)  In determining the amount of any liability for purposes of paragraphs (i) and (ii) of this definition, there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Regulations.

The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations Section 1.704‑1(b) and shall be interpreted and applied in a manner consistent with such Regulations.  In the event the Managing Partner shall determine that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto (including, without limitation, debits or credits relating to liabilities which are secured by contributed or distributed property or which are assumed by the Partnership or the Partners), are computed in order to comply with such Regulations, the Managing Partner may make such modification, provided that it is not likely to have a material effect on the amounts distributable to any Partner pursuant to Section 11 hereof upon the dissolution of the Partnership.  The Managing Partner also shall (i) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Partners and the amount of Partnership capital reflected on the Partnership’s balance sheet, as computed for book purposes in accordance with Regulations Section 1.704‑1(b)(2)(iv)(q), and (ii) make any appropriate modifications in the event unanticipated events might otherwise cause this Agreement not to comply with Regulations Section 1.704‑1(b).

(g)  “Capital Contributions” means, with respect to any Partner, the amount of money and the initial Gross Asset Value of any property (other than money) contributed to the Partnership with respect to the Partnership Interest held by such Partner pursuant to the terms of this Agreement.  The principal amount of a promissory note which is not readily traded on an established securities market and which is contributed to the Partnership by the maker of the note shall not be included in the Capital Contribution of any Partner until the Partnership makes a taxable disposition of the note or until (and to the extent) principal payments are made on the note, all in accordance with Regulations Section 1.704‑1(b)(2)(iv)(d)(2).

(h)  “Code” means the Internal Revenue Code of 1986, as amended from time to time, and any Federal laws of similar import, and to the extent applicable, any Regulations promulgated thereunder.

(i)  “Depreciation” means, for each fiscal year or other period, an amount equal to the depreciation, amortization or other cost recovery deduction allowable with respect to an asset for such year or other period, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period, Depreciation shall be an amount which bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization or other cost recovery deduction for such year or other period bears to such beginning adjusted tax basis; provided, however, that if the federal income tax depreciation, amortization or other cost recovery deduction for such year is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the Managing Partner.

(j)  “Event of Bankruptcy” means, with respect to any Partner or the Partnership, any of the following:

(i)  filing a voluntary petition in bankruptcy or for reorganization or for the adoption of an arrangement under the Bankruptcy Code (as now or in the future amended) or an admission seeking the relief therein provided;

(ii)  making a general assignment for the benefit of creditors;

(iii)  consenting to the appointment of a receiver for all or a substantial part of such Person’s property;

(iv)  in the case of the filing of an involuntary petition in bankruptcy, an entry of an order for relief;

(v)  the entry of a court order appointing a receiver or trustee for all or a substantial part of such Person’s property without its consent; or

(vi)  the assumption of custody or sequestration by a court of competent jurisdiction of all or substantially all of such Person’s property.

(k)  “Gross Asset Value” means, with respect to any asset, the asset’s adjusted basis for federal income tax purposes, except as follows:

(i)  The initial Gross Asset Value of any asset contributed by a Partner to the Partnership shall be the gross fair market value of such asset, as determined by the contributing Partner and the Partnership;

(ii)  The Gross Asset Values of all Partnership assets shall be adjusted to equal their respective gross fair market values, as determined by the Managing Partner, as of the following times:  (a) the acquisition of an additional interest in the Partnership by any new or existing Partner in exchange for more than a de minimis Capital Contribution; (b) the distribution by the Partnership to a Partner of more than a de minimis amount of Partnership’s assets as consideration for an interest in the Partnership; and (c) the liquidation of the Partnership within the meaning of Regulations Section 1.704‑1(b)(2)(ii)(g); provided, however, that adjustments pursuant to clauses (a) and (b) above shall be made only if the Managing Partner reasonably determines that such adjustments are necessary or appropriate to reflect the relative economic interests of the Partners in the Partnership;

(iii)  The Gross Asset Value of any Partnership asset distributed to any Partner shall be the gross fair market value of such asset on the date of distribution; and

(iv)  The Gross Asset Values of Partnership assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulations Section 1.704‑1(b)(2)(iv)(m) and Section 3.4(a) hereof; provided, however, that Gross Asset Values shall not be adjusted pursuant to this paragraph (iv) to the extent the Managing Partner determines that an adjustment pursuant to paragraph (ii) of this definition is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to paragraph (iv) of this definition.

If the Gross Asset Value of an asset has been determined or adjusted pursuant to paragraph (i), (ii) or (iv) of this definition, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Profits and Losses.

(l)  “Liquidating Event” shall have the meaning given such term in Section 11.1.

(m)  “Managing Partner” means the Person designated as the Managing Partner in the first paragraph of this Agreement, together with any replacement Managing Partner elected pursuant to Section 6.6 hereof, in such Person’s capacity as Managing Partner of the Partnership.

(n)  “Net Cash From Operations” means the gross cash proceeds from Partnership operations less the portion thereof used to pay or establish reserves for all Partnership expenses, debt payments, capital improvements, replacements and contingencies, all as determined by the Partners.  “Net Cash From Operations” shall not be reduced by depreciation, amortization, cost recovery deductions or similar allowances, but shall be increased by any reductions of reserves previously established.

(o)  “Net Cash From Sales or Refinancings” means the net cash proceeds from all sales, other dispositions and refinancings of the Property or other Partnership assets, less any portion thereof used to establish reserves, all as determined by the Partners.  “Net Cash From Sales or Refinancings” shall include all principal and interest payments with respect to any note or other obligation received by the Partnership in connection with the sale or other disposition of the Property or other Partnership assets.

(p)  “Net Equity” shall have the meaning given such term in Section 9.4.

(q)  “Nonrecourse Deductions” has the meaning set forth in Section 1.704‑1(b)(4)(iv)(b) of the Regulations.  The amount of Nonrecourse Deductions for a Partnership fiscal year equals the net increase, if any, in the amount of Partnership Minimum Gain during that fiscal year, determined according to the provisions of Section 1.704‑1(b)(4)(iv)(b) of the Regulations.

(r)  “Partner Loan Nonrecourse Deductions” means any Partnership deductions that would be Nonrecourse Deductions if they were not attributable to a loan made or guaranteed by a Partner within the meaning of Regulations Section 1.704‑1(b)(4)(iv)(g).

(s)  “Partners” means the Persons designated as Partners in the first paragraph of this Agreement, together with any Person who becomes a substituted Partner as provided herein, in such Person’s capacity as a partner of the Partnership.  “Partner” means any one of the Partners.

(t)  “Partnership” means the general partnership formed pursuant to this Agreement, as such general partnership may from time to time be amended, restated and constituted, and including, without limitation, the partnership continuing the business of this Partnership in the event of dissolution as herein provided.

(u)  “Partnership Interest” means, with respect to the Managing Partner, \_\_\_\_\_\_\_\_\_\_\_\_\_\_,  with respect to ,\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and with respect to ,  \_\_\_\_\_\_\_\_\_\_\_  , subject to adjustment from time to time by reason of any transfer of an interest in the Partnership pursuant to the applicable provisions of this Agreement.  In the event any Partnership interest is transferred in accordance with the provisions of this Agreement, the transferee of such interest shall succeed to the Partnership Interest of the transferor to the extent it relates to the transferred interest.

(v)  “Partnership Minimum Gain” has the meaning set forth in Regulations Section 1.704‑1(b)(4)(iv)(c).

(w)  “Person” means any individual, partnership, corporation, trust or other entity.

(x)  “Profits” and “Losses” means, for each fiscal year or other period, an amount equal to the Partnership’s taxable income or loss for such year or period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(i)  Any income of the Partnership that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to paragraph (v) of this definition shall added to such taxable income or loss;

(ii) Any expenditures of the Partnership described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704‑1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits or Losses pursuant to paragraph (v) of this definition shall be subtracted from such taxable income or loss;

(iii)  In the event the Gross Asset Value of any Partnership asset is adjusted pursuant to paragraph (ii) or (iii) of the definition of Gross Asset Value, the amount of such adjustment shall be taken into account as gain or loss from the disposition of such asset for purposes of computing Profits or Losses;

(iv)  Gain or loss resulting from any disposition of Property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the Property disposed of, notwithstanding that the adjusted tax basis of such Property differs from its Gross Asset Value;

(v)  In lieu of the depreciation, amortization and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such fiscal year or other period, computed in accordance with the definition of Depreciation; and

(vi)  Notwithstanding any other provision of this definition, any items which are specially allocated pursuant to Sections 3.4 hereof shall not be taken into account in computing Profits or Losses.

