

HO 9000000348

(Requestor's Name)

(Address)

(Address)

(City/State/Zip/Phone #)

☐ PICK-UP ☐ WAIT ☐ MAIL

(Business Entity Name)

(Document Number)

Certified Copies _____ Certificates of Status _____

Special Instructions to Filing Officer:

Laura Sherry GATE

AUTHORIZATION BY PHONE TO

CORRECT #6 cr Cert of Merger / signature page / eff. date 6/12/09

DATE 8/10/09

BY EXAM alt

Office Use Only



900156560609

06/12/09--01020--015 **155.00

Effective Date 6/12/09

09 JUN 12 AM 9:47
SECRETARY OF STATE
DIVISION OF CORPORATIONS

NO CHGS.

AUG 11 2009

#105.00 - FF



FLORIDA DEPARTMENT OF STATE
Division of Corporations

June 12, 2009

CHARLES A. BRUDER, ESQ
NORRIS MCLAUGHLIN & MARCUS PA
721 ROUTE 202/206 P.O. BOX 5933
BRIDGEWATER, NJ 08807

SUBJECT: MACKLER FAMILY PARTNERSHIP L.P.
Ref. Number: A09000000348

We have received your document for MACKLER FAMILY PARTNERSHIP L.P. and your check(s) totaling \$155.00. However, the enclosed document has not been filed and is being returned for the following correction(s):

The merger is not dated and schedule b is blank.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (850) 245-6094.

Agnes Lunt
Regulatory Specialist II

Letter Number: 409A00019924



July 2, 2009

VIA OVERNIGHT MAIL

Registration Section
Division of Corporations
ATTN: Agnes Lunt
Clifton Building
2661 Executive Center Circle
Tallahassee, FL 32301

Re: Mackler Family Partnership, L.P. & Vayiheor, LLC

Dear Ms. Lunt:

In response to your June 12, 2009 correspondence, we enclose, together with a copy of said correspondence and enclosures: (i) a copy of an executed Articles of Partnership for the Mackler Family Partnership, L.P.; and (ii) a copy of the Agreement and Plan of Merger of Vayiheor, LLC.

We trust that the enclosed documents will finally resolve any issues precluding the filing of the previously submitted documents. However, please contact us if you should have any questions regarding same. Thank you.

Very truly yours,
Norris, McLaughlin & Marcus PA

A handwritten signature in black ink, reading "Laura Shamy". The signature is fluid and cursive, with the first name "Laura" and last name "Shamy" clearly distinguishable.

Laura Shamy
Legal Assistant to Charles A. Bruder

CAB/lls
enclosures



COVER LETTER

TO: Registration Section
Division of Corporations

SUBJECT: Mackler Family Partnership, L.P. (Florida)

Name of Surviving Party

The enclosed Certificate of Merger and fee(s) are submitted for filing.

Please return all correspondence concerning this matter to:

Charles A. Bruder, Esq.

Contact Person

Norris McLaughlin & Marcus PA

Firm/Company

721 Route 202/206 P.O. Box 5933

Address

Bridgewater, New Jersey 08807

City, State and Zip Code

cabruder@nmmlaw.com

E-mail address: (to be used for future annual report notification)

For further information concerning this matter, please call:

Charles A. Bruder, Esq.

(Name of Contact Person)

at (908) 722-0700 ext 4165

(Area Code and Daytime Telephone Number)

☐ Certified copy (optional) \$52.50

STREET ADDRESS:

Registration Section
Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, FL 32301

MAILING ADDRESS:

Registration Section
Division of Corporations
P. O. Box 6327
Tallahassee, FL 32314

Effective Date 6/12/09

09 JUN 12 AM 9:47^a

SECRETARY OF STATE
DIVISION OF CORPORATIONS

NR

AC9-348✓

<u>Name</u>	<u>Jurisdiction</u>	<u>Form/Entity Type</u>
Mackler Family Partnership, L.P.	Florida	LP

THIRD: The date the merger is effective under the governing laws of the surviving party is: June 12, 2009.

(NOTE: If survivor is a Florida limited partnership or limited liability limited partnership, effective date cannot be prior to nor more than 90 days after the date this document is filed by the Florida Department of State. If survivor is not a Florida limited partnership or limited liability limited partnership, effective date shall be as provided in survivor's governing statute.)

FOURTH: The merger was approved by each party as required by its governing law.