(y)  “Property” means those certain premises [to be acquired by the Partnership and] located on or about  \_\_\_\_\_\_\_\_\_\_\_, all as more particularly described on Exhibit A attached hereto, including all buildings and other improvements, fixtures, furniture and other personal property used in connection with the operation and use thereof (excluding only such items as may be owned by tenants under executed leases).

(z)  “Regulations” means the Federal income tax regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

(aa) “Transfer” means, as a noun, any voluntary or involuntary transfer, sale, pledge, hypothecation or other disposition and, as a verb, voluntarily or involuntarily to transfer, sell, pledge, hypothecate or otherwise dispose of.

ARTICLE 2

CAPITALIZATION

2.1  Capital Contributions.  The Managing Partner shall contribute to the Partnership on the date hereof, as the Managing Partner’s Capital Contribution, \_\_\_\_\_\_\_\_\_\_\_\_\_\_  [all of the Managing Partner’s right, title and interest in and to [the Property], which right, title and interest are agreed by the Partners to have a fair market value, as of the date hereof, of $] [the sum of $ in cash].  The other Partners each shall contribute to the Partnership on the date hereof, as each such Partner’s Capital Contribution, the sum of $\_\_\_\_\_\_\_\_\_\_\_\_\_ in cash. [Except to the extent otherwise agreed in writing by the Partners, no Partner shall be permitted or required to make any addition Capital Contributions.]

2.2  Additional Capital Contributions.  Additional Capital Contributions may be called for by the Managing Partner by written demand upon the Partners from time to time for any purpose deemed appropriate by the Managing Partner in the Managing Partner’s reasonable discretion as long as such purpose is consistent with an Annual Business Plan approved by the Partners pursuant to Section 6 hereof or is necessary and appropriate in connection with any matter approved by the Partners pursuant to Section 6 hereof.  Such additional Capital Contributions shall be payable in proportion to the Partnership Interests of the Partners.  In the event any Partner shall fail to make any such additional Capital Contribution within ten (10) days of written demand from the Managing Partner, then such Partner shall be in breach of such Partner’s obligations hereunder and (i) the Partnership and the other Partners shall have the rights and remedies set forth in this Agreement, and (ii) such breach shall constitute an Adverse Act with respect to which any of the other Partners may invoke the purchase provisions of Section 9.3 hereof.]

2.3  General.

(a)  Except as otherwise provided in this Agreement, no Partner shall demand or receive a return of such Partner’s Capital Contributions or withdraw from the Partnership without the consent of all Partners.  Under circumstances requiring a return of any Capital Contributions, no Partner shall have the right to receive property other than cash except as may be specifically provided herein.

(b)  No Partner shall receive any interest, salary, or drawing with respect to such Partner’s Capital Contributions or such Partner’s Capital Account or for services rendered on behalf of the Partnership or otherwise in such Partner’s capacity as Partner, except as otherwise provided in this Agreement.

(c)  Except as otherwise provided in this Section 2 and Section 8 hereof, relating to Transfers of Partnership interests, no Person shall be admitted to the Partnership as a Partner without the unanimous consent of the Partners.

ARTICLE 3

ALLOCATIONS

3.1  Profits.  After giving effect to the special allocations set forth in Section 3.4 hereof, Profits for any fiscal year shall be allocated among the Partners in proportion to their respective Partnership Interests.

3.2  Losses.  After giving effect to the special allocations set forth in Section 3.4 hereof, Losses for any fiscal year shall be allocated among the Partners in proportion to their respective Partnership Interests.

3.3  General.

(a)  Except as otherwise provided in this Agreement, all items of Partnership income, gain, loss, deduction and any other allocations not otherwise provided for shall be divided among the Partners in the same proportions as they share Profits or Losses, as the case may be, for the year.

(b)  The Partners are aware of the income tax consequences of the allocations made by this Article 3 and hereby agree to be bound by the provisions of this Article 3 in reporting their shares of Partnership income and loss for income tax purposes.

(c)  For purposes of determining the Profits, Losses or any other items allocable to any period, Profits, Losses and any such other items shall be determined on a daily, monthly or other basis, as determined by the Managing Partner using any permissible method under Code Section 706 and the Regulations thereunder.

3.4  Special Allocations.

(a)  Code Section 754 Adjustment.  To the extent an adjustment to the adjusted tax basis of any Partnership asset pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulations Section 1.704‑1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the Partners in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to such Section of the Regulations.

(b)  Nonrecourse Deductions.  Nonrecourse Deductions for any fiscal year or other period shall be specially allocated among the Partners in proportion to their respective Partnership Interests.

(c)  Partner Loan Nonrecourse Deductions.  Any Partner Loan Nonrecourse Deductions for any fiscal year or other period shall be specially allocated to the Partner who bears the risk of loss with respect to the loan to which such Partner Loan Nonrecourse Deductions are attributable in accordance with Regulations Section 1.704‑1(b)(4)(iv)(g).

(d)  Curative Allocations.  The allocations set forth in Sections 3.4(b) and 3.4(c) hereof (the “Regulatory Allocations“) are intended to comply with certain requirements of Regulations Section 1.704‑1(b).  Notwithstanding any other provisions of this Article 3, the Regulatory Allocations shall be taken into account in allocating other Profits, Losses and items of income, gain, loss and deduction among the Partners so that, to the extent possible, the net amount of such allocations of other Profits, Losses and other items and the Regulatory Allocations to each Partner shall be equal to the net amount that would have been allocated to each such Partner if the Regulatory Allocations had not occurred.  Notwithstanding the preceding sentence, Regulatory Allocations relating to (a) Nonrecourse Deductions shall not be taken into account except to the extent that there has been a reduction in Partnership Minimum Gain, and (b) Partner Loan Nonrecourse Deductions shall not be taken into account except to the extent that there would have been a reduction in Partnership Minimum Gain if the loan to which such deductions are attributable were not made or guaranteed by a Partner within the meaning of Regulations Section 1.704‑1(b)(4)(iv)(g).

3.5  Tax Allocations: Code Section 704(c).  In accordance with Code Section 704(c) and the Regulations thereunder, income, gain, loss and deduction with respect to any property contributed to the capital of the Partnership shall, solely for tax purposes, be allocated among the Partners so as to take account of any variation between the adjusted basis of such property to the Partnership for federal income tax purposes and its initial Gross Asset Value (computed in accordance with paragraph (i) of the definition of Gross Asset Value.)

In the event the Gross Asset Value of any Partnership asset is adjusted pursuant to paragraph (ii) of the definition of Gross Asset Value, subsequent allocations of income, gain, loss and deduction with respect to such asset shall take into account any variation between the adjusted basis of such asset for federal income tax purposes and its Gross Asset Value in the same manner as under Code Section 704(c) and the Regulations thereunder.

Any elections or other decisions relating to such allocations shall be made by the Managing Partner in any manner that reasonably reflects the purpose and intention of this Agreement.  Allocations pursuant to this Section 3.5 are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, any Person’s Capital Account or share of Profits, Losses, other items or distributions pursuant to any provisions of this Agreement.

ARTICLE 4

DISTRIBUTIONS

4.1  Net Cash From Operations.  Except as provided in Section 11.2 hereof, relating to the liquidation of the Partnership, Net Cash From Operations shall be determined by the Managing Partner quarterly, and the amount so determined shall be distributed to the Partners in proportion to their respective Partnership Interests.

4.2  Net Cash From Sales or Refinancing.  Except as provided in Section 11.2 hereof, relating to the liquidation of the Partnership, all Net Cash From Sales or Refinancings, if any, shall be distributed, from time to time as determined by the Managing Partner, to the Partners in proportion to their respective Partnership Interests.

4.3  Distribution Among Partners.  If a Permitted Transfer, pursuant to Section 8 hereof, of an interest in the Partnership occurs during any accounting period, Profits, Losses, each item thereof and all other items attributable to such interest for such period shall be divided and allocated between the transferor and the transferee by taking into account their varying interests during the period in accordance with Code Section 706(d), using any conventions permitted by law and selected by the Managing Partner. All distributions on or before the date of a Permitted Transfer shall be made to the transferor, and all distributions thereafter shall be made to the transferee.  Solely for purposes of making such allocations and distributions, the Partnership shall recognize a Permitted Transfer not later than the end of the calendar month during which it is given notice of such Transfer; provided, however, that if the Partnership does not receive a notice stating the date such interest was transferred and such other information as the Managing Partner may reasonably require within thirty (30) days after the end of the accounting period during which the transfer occurs, or if a Transfer is not a Permitted Transfer then all of such items shall be allocated, and all distributions shall be made, to the Person who, according to the books and records of the Partnership, on the last day of the accounting period during which the Transfer occurs, was the owner of the Partnership Interest.  The Managing Partner and the Partnership shall incur no liability for making allocations and distributions in accordance with the provisions of this Section 4.3, whether or not the Managing Partner or the Partnership has knowledge of any Transfer of ownership of any interest in the Partnership.

4.4  Amounts Withheld.  All amounts withheld pursuant to the Code or any provision of any state or local tax law with respect to any payment or distribution to the Partnership or the Partners shall be treated as amounts distributed to the Partners pursuant to this Section 4 for all purposes under this Agreement.  The Managing Partner may allocate any such amounts among the Partners in any manner that is in accordance with applicable law.

ARTICLE 5

ACCOUNTING AND RECORDS

5.1  Books and Records.  The Managing Partner shall keep, or cause to be kept, complete and accurate books of account and records of the Partnership.  The books and records of the Partnership shall be kept on the \_\_\_\_\_\_\_\_\_\_\_\_\_\_ [accrual] [cash receipts and disbursements] basis of accounting, and otherwise in accordance with generally accepted accounting principles consistently applied, and all such books and records shall at all times be maintained or made available at the principal business office of the Partnership.  Each Partner, or such Partner’s designated representative, shall have access to and the right to inspect and copy, during normal business hours and at the expense of such Partner, the contents of such books and records.

5.2  Reports.  The Managing Partner shall prepare, or cause to be prepared, financial reports of the Partnership and shall coordinate financial matters of the Partnership with the Partnership’s accountants.  Within ninety (90) days after the end of each fiscal year and within sixty (60) days of the end of any fiscal quarter, the Managing Partner shall cause each Partner to be furnished with a copy of the balance sheet of the Partnership as of the last day of the applicable period and a statement of income or loss for the Partnership for such period.  Annual statements shall also include a statement showing any item of income, deduction, credit or loss allocable for federal income tax purposes pursuant to the terms of this Agreement.  Annual statements shall be prepared by the Partnership’s accountants.

5.3  Tax Returns.  The Managing Partner shall cause the Partnership’s accountants to prepare all income and other tax returns of the Partnership and shall cause the same to be filed in a timely manner.  The Managing Partner shall furnish to each Partner a copy of each such return, together with any schedules or other information which each Partner may require in connection with such Partner’s own tax affairs.

5.4  Special Basis Adjustment.  In connection with any Permitted Transfer of a Partnership interest, the Managing Partner shall cause the Partnership, at the written request of the transferor or the transferee, on behalf of the Partnership and at the time and in the manner provided in Regulations Section 1.754‑1(b), to make an election to adjust the basis of the Partnership’s property in the manner provided in Sections 734(b) and 743(b) of the Code, and such transferee shall pay all costs incurred by the Partnership in connection therewith, including, without limitation, reasonable attorneys’ and accountants’ fees.

5.5  Tax Matters Partner.  The Managing Partner shall be the party designated to receive all notices from the Internal Revenue Service which pertain to the tax affairs of the Partnership.  The Managing Partner shall be the “Tax Matters Partner” pursuant to the Code.

5.6  Fiscal Year.  The fiscal year of the Partnership shall be the calendar year, unless otherwise approved by the Partners.  As used in this Agreement, a fiscal year shall include any partial fiscal year at the beginning and end of the Partnership term.

5.7  Bank Accounts.  The Managing Partner shall have fiduciary responsibility for the safekeeping and use of all funds and assets of the Partnership, whether or not in the Managing Partner’s immediate possession or control.  The funds of the Partnership shall not be commingled with the funds of any other Person and the Managing Partner shall not employ, or permit any other Person to employ, such funds in any manner except for the benefit of the Partnership.  The bank accounts of the Partnership shall be maintained in such banking institutions as are approved by the Managing Partner and withdrawals shall be made only in the regular course of Partnership business and as otherwise authorized in this Agreement on such signature or signatures as the Managing Partner may determine.  All funds of the Partnership shall be invested in accordance with the then applicable Annual Business Plan.

ARTICLE 6

MANAGEMENT

6.1  Day-to-Day Management by Managing Partner.  Subject to the limitations and restrictions set forth in this Agreement, including, without limitation, those set forth in this Article 6, the Managing Partner may exercise the following specific rights and powers without any further consent of the other Partners being required:

(a)  to expend the capital and income of the Partnership to the extent permitted by this Agreement and consistent with the then applicable Annual Business Plan;

(b)  to ask for, collect and receive any rents, issues and profits or income from the Property or any other assets of the Partnership, or any part or parts thereof, and to disburse Partnership funds for Partnership purposes to those persons entitled to receive same;

(c)  to purchase from or through others, contracts of liability, casualty or other insurance for the protection of the properties or affairs of the Partnership or the Partners or for any purpose convenient or beneficial to the Partnership;

(d)  to pay all taxes, licenses or assessments of whatever kind or nature imposed upon or against the Partnership or the Property, and for such purposes to make such returns and do all other such acts or things as may be deemed necessary and advisable by the Partnership;

(e)  to establish, maintain and supervise the deposit of any monies or securities of the Partnership with federally insured banking institutions or other institutions as may be selected by the Managing Partner, in accounts in the name of the Partnership with such institutions;

(f)  to institute, prosecute, defend, settle, compromise and dismiss lawsuits or other judicial or administrative proceedings brought on or in behalf of, or against, the Partnership or the Partners in connection with activities arising out of, connected with or incidental to this Agreement, and to engage counsel for others in connection therewith;

(g)  to execute for and on behalf of the Partnership, and with respect to the Property, all such applications for permits and licenses as the Managing Partner deems necessary and advisable, and to execute and cause to be filed and recorded all such subdivision, parcel or similar maps covering or relating to the Property that the Managing Partner deems advisable;

(h)  to perform all ministerial acts and duties relating to the payment of all indebtedness, taxes and assessments due or to become due with regard to the Property, and to give and receive notices, reports and other communications arising out of or in connection with the ownership, indebtedness or maintenance of the Property;

(i)  to conduct the affairs of the Partnership with the general objective of financial gain; and

(j)  to negotiate for and enter into leases for space within the Property on terms consistent with the then applicable Annual Business Plan.

6.2  Annual Business Plan.  The Managing Partner shall prepare for the approval of the Partners each fiscal year (no later than thirty (30) days prior to the end of the then current fiscal year) an Annual Business Plan for the next fiscal year.  No material changes or departures from any item in an approved Annual Business Plan shall be made by the Managing Partner without the prior approval of the Partners.  Each Annual Business Plan shall include the following:

(a)  a narrative description of any activities proposed to be undertaken;

(b)  a projected annual income statement (accrual basis) on a quarter-by-quarter basis;

(c)  a projected balance sheet as of the end of the period;

(d)  a schedule of projected operating cash flow (including itemized operating revenues, Property costs and Property expenses) for such fiscal year on a quarter-by-quarter basis, including a schedule of projected operating deficits, if any;

(e)  a marketing plan indicating the portions of the Property that the Managing Partner recommends be made available for lease and the proposed terms and conditions relating thereto;

(f)  a description of any proposed construction and capital expenditures, including projected dates for commencement and completion of the foregoing;

(g)  a development schedule identifying the projected development periods as well as the times for completion of the various stages of the Property and the costs attributable to each such stage;

(h)  a description of the proposed investment of any funds of the Partnership which are (or are expected to become) available for investment;

(i)  a description, including the identity of the recipient (if known) and the amount and purpose, of all fees and other payments proposed or expected to be paid for professional services and, if a fee or payment exceeds $10,000, for other services rendered to the Partnership by third parties; and

(j)  a detailed description of such other information, plans, maps, contracts, agreements or other matters necessary in order to inform the Partners of all matters relevant to the development, operation, management and sale of the Property or any portion thereof or to enable the Partners to make an informed decision with respect to their approval of such Annual Business Plan or as may be reasonably desired by the Partners.