FIFTH: If the surviving party is a foreign organization not qualified to transact business in this state, the street address and mailing address of an office which the Florida Department of State may use for the purposes of s. 620.2109(2), F.S., are as follows:

Street address:

Mailing address:

SIXTH: Other provisions, if any, relating to the merger:

See attached Agreement and Plan of Merger.

SEVENTH: Signature(s) for Each Party:

(Merger must be signed by all general partners of Florida limited partnerships or limited liability limited partnerships and by the authorized representative of each other party.)

Name of Entity/Organization:	Signature(s):	Typed or Printed Name of Individual:
Mackler Family Partnership, L.P.	<i>Harvey Mackler</i>	Harvey Mackler
Mackler Family Partnership, L.P.	<i>Randi Mackler Windheim</i>	Randi Mackler Windheim
Mackler Family Partnership, L.P.	<i>Lynn Snyder-Mackler</i>	Lynn Snyder-Mackler
Mackler Family Partnership, L.P.	<i>Helen Mackler</i>	Helen Mackler

(Signatures for both Florida + New Jersey limited partnerships)

Fees: Filing Fees: \$52.50 Per Party
Certified Copy: \$52.50 (Optional)
Certificate of Status: \$8.75 (Optional)

AGREEMENT AND PLAN OF MERGER
OF
MACKLER FAMILY PARTNERSHIP, L.P., a New Jersey limited partnership
INTO
MACKLER FAMILY PARTNERSHIP, L.P., a Florida limited partnership

This Agreement and Plan of Merger (this "Agreement") of **MACKLER FAMILY PARTNERSHIP, L.P.**, a New Jersey limited partnership (the "Partnership") with and into **MACKLER FAMILY PARTNERSHIP, L.P.**, a Florida limited partnership (the "Surviving Partnership"), is made as of this 31 day of December, 2008.

W I T N E S S E T H

WHEREAS, both the Partnership and the Surviving Partnership desire to merge their operations into a single entity to effectuate a transfer of business operations from New Jersey to Florida; and

WHEREAS, the respective Partners of the Partnership and the member of the Surviving Partnership have determined that it is in the best interest of the Partnership and the Surviving Partnership that the Partnership merge with and into the Surviving Partnership in accordance with the New Jersey Uniform Limited Partnership Law N.J.S.A. 42:2A-1 et seq. and the Florida Revised Uniform Limited Partnership Act of 2005 §§ 620.1101-620.2205 et seq.

NOW, THEREFORE, the parties set forth the following Agreement and Plan of Merger:

1. Merger/Surviving Partnership. Subject to the consent of all the Partners of the Partnership and all the Partners of the Surviving Partnership within thirty (30) days of the date hereof (provided, however, that the Partners of the Partnership and Partners of the Surviving Partnership may extend such period in their reasonable discretion), the Partnership shall merge with and into the Surviving Partnership. The percentage of Partners of the Partnership and percentage of Partners of the Surviving Partnership required to consent to the proposed merger shall be determined by the governing documents of each respective entity; provided, however, that in the absence of such governing documents, such requirements shall be governed by applicable state law. Following receipt of the consents referred in this Section, the parties shall file Articles of Merger, as required by applicable law.

2. Terms and Conditions of Merger. On the effective date of the merger, the following shall apply:

2.1. The separate existence of the Partnership shall cease and the Surviving Partnership shall continue in existence as the surviving entity in the merger.

2.2. The Surviving Partnership shall thereupon and thereafter possess all the rights, privileges, powers, immunities, purposes and franchises, both public and private, of the Partnership and the Surviving Partnership.

2.3. All real and personal property, tangible and intangible, of every kind and description belonging to each of the Partnership and the Surviving Partnership shall be vested in the Surviving Partnership without further action or deed, and the title to any real estate, or any interest therein, vested in any of the Partnership or the Surviving Partnership shall not revert or be in any way impaired by reason of the merger.

2.4. The Surviving Partnership shall be liable for all of the obligations and liabilities of the Partnership and any claim existing or action or proceeding pending by or against the Partnership may be prosecuted to judgment by or against the Surviving Partnership as if the merger had not taken place or the Surviving Partnership may be substituted in place of the Partnership. Neither the rights of the creditors nor any liens on the property of the Partnership shall be impaired by the merger. Each partner of the Partnership shall have and own a share of the Partnership interest in the Surviving Partnership as set forth in the attached Schedule A to this Agreement, which shall be incorporated into an Operating Agreement of the Surviving Partnership.