6.3  Implementation of Plan by the Managing Partner.  The Managing Partner shall, subject to the limitations contained herein and the availability of operating revenues and other cash flow (as long as the Managing Partner has used reasonable efforts to maximize the same), implement the then applicable Annual Business Plan.  The Managing Partner shall promptly advise and inform the Partners of any transaction, notice, event or proposal directly relating to the management and operation of the Property which does or could significantly affect, either adversely or favorably, the Property or the Partnership or cause a significant deviation from the Annual Business Plan.

6.4  Insurance.

(a)  Coverage.  The Managing Partner shall procure and maintain, or cause to be procured and maintained, insurance sufficient to enable the Partnership to comply with applicable laws, regulations and requirements, including as a minimum and without limitation, the following:

(i)  comprehensive general liability insurance (with limits of liability not less than such amount as may be reasonably requested by the Partners) combined single limit for bodily injury, public liability, property damage and personal injury with no deductible;

(ii)  with respect to completed improvements, fire and extended coverage insurance (including earthquake coverage), and, whenever construction of any improvements is taking place, builders’ risk insurance, in each case, on a replacement cost basis of not less than one hundred percent (100%) of the full replacement cost of such improvements;

(iii)  worker’s compensation insurance as required by law including employers’ liability in an amount not less than $100,000;

(iv)  fidelity insurance in an amount not less than $250,000 to protect against losses due to employee dishonesty, theft by a property manager or any other third parties and mysterious disappearances; and

(v)  such additional insurance against other risks of loss to the Property as, from time to time, may be required by any lender making a loan to the Partnership or which may be required by law.

The Managing Partner shall furnish the Partners, no less frequently than annually, a schedule of such insurance and copies of certificates evidencing the same.

(b)  Liability of the Managing Partner.  The Managing Partner shall be liable to the Partners for any loss to the Partnership by reason of the inadequacy of the insurance proceeds payable under any such policy or insurance if the Partners previously notified and authorized the Managing Partner to increase the limits of any such insurance to amounts within reasonable industry standards and the Managing Partner failed to increase such insurance within ten (10) days after such notice, and the insured-against event occurred.

6.5  Restrictions on the Managing Partner.  Notwithstanding anything in this Agreement to the contrary, neither the Managing Partner nor any other Partner shall have any authority to take any action not expressly delegated to such Managing Partner or other Partner hereunder.  Without limiting the generality of the preceding sentence, neither the Managing Partner nor any other Partner shall do any of the following acts on behalf of the Partnership without the approval of the Partners (except to the extent that the matter in question is included in, and budgeted for or permitted by, the then applicable Annual Business Plan):

(a)  acquiring, by purchase, lease or otherwise, any real property in addition to the Property or constructing any new capital improvements on the Property or replacing an existing capital improvement following completion of construction thereof;

(b)  giving or granting any options, rights of first refusal, deeds of trust, mortgages, pledges, ground leases, security interests or otherwise encumbering the Property or any portion thereof;

(c)  obtaining, increasing, modifying, consolidating or extending any loan, whether secured or unsecured, affecting the Property or the Partnership;

(d)  consenting to any rezoning or subdivision of the Property or any other material change in the legal status thereof;

(e)  selling, conveying or refinancing the Property or any portion thereof;

(f)  causing or permitting the Partnership to extend credit to or to make any loans or become a surety, guarantor, endorser or accommodation endorser for any person, firm or corporation or entering into any contracts with respect to the operation or management of the business of the Partnership or the Property (or any portion thereof);

(g)  releasing, compromising, assigning or transferring any claims, rights or benefits of the Partnership;

(h)  confessing a judgment against the Partnership or submitting a Partnership claim to arbitration;

(i)  distributing any cash or property of the Partnership, other than as provided in this Agreement, or establishing any reserve;

(j)  admitting a new Partner to the Partnership;

(k)  doing any act in contravention of this Agreement or which would make it impossible or unreasonably burdensome to carry on the business of the Partnership;

(l)  possessing any property of the Partnership or assigning the rights of the Partnership in any of its property;

(m)  advertising or marketing the Property other than in accordance with the provisions of the then applicable Annual Business Plan;

(n)  granting easements or other property rights by documents that are customarily recorded;

(o)  giving any approval under any management, construction or other contract to which the Partnership is a party, if the subject matter of such approval would require approval of the Partners if undertaken directly by the Managing Partner;

(p)  changing or amending the plans or specifications for any building or structure being constructed by the Partnership; or

(q)  entering into any amendment, modification, revision, supplement or rescission with respect to any of the foregoing.

Notwithstanding the above, the Managing Partner shall have the right to take such actions as the Managing Partner, in the Managing Partner’s reasonable judgment, deems necessary for the protection of life or health or the preservation of Partnership assets if, under the circumstances, in the good faith estimation of the Managing Partner, there is insufficient time to allow the Managing Partner to obtain the approval of the Partners to such action and any delay would materially increase the risk to life or health or preservation of assets.  The Managing Partner shall notify the Partners of each such action contemporaneously therewith or as soon as reasonably practicable thereafter.  Such authority shall lapse and terminate upon reduction of such risk to life or health or preservation of assets or upon receipt by the Managing Partner of telephone, telegraphic or written notice from any Partner of such Partner’s disapproval of any or all of the proposed actions.

6.6  Replacement of Managing Partner.  In the event the Partners holding a majority of the Partnership Interests shall at any time, or from time to time, be dissatisfied with the Managing Partner’s performance under this Section 6 (regardless of whether such dissatisfaction shall constitute legal “cause” for termination), such Partners shall have the right to give the Managing Partner written notice of such dissatisfaction, specifying the particulars in respect of which the Managing Partner’s performance is deemed by such Partners to be unsatisfactory.  If during the 30‑day period from the date of such notice the Managing Partner’s performance shall continue to be unsatisfactory (if such notice relates to matters capable of being cured) or immediately if such unsatisfactory performance is not capable of being cured, such Partners shall have the right to remove such Managing Partner.  A Person who has been removed as Managing Partner shall continue to be a Partner for all other purposes of this Agreement.  The approval of Partners holding a majority of the Partnership Interests shall be required to elect a new Managing Partner.

6.7  Failure to Obtain Approvals.  In the event the Partners do not give their approval relative to any matter requiring such approval, including, without limitation, any proposed Annual Business Plan or any matter proposed by the Managing Partner or any other Partner requiring approval pursuant to Section 6.5 hereof, then the Partners shall have the rights set forth in Sections 9.1 and 9.2 hereof, relating to sale disagreements and impasses.

ARTICLE 7

REPRESENTATIONS AND WARRANTIES

7.1  Representations and Warranties.   As of the date hereof, each of the statements contained herein shall be a true, accurate and full disclosure of all facts relevant to the matters contained therein, and such warranties and representations shall survive the execution of this Agreement.  Each Partner hereby represents and warrants that:

(a)  If such Partner is a corporation (partnership), such Partner is a duly organized and validly existing corporation (partnership) under the laws of the State of and has the requisite power and authority to enter into and carry out the terms of this Agreement.

(b)  If such Partner is a corporation (partnership), all corporate (partnership) action required to be taken by such Partner to consummate this Agreement has been taken and no further approval of any board, court or other body is necessary in order to permit such Partner to consummate this Agreement.

(c)  To the best of such Partner’s knowledge, neither the execution and delivery of this Agreement, nor the performance of or the compliance with, this Agreement has resulted (or will result) in any violation of, or be in conflict with, or invalidate, cancel or make inoperative, or interfere with, or constitute a default under, or result in the creation of any lien, encumbrance or any other charge upon the Property pursuant to any charter or bylaw provision, partnership agreement, trust agreement, mortgage, deed of trust, indenture, contract, agreement, permit, judgment, decree or order to which such Partner is a party or by which the Property (or any portion thereof) is bound, and there is no default and no event or omission has occurred which, but for the passing of time or the giving of notice, or both, would constitute a default on the part of such Partner under this Agreement.

(d)  To the best of such Partner’s knowledge, there is no action, proceeding or investigation, pending or threatened (nor any basis therefor) which questions, directly or indirectly, the validity or enforceability of this Agreement as to such Partner or which would materially and adversely affect the Property or the Partnership.