2.5. The assets and liabilities of the Partnership as of the effective date of the merger shall be taken onto the books of the Surviving Partnership at the amounts at which they are carried on the books of the Partnership.

2.6. The parties acknowledge that, as of the date of this Agreement, the Surviving Partnership has no Partnership Agreement in place, and the Partners of the Surviving Partnership shall promptly, as of the effective of the merger, adopt the Partnership Agreement of the Surviving Partnership, substantially in the form attached to this Agreement as Schedule B.

2.7. The partners of the Partnership shall become Partners of the Surviving Partnership and shall receive a partnership interest in the Surviving Partnership in a percentage as set forth on the attached Schedule A, which shall be reflected substantially in the Partnership Agreement of the Surviving Partnership a copy of which is attached to this Agreement as Schedule B.

3. Availability of Agreement. A copy of this Agreement will be furnished by the Surviving Partnership, on request and without cost, to any partner of the Partnership or to any member of the Surviving Partnership. An executed copy of this Agreement will be on file at the principal offices of the Surviving Partnership.

4. General and Limited Partners: The General Partners of the Partnership shall be General Partners of the Surviving Partnership, and the Limited Partners of the Partnership shall

be Limited Partners of the Surviving Partnership The names and addresses of the General Partners of the Surviving Partnership are as follows:

Harvey Mackler

Randi Mackler Windheim

Lynn Snyder-Mackler

Helen Mackler

5. Abandonment Provision. This Agreement may be abandoned at any time prior to the filing of the Certificate of Merger with the Florida Department of State by mutual consent of the parties. In the event of abandonment of this Agreement, this Agreement shall become null and void and there shall be no liability or obligation on the part of any party.

6. Further Assurances. If at any time the Surviving Partnership and/or the Partnership determine that additional conveyances, documents or other actions are necessary to carry out the provisions of this Agreement, it is understood and agreed by the parties that the Surviving Partnership shall have the authority to execute such conveyances or documents and take such actions on behalf of any of the Partnership as may be required to carry out the purposes and provisions of this Agreement.

7. Effective Date. The merger shall be effective as of the latter of effective date of the filing of the Certificate of Merger or June 12, 2009 .

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement as of the day and year first written above.

MACKLER FAMILY PARTNERSHIP, L.P.
a New Jersey limited partnership

By: Harvey Mackler
Name: Harvey Mackler
Title: General Partner

MACKLER FAMILY PARTNERSHIP, L.P.
a Florida limited partnership

By: Harvey Mackler
Name: Harvey Mackler
Title: General Partner

Dated: As of December 31, 2008

Schedule A

SCHEDULE OF PARTNERS OF SURVIVING PARTNERSHIP AFTER THE MERGER

<u>GENERAL PARTNERS</u>	<u>Capital Contributions</u>	<u>Partnership Interest</u>
Harvey Alan Mackler 1515 Brock Creek Drive Yardley, PA 19067	TBD	.02%
Randi Mackler Windheim 1216 Duncan Drive Dresher, PA 19025	TBD	.02%
Lynn Snyder-Mackler 219 Hullihen Drive Newark, DE 19711	TBD	.02%
Helen Mackler 110 Beverly Road Bloomfield, NJ 07003	TBD	2.94%

LIMITED PARTNERS

97%*

Hillary Ruth Mackler

Jessica Robbyn Stepkin

Justin Leigh Windheim

Marc Ian Windheim

Alexander Nathan Snyder-Mackler

Noah Marsh Snyder-Mackler

*Combined interests of limited partners

Schedule B

PROPOSED FORM OF PARTNERSHIP AGREEMENT

A copy of the partnership agreement is attached hereto, together with a copy of the most recent amendment to the New Jersey partnership agreement. There are no substantive changes between the documents.

**CONSENT OF PARTNERS
OF
MACKLER FAMILY PARTNERSHIP, L.P., a New Jersey limited partnership**

The undersigned, representing all of the General and Limited Partners of MACKLER FAMILY PARTNERSHIP, L.P., a limited partnership organized under the laws of the State of New Jersey (the "Partnership"), hereby adopt the following resolutions:

WHEREAS, the General Partners of the Partnership recommend that the Partnership merge with MACKLER FAMILY PARTNERSHIP, L.P., a Florida limited partnership (the "Surviving Partnership"), to facilitate the move of the Partnership's operations from New Jersey to Florida; and

WHEREAS, the undersigned believe that it is in the best interest of the Partnership to merge with and into the Surviving Partnership.