ARTICLE 8

TRANSFERS OF INTERESTS; WITHDRAWALS

8.1  Restrictions on Transfers.  Except as expressly permitted or required by this Agreement, no Partner shall Transfer all or any portion of such Partner’s interest in the Partnership or any rights therein without the unanimous consent of the Partners.  Any Transfer or attempted Transfer by any Partner in violation of the preceding sentence shall be null and void and of no effect whatever.  Each Partner hereby acknowledges the reasonableness of the restrictions on Transfer imposed by this Agreement in view of the Partnership purposes and the relationship of the Partners.  Accordingly, the restrictions on Transfer contained herein shall be specifically enforceable.  Each Partner hereby further agrees to hold the Partnership and each Partner (and each Partner’s successors and assigns) wholly and completely harmless from any cost, liability or damage (including, without limitation, liabilities for income taxes and costs of enforcing this indemnity) incurred by any of such indemnified Persons as a result of a Transfer or an attempted Transfer in violation of this Agreement.

8.2  Permitted Transfers.

(a)  General.  Subject to the conditions and restrictions set forth in this Section 8.2, a Partner shall have the right to Transfer all or any portion of such Partner’s interest in the Partnership by means of a Permitted Transfer.

(b)  Definition of Permitted Transfer; Permitted Transferees.

(i)  A “Permitted Transfer” is any Transfer by a Partner of all or any portion of such Partner’s interest in the Partnership to a Permitted Transferee, provided that such Transfer otherwise complies with the conditions and restrictions of this Section 8.2.

(ii)  A “Permitted Transferee” of a Partner is any Person who is (1) an Affiliate of such Partner, (2) a member of such Partner’s Family, (3) any other Partner, (4) a Personal Representative of such Partner, or (5) any Person approved as a Permitted Transferee by the unanimous consent of the Partners.

(iii)  A Partner’s “Family” includes only any Person who, at the time of the Permitted Transfer, is such Partner’s spouse, natural or adoptive lineal ancestors or descendants and trusts for such Partner’s or their exclusive benefit.

(iv)  A Partner’s “Personal Representative” includes only any Person who succeeds to such Partner’s estate as a result of such Partner’s death, legal incompetence or Event of Bankruptcy and any transferee of such Partner’s interest from any such Person.

(c)  Conditions to Permitted Transfers.  A Transfer otherwise permitted under this Section 8.2 shall not be a Permitted Transfer and any attempted Transfer of a Partner’s interest to a Permitted Transferee shall be null and void and of no effect whatever unless and until the following conditions are satisfied:

(i)  Except in the case of a Permitted Transfer to a Partner’s Personal Representative, the transferor and transferee shall execute such documents and instruments of conveyance and assumption as may be necessary or appropriate in the opinion of counsel to the Partnership to effect such Transfer and to confirm the Permitted Transferee’s assumption of all monetary obligations of the transferor Partner with respect to the interest being transferred and the transferor Partner’s agreement to guarantee the prompt payment and performance of such assumed obligations.

(ii)  In the case of a Permitted Transfer to a Partner’s Personal Representative, the Permitted Transferee shall deliver such assurances as may be necessary or appropriate in the opinion of counsel to the Partnership to confirm such Transfer and that such Partner (and/or such Partner’s estate) remains liable to perform all monetary obligations with respect to such interest.

(iii)  Except in the case of a Permitted Transfer to a Partner’s Personal Representative, the Partnership shall receive, prior to such Transfer, an opinion of counsel satisfactory to the Partnership confirming that such Transfer will not terminate the Partnership for federal income tax purposes.

(iv)  A Partner making a Permitted Transfer of all or a portion of such Partner’s Partnership interest and the Permitted Transferee thereof shall pay all reason­able costs and expenses incurred by the Partnership in connection with such Transfer.

(d)  Admission of Permitted Transferee as a Partner.  A Permitted Transferee of an interest in the Partnership shall be admitted as a Partner in the Partnership only upon the unanimous consent of the Partners.  The rights of a Permitted Transferee who is not admitted as a Partner shall be limited to the right to receive allocations and distributions from the Partnership with respect to the interest transferred, as provided by this Agreement. The transferor of such interest shall not be a partner with respect to such interest, and, without limiting the foregoing, shall have no right to inspect the Partnership’s books, act for or bind the Partnership or otherwise interfere in its operations.

(e)  Effect of Permitted Transfer on Partnership.  The Partners intend that the Permitted Transfer of an interest in the Partnership shall not cause the dissolution of the Partnership under the Act; provided, however, notwithstanding any such dissolution, the Partners shall continue to hold the Partnership’s assets and operate its business in Partnership form under this Agreement as if no such dissolution had occurred.

8.3  Waiver of Partition.  No Partner shall, either directly or indirectly, take any action to require partition or appraisement of the Partnership or of any of its assets or properties or cause the sale of any Partnership property, and notwithstanding any provisions of applicable law to the contrary, each Partner (and such Partner’s legal representatives, successors or assigns) hereby irrevocably waives any and all rights to maintain any action for partition or to compel any sale with respect to such Partner’s Partnership interest, or with respect to any assets or properties of the Partnership, except as expressly provided in this Agreement.

8.4  Covenant Not to Withdraw or Dissolve.  Notwithstanding any provision of the Act, each Partner hereby covenants and agrees that the Partners have entered into this Agreement based on their mutual expectation that all Partners will continue as Partners and carry out the duties and obligations undertaken by them hereunder and that, except as otherwise expressly required or permitted hereby, no Partner shall withdraw or retire from the Partnership, be entitled to demand or receive a return of such Partner’s contributions or profits (or a bond or other security for the return of such contributions or profits) or exercise any power under the Act to dissolve the Partnership without the unanimous consent of the Partners.

8.5  Consequences of Violation of Covenant.  Notwithstanding anything to the contrary in the Act, if a Partner (a “Breaching Partner“) attempts to (i) cause a partition in breach of Section 8.3 above or (ii) withdraw from the Partnership or dissolves the Partnership in breach of Section 8.4 hereof, the Partnership shall continue and such Breaching Partner shall be subject to this Section 8.5.  In such event, the following shall occur:

(a)  the Breaching Partner shall immediately cease to be a Partner and shall have no further power to act for or bind the Partnership;

(b)  the other Partners shall continue to have the right to possess the Partnership’s property and goodwill and to conduct its business and affairs;

(c)  the Breaching Partner shall be liable in damages, without requirement of a prior accounting, to the Partnership for all costs and liabilities that the Partnership or any Partner may incur as a result of such breach

(d)  the Partnership shall have no obligation to pay to the Breaching Partner such Partner’s contributions, capital or profits, but may, by notice to the Breaching Partner within thirty (30) days of such Partner’s withdrawal, elect to make Breach Payments (as hereinafter defined) to the Breaching Partner in complete satisfaction of the Breaching Partner’s interest in the Partnership;

(e)  if the Partnership does not elect to make Breach Payments pursuant to Section 8.5(d) hereof, the Partnership shall treat the Breaching Partner as if the Breaching Partner were an unadmitted assignee of the interest of the Breaching Partner and shall make distributions to the Breaching Partner only of those amounts otherwise payable with respect to such interest hereunder;

(f)  the Partnership may apply any distributions otherwise payable with respect to such interest (including Breach Payments) to satisfy any claims it may have against the Breaching Partner;

(g)  the Breaching Partner shall have no right to inspect the Partnership’s books or records or obtain other information concerning the Partnership’s operations;

(h)  the Breaching Partner shall continue to be liable to the Partnership for any unpaid Capital Contributions required hereunder with respect to such interest and to be jointly and severally liable with the other Partners for any debts and liabilities (whether actual or contingent, known or unknown) of the Partnership existing at the time the Breaching Partner withdraws or dissolves; and

(i)  notwithstanding anything to the contrary hereinabove provided, unless the Partnership has elected to make Breach Payments to the Breaching Partner in satisfaction of the Breaching Partner’s interest, the Partnership may offer and sell (on any terms that are not manifestly unreasonable) the interest of the Breaching Partner to any other Partners or other Persons on the Breaching Partner’s behalf, provided that any Person acquiring such interest becomes a Partner with respect to such interest and agrees to perform the duties and obligations imposed by this Agreement on the Breaching Partner.