NOW THEREFORE, BE IT,

RESOLVED, that the undersigned, being all of the Partners of the Partnership, desire that the Partnership merge with and into the Surviving Partnership in accordance with the terms and conditions of the Agreement and Plan of Merger attached hereto as Schedule A; any such merger being subject to any consent of any Partnership lender deemed necessary or advisable by the Partnership's General Partners, and being further subject to the approval of such Partners of the Partnership holding, in the aggregate, sufficient Partnership interest to approve such merger in accordance with the governing documents of the Partnership (provided, however, that in the absence of relevant provisions in such governing documents, such requirements shall be governed by applicable state law); and be it

FURTHER RESOLVED, that the General Partners of the Partnership are hereby authorized, directed and empowered to take any and all action necessary to merge the Partnership with and into the Surviving Partnership in accordance with the terms and conditions of the Agreement and Plan of Merger attached hereto as Schedule A, including, but not limited to, the filing with the New Jersey Department of the Treasury, New Jersey Division of Revenue and the Florida Department of State of an appropriate certificate of merger; and be it

FURTHER RESOLVED, that this action may be executed in counterparts, including by facsimile, all of which together shall constitute one agreement binding on all the parties hereto, notwithstanding that all such parties are not signatories to the original or the same counterpart.

Dated: As of _____, 2008


[SIGNATURE PAGES FOLLOWING]

MACKLER FAMILY PARTNERSHIP, L.P., a New Jersey limited partnership


Consent of General Partners Signature Page

The undersigned, being all of the General Partners of MACKLER FAMILY PARTNERSHIP, L.P., a New Jersey limited partnership, by affixing their respective signatures hereto as of the ____ day of _____, 2008, hereby consent to, authorize and approve of the resolution dated as of the ____ day of _____, 2008, approving the merger of MACKLER FAMILY PARTNERSHIP, L.P., a New Jersey limited partnership with MACKLER FAMILY PARTNERSHIP, L.P., a Florida limited partnership.

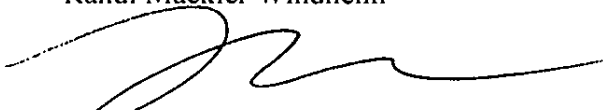
GENERAL PARTNERS:



Harvey A. Mackler



Randi Mackler Windheim



Lynn Snyder-Mackler



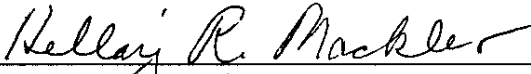
Helen Mackler


MACKLER FAMILY PARTNERSHIP, L.P., a New Jersey limited partnership


Consent of Limited Partners Signature Page

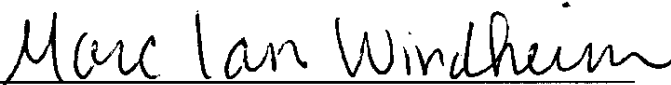
The undersigned, being all of the Limited Partners of MACKLER FAMILY PARTNERSHIP, L.P., a New Jersey limited partnership, by affixing their respective signatures hereto as of the ____ day of _____, 2008, hereby consent to, authorize and approve of the resolution dated as of the ____ day of _____, 2008, approving the merger of MACKLER FAMILY PARTNERSHIP, L.P., a New Jersey limited partnership with MACKLER FAMILY PARTNERSHIP, L.P., a Florida limited partnership.

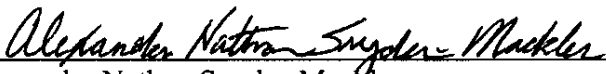
LIMITED PARTNERS:

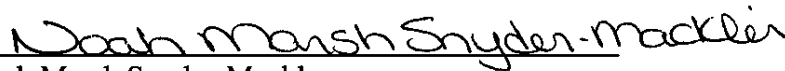

Hillary Ruth Mackler


Jessica Robbyn Stepkin


Justin Leigh Windheim


Marc Ian Windheim


Alexander Nathan Snyder-Mackler


Noah Marsh Snyder-Mackler

Schedule A

DRAFT

**ARTICLES OF LIMITED PARTNERSHIP
OF
MACKLER FAMILY PARTNERSHIP, L.P.
A FLORIDA LIMITED PARTNERSHIP**

Prepared by:
Norris, McLaughlin & Marcus
721 Route 202-206
P.O. Box 1018
Somerville, NJ 08876-1018
EIN#