8.6  Breach Payments.  For purposes hereof, Breach Payments shall be made in four (4) installments, each equal to one-fourth of the Breach Amount, payable on the next four (4) consecutive anniversaries of the breach by the Breaching Partner, with simple interest accrued from the date of such breach through the date each such installment is paid on the unpaid balance of such Breach Amount at % per annum.  The Breach Amount shall be an amount equal to the greater of One Dollar or the Net Equity of the Breaching Partner’s interest on the day of such breach, computed in accordance with Section 9.4 hereof.  The Partnership may, at its sole election, prepay all or any portion of the Breach Payments or interest accrued thereon at any time without penalty.

8.7  No Bonding.  Notwithstanding anything to the contrary in the Act, if, under Section 8.5(e) hereof, the Partnership treats a Breaching Partner as an unadmitted assignee of an interest in the Partnership, the Partnership shall not be obligated to secure the value of the Breaching Partner’s interest by bond or otherwise; provided, however, that if a court of competent jurisdiction determines that, in order to continue the business of the Partnership such value must be so secured, the Partnership may provide such security.  If the Partnership provides such security, the Breaching Partner shall not have any right to participate in Partnership profits or distributions during the term of the Partnership, or to receive any interest on the value of such interest.  For this purpose, the value of the interest of the Breaching Partner shall be the greater of One Dollar or the Net Equity of such interest as of the effective date of the Breaching Partner’s withdrawal.

ARTICLE 9

BUY-SELL

9.1  Sale Disagreement Purchase.  In the event of a Sale Disagreement (as hereinafter defined), the Partners shall have the rights of purchase and sale provided by this Section 9.1, to be exercised by delivering a notice (an “Election Notice“).  The Partners giving Election Notices as provided herein are referred to as “Electing Partners,” and the Partners receiving Election Notices are referred to as “Noticed Partners.”

(a)  Sale Disagreement.  A “Sale Disagreement” is the failure of the Partners to agree on any proposal by any Partner or Partners to approve (as required by Section 6.5 hereof) a sale of the Property for a price (the “Third Party Price“) comprised solely of money and obligations to pay money (secured only by all or portions of the Property), and the assumption of any or all mortgages, liens or other encumbrances on the Property, pursuant to a bona fide offer from a purchaser who is not a Partner or an Affiliate of a Partner (a “Third Party Offer“).

(b)  Sale Disagreement Purchase.  In the event of a Sale Disagreement, for a period ending at 11:59 P.M. (local time at the Partnership’s principal office) on the thirtieth day following the day of such Sale Disagreement (the “Election Day“), any Partner who voted to approve the proposed sale of the Property may elect to sell such Partner’s entire interest in the Partnership to the Partners who voted not to approve such sale by giving an Election Notice to all of such Partners, setting forth his election to sell his interest.  As a result of the giving of such Election Notice, each Electing Partner shall be bound to sell to the Noticed Partners, and the Noticed Partners shall be bound to purchase, in proportion to their Partnership Interests, the entire Partnership Interest of each such Electing Partner for an aggregate price (the “Sale Price“) equal to the Net Equity of each such Electing Partner’s Partnership Interest determined as of the Election Day as if the Gross Asset Value of the Property were the Third Party Price.  The cost of determining Net Equity shall be borne by the Partnership and shall be treated as an expense for purposes of such determination.

(c)  Closing.  The closing of the purchases and sales of the interest of each Electing Partner shall occur at a time mutually determined by the Electing Partner and the Noticed Partners, but (without the consent of the Noticed Partners) no earlier than the thirtieth day following the Election Day and (without the consent of the Electing Partner) no later than the last day on which the sale of the Property would have occurred pursuant to the Third Party Offer if it had been accepted on the day of the Sale Disagreement.

The Sale Price of the Electing Partner’s interest shall be paid by the Noticed Partners (who shall be severally liable for such Sale Price) in the same manner as provided in the Third Party Offer; provided, however, that, in lieu of securing any deferred portion of the Sale Price by the Property, such portion may be secured by pledges of the interests being purchased; and provided, further, that each payment of the principal amount of the Sale Price shall be deemed paid in the same manner as provided in the Third Party Offer if such payment bears the same ratio to the total Sale Price as each principal payment under the Third Party Offer bears to the total principal payable under the Third Party Offer.  The failure of any Noticed Partner to perform such Noticed Partner’s obligation to purchase hereunder shall not affect the obligation of an Electing Partner to sell the remaining portion of the Electing Partner’s interest to the other Noticed Partners.

At the closing the Partners shall execute such documents and instruments of conveyance as may be necessary or appropriate to confirm the transactions contemplated hereby, including, without limitation, the transfer of the Partnership Interest of each Electing Partner to the Noticed Partners and the assumption by each Noticed Partner of each Electing Partner’s obligations with respect to the portion of the Electing Partner’s interest transferred to such Noticed Partner.

9.2  Impasse Buy-Sell.  The Partners shall have the rights of purchase and sale provided by this Section 9.2, to be exercised by delivering a notice (an “Election Notice“).  The Partners giving Election Notices as provided herein are referred to as “Electing Partners,” and the Partners receiving Election Notices are referred to as “Noticed Partners.”

(a)  Impasse.  An “Impasse” is the failure of the Partners to give their approval relative to any matter requiring such approval, including, without limitation, any proposed Annual Business Plan or any matter proposed by the Managing Partner or any other Partner requiring approval pursuant to Section 6.5 hereof (other than a Sale Disagreement, as defined in Section 9.1 hereof).

(b)  Invocation of Buy-Sell Procedure.  In the event of an Impasse, for a period ending at 11:59 P.M. (local time at the Partnership’s principal office) on the thirtieth day following the day of the Impasse (the “Election Day“), this buy-sell procedure may be invoked by the giving of a single Election Notice either by (1) Partners who have Partnership Interests aggregating at least 25% and who voted in favor of the matter giving rise to the Impasse, or (2) Partners who have Partnership Interests aggregating at least 25% and who voted against such matter.  Such Election Notice, to be valid, shall state an amount (the “Stated Amount“) to be used as the Gross Asset Value of the Property in computing the Net Equity of the Partners’ interests, and shall be given to each Partner who is not an Electing Partner.  No Election Notice may be given with respect to a particular Impasse after the first Election Notice; provided, however, that, during a period ending on the later of the Election Day or the tenth day following the date the Election Notice is given, any Partner who did not vote inconsistently with the Electing Partners on the matter giving rise to the Impasse may elect to be an Electing Partner, and to not be a Noticed Partner, by giving notice of such election to all Partners.

(c)  Effect of Election Notice; Buy-Sell Price.  An Election Notice shall constitute an irrevocable offer by the Electing Partners either to (1) purchase all, but not less than all, of the interests in the Partnership of the Noticed Partners, or (2) sell all, but not less than all, of their interests in the Partnership to the Noticed Partners.  The price at which the interest of any Partner is purchased and sold under this Section 9.2 (the “Buy-Sell Price” of such interest) is the Net Equity thereof, determined as of the Election Day as if the Gross Asset Value of the Property were the Stated Amount.  The cost of determining Net Equity shall be borne by the Partnership and shall be treated as an expense for purposes of such determination.  The aggregate price of all interests required to be bought and sold hereunder is the “Aggregate Buy-Sell Price.”

(d)  Noticed Partners’ Election to Purchase or Sell.  For a period (the “Election Period“) ending at 11:59 P.M. (local time at the Partnership’s principal office) on the thirtieth day following the Election Day, each Noticed Partner shall have the right to elect to purchase all or any portion of the aggregate interests of the Electing Partners and all Noticed Partners who do not so elect to purchase, by giving notice thereof (the “Purchase Notice“) to all Partners, which Purchase Notice shall not be valid unless it states the maximum interest that such Partner (a “Purchase Notice Partner“) is willing to purchase.  If the aggregate interests that Purchase Notice Partners are willing to purchase pursuant to valid Purchase Notices equals or exceeds the aggregate interests of the Electing Partners and all Noticed Partners who do not give Purchase Notices, the Purchase Notice Partners shall become “Purchasing Partners” and shall be obligated to purchase all of such interests and all Partners who are not Purchasing Partners shall become “Selling Partners” and shall be obligated to sell their interests to such Purchasing Partners.  Each Purchasing Partner shall be obligated to purchase that portion of the Selling Partners’ interests that corresponds to the ratio of the interests that such Purchasing Partner indicated willingness to purchase in his Purchase Notice to the aggregate interests that all such Purchasing Partners indicated willingness to purchase under all Purchase Notices. In any other case, the Electing Partners shall become Purchasing Partners and shall be obligated to purchase the interests of all Noticed Partners, who shall become Selling Partners and shall be obligated to sell their interests to such Purchasing Partners.

(e)  Terms of Purchase; Closing.  The closing of the purchase and sale of the Selling Partners’ interests shall occur on a date and time mutually agreeable to the Purchasing and Selling Partners, which shall not be later than the sixtieth day following the last day of the Election Period.  At the closing each Purchasing Partner shall pay to each Selling Partner, by check or cash, that portion of the Buy-Sell Price of such Selling Partner’s interest that corresponds to a fraction, the numerator of which is the portion of the Aggregate Buy-Sell Price for which such Purchasing Partner is liable, and the denominator of which is the Aggregate Buy-Sell Price.  Each Purchasing Partner shall be liable only for his individual portion of the Buy-Sell Price to each Selling Partner and the failure of any Purchasing Partner to perform his obligation to purchase hereunder shall not affect the obligation of a Selling Partner to sell the remaining portion of such Selling Partner’s interest to the other Purchasing Partners.

At the closing the Partners shall execute such documents and instruments of conveyance as may be necessary or appropriate to confirm the transactions contemplated hereby, including, without limitation, the transfer of the Partnership interests of the Selling Partners to the Purchasing Partners and the assumption by each Purchasing Partner of each Selling Partner’s obligation with respect to the portion of such Selling Partner’s interest transferred to such Purchasing Partner.

9.3  Adverse Act Purchase.

(a)  Determination of Net Equity of Adverse Partner’s Interest.  At any time prior to the end of the later of the sixtieth day following the day upon which a Partner (an “Adverse Partner“) commits or suffers an Adverse Act, or the sixtieth day after the day a Partner other than the Adverse Partner receives actual notice of such Adverse Act, any Partner, by notice to all other Partners, may cause the Net Equity of the Adverse Partner’s interest to be determined as of the date of such notice as if the Gross Asset Value of the Property were the Property’s Gross Appraised Value.  Such notice shall designate the First Appraiser as required by Section 9.5 hereof and the Adverse Partner shall appoint the Second Appraiser.

(b)  Election to Purchase Interest of Adverse Partner.  For a period ending at 11:59 P.M. (local time at the Partnership’s principal office) on the thirtieth day following the day on which notice of the Adverse Partner’s Net Equity is given pursuant to Section 9.4 hereof, the Partners other than the Adverse Partner may elect, by notice to the Adverse Partner, to purchase the entire interest of the Adverse Partner.  Said election and purchase shall be made in accordance with Sections 9.2(d) and 9.2(e) hereof as if (1) the period described in the preceding sentence were the Election Period, (2) the notice given to the Adverse Partner in accordance with the preceding sentence were a Purchase Notice, (3) each Partner giving such a notice were a Purchase Notice Partner, (4) in the event the other Partners elect to purchase the entire interest of the Adverse Partner, such Partners were Purchasing Partners and the Adverse Partner were a Selling Partner, and (5) the Aggregate Buy-Sell Price were an amount equal to 90% of the Net Equity of the Adverse Partner’s interest.  The cost of determining Net Equity shall be borne one-half by the Adverse Partner and one-half by the Partnership and the amount borne by the Partnership shall be treated as an expense of the Partnership for purposes of such determination.

9.4  Net Equity.  The “Net Equity” of a Partner’s interest, as of any day, shall be the amount that would be distributed to such Partner in liquidation of the Partnership pursuant to Section 11 hereof if (1) all of the Partnership’s assets were sold for their Gross Asset Values, (2) the Partnership paid its accrued, but unpaid, liabilities and established reserves pursuant to Section 11.3 hereof for the payment of reasonably anticipated contingent or unknown liabilities, and (3) the Partnership distributed the remaining proceeds to the Partners in liquidation, all as of such day; provided, however, that in determining such Net Equity, no reserve for contingent or unknown liabilities shall be taken into account if such Partner (or such Partner’s successor in interest) agrees to indemnify the Partnership and all other Partners for a portion, corresponding to such Partner’s Partnership Interest, of any liability that arises out of any event or state of facts which were existing on, or occurring prior to, such day but were either unknown as of such day or too contingent as to liability or amount to be accruable as of such day.

The Net Equity of a Partner’s interest shall be determined, without audit or certification, from the books and records of the Partnership by the firm of independent certified public accountants regularly employed by the Partnership.  The Net Equity of a Partner’s interest shall be determined within thirty (30) days of the day upon which such accountants are apprised in writing of the Gross Asset Value of the Property, and the amount of such Net Equity shall be disclosed to the Partnership and each of the Partners by written notice.  The Net Equity determination of such accountants shall be final and binding in the absence of a showing of gross negligence or willful misconduct.

9.5  Gross Appraised Value.  “Gross Appraised Value,” as of any day, shall be equal to the fair market value of the Property as of such day.  As used herein, as of any day, the “fair market value” of the Property means (1) the maximum amount that a single buyer would reasonably be expected to pay for the entire Property on such day, free and clear of all liens and encumbrances, in a single cash purchase, taking into account the current condition, use and zoning of the Property, increased by (2) the additional amount, if any, that such buyer would pay for any existing favorable financing or leases on the Property, and decreased by (3) the amount, if any, that such buyer would subtract from the unencumbered fair market value of the Property by reason of any existing unfavorable financing or leases.

In situations under this Agreement in which it is necessary to determine Gross Appraised Value, the provision requiring such determination provides the manner and time for the appointment of two appraisers (the “First Appraiser” and the “Second Appraiser“).  If the Second Appraiser is timely designated, the First and Second Appraiser shall meet within ten (10) days of such appointment and shall endeavor, within twenty (20) days of such appointment, to agree upon, and give written notice to the Partnership, the Partners and the firm of independent certified public accountants regularly employed by the Partnership, of the Gross Appraised Value of the Property (the “Appraisers’ Notice“).  If an Appraisers’ Notice is not given during such period, then at any time after such period, either the Persons who appointed the First Appraiser or the Persons who appointed the Second Appraiser, by written notice to the First Appraiser and Second Appraiser, may demand that they appoint a Third Appraiser (the “Third Appraiser“).  If the First Appraiser and Second Appraiser have not either given an Appraisers’ Notice or appointed the Third Appraiser (who shall have agreed to serve) by the twentieth day after such demand, either the Persons who appointed the First Appraiser or the Persons who appointed the Second Appraiser may request any judge of the Court of the State of       to appoint the Third Appraiser.  After the appointment of the Third Appraiser, the Gross Appraised Value shall be the amount included in an Appraisers’ Notice subscribed to by at least two of the three appraisers; provided, however, that before subscribing to a Gross Appraised Value, the Third Appraiser shall meet at least once with the First Appraiser and the Second Appraiser to discuss in good faith the appraisal of the Property. If two of the appraisers have not given an Appraisers’ Notice within twenty (20) days of the appointment of the Third Appraiser, the Gross Appraised Value of the Property shall be determined solely by the Third Appraiser, who shall give an Appraiser’s Notice within thirty (30) days of his appointment.

If a Second Appraiser is not timely appointed in the manner provided by this Agreement, the Gross Appraised Value shall be determined solely by the First Appraiser who shall give an Appraisers’ Notice of such Gross Appraised Value within ten (10) days of the last day on which the Second Appraiser could have been timely designated.

Each appraiser appointed hereunder shall be disinterested and shall be an M.A.I. appraiser qualified to appraise real property similar to the Property and located in the vicinity of the Property.

ARTICLE 10

ELECTIONS, APPROVALS AND AMENDMENTS

10.1 Elections and Approvals.  Except as otherwise set forth in this Agreement, any election or any matter that is subject to approval by the Partners shall require the election or approval of Partners then holding a majority of the Partnership Interests.

10.2 Amendments.  This Agreement may be amended from time to time by a written agreement executed by Partners then holding a majority of the Partnership Interests; provided, however, that any amendment to this Article 10 shall require the written agreement of all Partners.