TABLE OF CONTENTS

	<u>PAGE</u>
ARTICLE 1 FORMATION, PURPOSE AND DEFINITIONS	1
1.1 Establishment of Partnership	1
1.2 Name.....	1
1.3 Principal Office of the Partnership	1
1.4 Purpose	1
1.5 Term.....	2
1.6 Defined Terms	2
ARTICLE 2 PARTNERS' CAPITAL	2
2.1 Capital Contributions.....	2
2.2 Maintenance of Capital Accounts.....	2
2.3 Withdrawal of Capital	2
2.4 Additional Capital Contributions.....	2
2.5 Interest on Capital Contributions.....	3
2.6 Priority and Return of Capital	3
2.7 Limitation on Liability of Limited Partner	3
2.8 Loans	3
2.9 Default in Capital Contribution	3
ARTICLE 3 ALLOCATION OF PROFITS AND LOSSES	3
3.1 Profits.....	3
3.2 Losses	4
3.3 Special Allocations	4
3.4 Allocation Rules.	6
ARTICLE 4 DISTRIBUTIONS OF CASH FLOW	6
4.1 Net Cash from Operations	6
4.2 Net Cash from Sales or Refinancings.....	7
4.3 Restrictions on Distributions of Cash Flow.....	7
ARTICLE 5 POWERS OF THE PARTNERS	8
5.1 Voting Powers of General Partners	8
5.2 Voting Powers of Limited Partners	8
5.3 General Powers of General Partners.....	8
5.4 Partnership Basis Elections	9
5.5 Power of Attorney.	9
5.6 Actions in Good Faith.....	10
5.7 Duties of General Partners.....	10
5.8 Compensation of General Partners	10
5.9 Tax Matters Partner	11
5.10 Other Activities of Partners	11
5.11 Limitation of Personal Liability of General Partners to Partners.	11

DRAFT

5.12	Indemnification.....	12
ARTICLE 6 TRANSFER OF LIMITED PARTNERSHIP INTERESTS		12
6.1	General Restriction	12
6.2	Permitted Transfers.....	12
6.3	Transfer of Partnership Interest.....	12
6.4	Admission of Additional Limited Partners.....	14
6.5	Conditions on Transfers of Partnership Interest	14
6.6	Recognition of Transferees and Substituted Partners	15
6.7	Obligations of Transferring Partner.....	15
6.8	Allocations Upon Transfer of Partnership Interest or Upon Admission.	15
ARTICLE 7 DISSOCIATION OR WITHDRAWAL OF A LIMITED PARTNER		16
7.1	Dissociation	16
7.2	Rights of Dissociating Partner	16
7.3	Withdrawal of Partner	16
ARTICLE 8 TRANSFER OF GENERAL PARTNERSHIP INTEREST AND TERMINATION OF GENERAL PARTNERS		17
8.1	Admissions and Withdrawals of General Partners.	17
8.2	Continuation of Partnership Business.....	18
8.3	Liability of a Withdrawn General Partners.....	18
ARTICLE 9 DISSOLUTION AND LIQUIDATION		19
9.1	Events Triggering Dissolution.....	19
9.2	Continuation upon Dissolution.....	19
9.3	Effect of Dissolution.....	20
9.4	Liquidation.....	20
9.5	Revaluation.....	21
9.6	Distributions in Kind	21
9.7	Timing of Liquidation	21
9.8	Certificate of Cancellation.....	21
ARTICLE 10 ACCOUNTING AND FISCAL MATTERS.....		22
10.1	Fiscal Year	22
10.2	Method of Accounting.....	22
10.3	Books and Records	22
10.4	Federal Income Tax Returns.....	22
10.5	Reports and Statements	22
10.6	Bank Accounts.....	22
ARTICLE 11 MISCELLANEOUS		22
11.1	Amendment	22
11.2	Definitions	23
11.3	Notices	28
11.4	Binding Effect.....	28
11.5	Counterparts.....	28

DRAFT

11.6	Governing Law	29
11.7	Severability	29
11.8	Gender	29
11.9	Binding Effect.....	29

DRAFT

ARTICLES OF LIMITED PARTNERSHIP

OF

MACKLER FAMILY PARTNERSHIP, L.P.

A FLORIDA LIMITED PARTNERSHIP

These **ARTICLES OF LIMITED PARTNERSHIP OF MACKLER FAMILY PARTNERSHIP, L.P.** are entered into and shall be effective as of _____, by and among the parties whose names are set forth on Schedule A attached to this Agreement and incorporated by reference in this Agreement as the "Partners".

RECITAL

The persons listed on attached Schedule A desire to establish a limited partnership to hold, manage and invest certain securities and other assets. The partners desire to set forth in this Agreement the terms of their understandings and agreement. In consideration of the mutual promises in this Agreement, the parties, intending legally to be bound, agree as follows:

**ARTICLE 1
FORMATION, PURPOSE AND DEFINITIONS**

1.1 Establishment of Partnership. The Partners hereby agree to establish a limited partnership pursuant to the provisions of the Florida Uniform Limited Partnership Law (1976) (the "*Act*") and upon the terms set forth in this Agreement.

1.2 Name. Pursuant to the terms of this Agreement, the Partners intend to carry on a business for profit as co-owners under the name "*Mackler Family Partnership, L.P.*" The Partnership may conduct its activities under any other permissible name designated by the General Partners. The General Partners shall be responsible for complying with any registration requirements in the event an alternate name is used.

1.3 Principal Office of the Partnership. The principal office of the Partnership shall be located at 12109 Clear Harbor Drive, Tampa, Florida 33626, or at such other location as the General Partners, as a matter of discretion, may determine. The registered agent for the service of process and registered office of the Partnership shall be the person and location set forth in the Certificate of Limited Partnership filed with the Florida Secretary of State, and the General Partners may, from time to time, change such agent and office by appropriate filings as required by law.

1.4 Purpose. The Partnership is to own and manage a securities portfolio, and such other real or personal property as the Partnership may, from time to time, acquire. The Partnership is being created for a number of reasons. First, to centrally control and manage assets, thereby enabling each partner to benefit from an economy of scale. Second, it will simplify gift giving among partners, especially from parent to children. Third, it will facilitate buy-sell arrangements that assure assets are kept in the family and not squandered. Fourth, it provides for asset protection in the event of failed marriages, or for other reasons, since creditors cannot force

distributions. As a vehicle of asset protection it is a more flexible and easily amended structure than a trust.

1.5 Term. The term of this Partnership shall begin on the filing and acceptance of the Certificate of Limited Partnership by the Florida Secretary of State, and shall continue for a period of 40 years after such date, unless the Partnership is earlier dissolved in accordance with the provisions of Article 9 of this Agreement.

1.6 Defined Terms. Capitalized words and phrases used in this Agreement shall have the meanings ascribed to such terms in the Glossary contained in Section 11.2 of this Agreement.

ARTICLE 2 PARTNERS' CAPITAL

2.1 Capital Contributions. Upon formation of the Partnership, the General and Limited Partners will make the Capital Contribution set forth on Schedule A.

2.2 Maintenance of Capital Accounts. The Partnership shall establish and maintain a Capital Account for each Partner.

2.3 Withdrawal of Capital. A Partner shall not be entitled to withdraw any part of such Partner's Capital Account or to receive any distribution from the Partnership, except as provided in this Agreement.

2.4 Additional Capital Contributions. (a) Additional Capital Contributions may be called for by the General Partner by written demand upon all of the Partners from time to time for any purpose deemed appropriate by the General Partner. Such additional Capital Contributions shall be payable in proportion to the then Partnership Interests of the Partners.

(b) In the event any Partner shall fail to make all or any part of such additional Capital Contribution within ten (10) business days of written demand from the General Partner (the "Defaulting Partner"), then the other Partners shall have the right to contribute that portion of the Defaulting Partner's unpaid obligation as equals a fraction the denominator of which is the total of all the Partnership Interests held by all Partners other than the Defaulting Partner and the numerator of which is the Partnership Interest held by any of the other Partners. If all of the additional contribution required by this Section 2.4 is not made by the other Partners, then the Defaulting Partner shall be obligated to give the Partnership a promissory note for the amount of his additional capital contribution which has not been paid by the other Partners. Such note shall be a demand note, demand for payment of which shall not be made by the Partnership until the time which is immediately prior the earlier of (i) the transfer of all of the Defaulting Partners Partnership Interest or (ii) the liquidation of the Partnership. Such note shall accumulate interest at the then lowest applicable federal rate until maturity or payment. The note shall be prepayable in whole or in part without penalty. Amounts due any Defaulting Partner under any provision of this Agreement shall be offsetable against amounts owed by such Defaulting Partner under any such promissory note. The contributing other Partners shall have the right to additional Partnership Interest and the Defaulting Partner shall be subject to a decrease in his Partnership Interest as set forth in subsection 2.4(c) below.