ARTICLE 11

DISSOLUTION AND WINDING UP

11.1 Liquidating Events.  The Partnership shall dissolve and commence winding up and liquidating upon the first to occur of any of the following (“Liquidating Events“):

(a)  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [insert date];

(b)  The sale of all or substantially all of the Property;

(c)  The vote by Partners holding \_\_\_\_\_\_\_ % or more of the Partnership Interests to dissolve, wind up and liquidate the Partnership;

(d)  The happening of any other event that makes it unlawful or impossible to carry on the business of the Partnership; or

(e)  Any event which causes there to be only one Partner.

The Partners hereby agree that, notwithstanding any provision of the Act, the Partnership shall not dissolve prior to the occurrence of a Liquidating Event.  If it is determined, by a court of competent jurisdiction, that the Partnership has dissolved prior to the occurrence of a Liquidating Event, the Partners hereby agree to continue the business of the Partnership without a winding up or liquidation.

11.2 Winding Up.  Upon the occurrence of a Liquidating Event, the Partnership shall continue solely for the purposes of winding up its affairs in an orderly manner, liquidating its assets and satisfying the claims of its creditors and Partners.  No Partner shall take any action that is inconsistent with, or not necessary to or appropriate for, winding up the Partnership’s business and affairs.  The Managing Partner shall be responsible for overseeing the winding up and liquidation of the Partnership and shall take full account of the Partnership’s liabilities and Property, and the Property shall be liquidated as promptly as is consistent with obtaining the fair value thereof, and the proceeds therefrom, to the extent sufficient therefor, shall be applied and distributed in the following order:

(a)  First, to the payment and discharge of all of the Partnership’s debts and liabilities to creditors other than Partners;

(b)  Second, to the payment and discharge of all of the Partnership’s debts and liabilities to Partners; and

(c)  The balance, if any, to the Partners in accordance with their Capital Accounts, after giving effect to all contributions, distributions and allocations for all periods.

The Managing Partner shall not receive any additional compensation for any services performed pursuant to this Section 11.

11.3 Compliance With Certain Requirements of Regulations.  In the event the Partnership is “liquidated” within the meaning of Regulations Section 1.704‑1(b)(2)(ii)(g), (a) distributions shall be made pursuant to this Section 11 to the Partners who have positive Capital Accounts in compliance with Regulations Section 1.704‑1(b)(2)(ii)(b)(2), and (b) if any Partner’s Capital Account has a deficit balance (after giving effect to all contributions, distributions and allocations for all taxable years, including the year during which such liquidation occurs), such Partner shall contribute to the capital of the Partnership the amount necessary to restore such deficit balance to zero in compliance with Regulations Section 1.704‑1(b)(2)(ii)(b)(3).  In the discretion of the Managing Partner, a pro rata portion of the distributions that would otherwise be made to the Partners pursuant to Section 11.2(c) hereof may be:

(a)  distributed to a trust established for the benefit of the Partners for the purposes of liquidating Partnership assets, collecting amounts owed to the Partnership and paying any contingent or unforeseen liabilities or obligations of the Partnership or of the Partners arising out of or in connection with the Partnership.  The assets of any such trust shall be distributed to the Partners from time to time, in the reasonable discretion of the Managing Partner, in the same proportions as the amount distributed to such trust by the Partnership would otherwise have been distributed to the Partners pursuant to this Agreement; or

(b)  withheld to provide a reasonable reserve of Partnership liabilities (contingent or otherwise) and to reflect the unrealized portion of any installment obligations owed to the Partnership, provided that such withheld amounts shall be distributed to the Partners as soon as practicable.

11.4 Deemed Distribution and Recontribution. Notwithstanding any other provisions of this Article 11, in the event the Partnership is liquidated within the meaning of regulations Section 1.704‑1(b)(2)(ii)(g) but no Liquidating Event has occurred, the Property shall not be liquidated, the Partnership’s liabilities shall not be paid or discharged and the Partnership’s affairs shall not be wound up.  Instead, the Partnership shall be deemed to have distributed the Property in kind to the Partners, who shall be deemed to have assumed and taken subject to all Partnership liabilities, all in accordance with their respective Capital Accounts.  Immediately thereafter, the Partners shall be deemed to have recontributed the Property in kind to the Partnership, which shall be deemed to have assumed and taken subject to all such liabilities.

11.5 Rights of Partners.  Except as otherwise provided in this Agreement, each Partner shall look solely to the assets of the Partnership for the return of such Partner’s Capital Contributions and shall have no right or power to demand or receive property other than cash from the Partnership.  No Partner shall have priority over any other Partner as to the return of such Partner’s Capital Contributions, distributions or allocations unless otherwise provided in this Agreement.

11.6 Notice of Dissolution.  In the event a Liquidating Event occurs or an event occurs that would, but for provisions of Section 11.1 hereof, result in a dissolution of the Partnership, the Managing Partner shall, within thirty (30) days thereafter, (a) provide written notice thereof to each of the Partners and to all other parties with whom the Partnership regularly conducts business (as determined in the discretion of the Managing Partner), and (b) publish notice of such dissolution in a newspaper of general circulation in each place in which the Partnership regularly conducts business (as determined in the discretion of the Managing Partner).

ARTICLE 12

MISCELLANEOUS

12.1 Notices, Etc.  All notices, requests, demands, consents, approvals or other communications given hereunder or in connection herewith shall be in writing, shall be sent by registered or certified mail, return receipt requested, postage prepaid, or by hand delivery with acknowledged receipt of delivery, shall be deemed given on the date of acceptance or refusal of acceptance shown on such receipt, and shall be addressed to the party to receive such notice at the following applicable address:

If to the Partnership, to:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

with a copy by ordinary first class mail to:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

If to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, to:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

with a copy by ordinary first class mail to:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Any party may, by notice given as aforesaid, change its or his address for all subsequent notices.

12.2 Binding Effect.  Except as otherwise provided in this Agreement, every covenant, term and provision of this Agreement shall be binding upon and inure to the benefit of the Partners and their respective heirs, legatees, legal representatives, successors, transferees and assigns.

12.3 Construction.  Every covenant, term and provision of this Agreement shall be construed simply according to its fair meaning and not strictly for or against any Partner.

12.4 Time.  Time is of the essence with respect to this Agreement.

12.5 Headings.  Section and other headings contained in this Agreement are for reference purposes only and are not intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

12.6 Severability.  Every provision of this Agreement is intended to be severable.  If any term or provision hereof is illegal or invalid for any reason whatsoever, such legality or invalidity shall not affect the validity or legality of the remainder of this Agreement.

12.7 Incorporation by Reference.  Every exhibit, schedule, and other appendix attached to this Agreement and referred to herein is hereby incorporated in this Agreement by reference.

12.8 Further Action.  Each Partner agrees to perform all further acts and execute, acknowledge and deliver any documents which may be reasonably necessary, appropriate or desirable to carry out the provisions of this Agreement.

12.9 Variation of Pronouns.  All pronouns and any variations thereof shall be deemed to refer to masculine, feminine or neuter, singular or plural, as the identity of the person or persons may require.

12.10  Applicable Law.  This Agreement is made and delivered in the State of     \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_and shall be governed by the laws thereof.

12.11  Counterpart Execution.  This Agreement may be executed in any number of counterparts with the same effect as if all of the Partners had signed the same document.  All counterparts shall be construed together and shall constitute one agreement.

12.12  Venue, Etc.  Any action to enforce, arising out of or relating in any way to, any of the provisions of this Agreement may be brought and prosecuted in such court or courts located in the State of \_\_\_\_\_\_\_\_\_\_\_\_\_  as is provided by law; and the parties consent to the jurisdiction of said court or courts located in the State of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  and to service of process by registered mail, return receipt requested, or by any other manner provided by law.

12.13  Loans.  Any Partner may, with the approval of the Partners, lend or advance money to the Partnership.  If any Partner shall make any loan or loans to the Partnership or advance money on its behalf, the amount of any such loan or advance shall not be treated as a contribution to the capital of the Partnership but shall be a debt due from the Partnership.  The amount of any such loan or advance by a lending Partner shall be repayable out of the Partnership’s cash and shall bear interest at the rate agreed between the Partnership and the lending Partner.  None of the Partners shall be obligated to make any loan or advance to the Partnership.]

IN WITNESS WHEREOF, the parties have entered into this Agreement of Partnership as of the day first above set forth.

MANAGING PARTNER

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

PARTNERS

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_