(c) Where the other Partners meet all or part of the obligation of the Defaulting Partner to make the additional Capital Contribution required in subsection 2.4(a) above, each such contributing Partner's Partnership Interest in the Partnership shall be increased by a fraction the numerator of which is the additional Capital Contribution made by such other Partner in subsection 2.4(b) above and the denominator of which is all Capital Contributions made by all Partners from the inception of the Partnership, including all additional Capital Contributions. The Partnership Interest of the Defaulting Partner shall be decreased by the total of all increases made to the other Partners making his additional Capital Contribution.

(d) No Limited Partner shall have an obligation to restore any deficit in such Partner's Capital Account, except as provided in this Agreement, and such deficit, if any, shall not be considered a debt owed to the Partnership or to any other person for any purpose.

2.5 Interest on Capital Contributions. No interest shall be due from the Partnership on any Capital Contribution of any Partner.

2.6 Priority and Return of Capital. Except as may be expressly provided in this Agreement, no Partner or Economic Interest Owner shall have priority over any other Partner or Economic Interest Owner, either for the return of Capital Contributions or for Net Cash from Operations or from Sales or Refinancings, provided that this section shall not apply to loans (as distinguished from Capital Contributions) which a Partner has made to the Partnership.

2.7 Limitation on Liability of Limited Partner. The Limited Partners shall have no liability or obligation for any debts, liabilities or obligations of the Partnership beyond the Limited Partner's respective Capital Contribution or obligation to make a Capital Contribution, except as expressly required by this Agreement or applicable law. A Limited Partner who rightfully received any distribution of cash or Property from the Partnership is nevertheless liable to the Partnership only to the extent now or hereafter provided by the Act.

2.8 Loans. If any Partner makes any loan or loans to the Partnership, or advances money on its behalf, the amount of any such loan or advance shall not be deemed an increase in, or contribution to, the capital account of the lending Partner or entitle the lending Partner to any increase in a share of the distributions of the Partnership. Interest shall accrue on any such loan at an annual rate agreed to by the Partnership and the lending Partner (but not in excess of the maximum rate allowable under applicable usury laws).

2.9 Default in Capital Contribution. If any Partner fails to make any Capital Contribution when due, such Partner shall be in default, and the Partnership may exercise all legal rights including, without limitation, the commencement of an action to collect from such defaulting Partner by legal process the entire amount of the unpaid Capital Contribution (including those not currently in default), together with all court costs and reasonable attorney fees.

ARTICLE 3 ALLOCATION OF PROFITS AND LOSSES

3.1 Profits. After giving effect to the special allocations set forth in Section 3.3, Profits for any fiscal year shall be allocated in the following order and priority:

DRAFT

(a) First, to the extent that Losses have been allocated pursuant to Section 3.2(b) for any prior year, Profits shall be allocated to the Partners until the cumulative Profits allocated pursuant to this Section for the current and all previous years are equal to the cumulative Losses allocated pursuant to Section 3.2(b) of this Agreement for all prior periods pro rata among the Partners in proportion to their share of the Losses being offset); and to the extent any allocations of Losses are offset pursuant to this Section 3.1(a), such allocations shall be disregarded for purposes of computing subsequent allocations pursuant to this Section 3.1(a); and

(b) Second, the balance, without priority, to the Partners in proportion to their respective Partnership Interests, unless the Partners have agreed, in a writing signed by all Partners and attached to this Agreement, to a different allocation of Profits permitted by law and applicable regulation.

3.2 Losses. After giving effect to the special allocations set forth in Section 3.3, Losses for any fiscal year shall be allocated in the following order and priority:

(a) First, to the extent that Profits have been allocated pursuant to Section 3.1(b) for any prior year, Losses shall be allocated first to offset any Profits allocated pursuant to any Profits allocated pursuant to Section 3.1(b) (pro rata among the Partners in proportion to their share of the Profits being offset). To the extent any allocations of Profits are offset pursuant to this Section 3.2(a), such allocations shall be disregarded for purposes of computing subsequent allocations pursuant to this Section 3.2(a).

(b) Additional Losses, if any, shall then be allocated, without priority, to the Partners in proportion to their respective Partnership Interests, unless the Partners have agreed, in a writing signed by all Partners and attached to this Agreement, to a different allocation of Losses permitted by law and applicable regulation.

(c) The losses allocated pursuant to Sections 3.2(a) and 3.2(b) of this Agreement shall not exceed the maximum amount of losses that can be allocated to a Limited Partner without causing such Partner to have a Capital Account Deficit at the end of any fiscal year. All Losses in excess of the limitation set forth in this Section 3.2(c) shall be allocated to the General Partners.

3.3 Special Allocations. The following special allocations shall be made in the following order:

(a) Tax Allocations: Code Section 704(c).

(i) In accordance with Code Section 704(c) and the Treasury 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 Section 11.2(i) of this Agreement).

DRAFT

(ii) In the event the Gross Asset Value of any Partnership is adjusted pursuant to Section 11.2(i)(ii) of this Agreement, subsequent allocations of income, gain, loss and deduction with respect to such asset shall take account of 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 Treasury Regulations thereunder.

(iii) Any elections or other decisions relating to such allocations shall be made by the General Partners in any manner that reasonably reflects the purpose and intention of this Agreement. Allocations pursuant to this Section 3.3(a) 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 Partner's Capital Account or share of Profits, Losses, other items, or distributions pursuant to any provision of this Agreement.

(b) Qualified Income Offset Allocation. In the event any Partner unexpectedly receives any adjustments, allocations, or distributions described in Regulation Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6) which causes or increases a Partner's Capital Account Deficit as of the end of the taxable year to which such allocation, distribution or adjustment relates, then items of Partnership income and gain shall be specially allocated (prior to any other allocation required by Section 3.1, but after the allocations required by the foregoing provisions of this Section 3.3) to such Partner in an amount and manner sufficient to eliminate (to the extent required by the Regulations) the Capital Account Deficit balances, if any, created by such adjustments, allocations, or distributions as quickly as possible; provided that an allocation pursuant to this Section 3.3(b) shall be made only if and to the extent that such Partner would have a Capital Account Deficit after all other allocations provided for in this Article 3 have been tentatively made as if this Section 3.3(b) was not in the Agreement.

(c) Gross Income Allocation. In the event that any Partner has a Capital Account Deficit at the end of any Partnership fiscal year, each such Partner shall be specially allocated items of Partnership income and gain in the amount of such Deficit as quickly as possible, provided that an allocation pursuant to this Section 3.3(c) shall be made only if and to the extent that such Partner would have a Capital Account Deficit in excess of such sum after all other allocations provided for in this Article 3 have been tentatively made as if Section 3.3(b) and this Section 3.3(c) were not in this Agreement.

(d) Code Section 754 Adjustments. 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 Regulation 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.

(e) Curative Allocations. To the extent permitted by the Code and the Regulations, any special allocations of items of income, gain or loss pursuant to all of the preceding subsection of this Section 3.3 (other than Section 3.3(a)), or any reallocations of such items pursuant to the Regulations under Sections 704(b) of the Code prevailing over the

allocations otherwise provided for in this Agreement, shall be taken into account in determining subsequent allocations of income, gain, and loss pursuant to this Article 3, so that the net amounts so allocated shall, to the extent possible, be equal to the net amounts that would have been allocated to each Partner pursuant to the provisions of this Agreement if such special allocations or reallocations had not occurred.

3.4 Allocation Rules.

(a) Determination Generally. The Profits, Losses and credits of the Partnership shall be determined for each fiscal year in accordance with the accounting method adopted by the Partnership for federal income tax purposes. Where the accounting method adopted by the Partnership for federal income tax purposes provides no rule regarding a specific transaction, the transaction shall be accounted for in accordance with sound accounting procedures applied in a consistent manner. Allocations to the Limited Partners, as a class, unless otherwise expressly indicated, shall be made among them in proportion to their respective Partnership Interests.

(b) Income Characterization. For purposes of determining the character (as ordinary income or capital gain) of any Profit allocated to a Partner, the portion of such Profit that is treated as ordinary income attributable to the recapture of depreciation, if any, shall be allocated among the Partners in the proportion that the amount of depreciation, if any, previously allocated to each Partner relating to Partnership assets or property bears to the total of such depreciation allocated to all Partners.

(c) Allocation of Other Items. 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.

(d) Binding Effects. The Partners are aware of the income tax consequences of the allocations made by this Article and hereby agree to be bound by the provisions of this Article in reporting their shares of Partnership Profits and Losses for income tax purposes.

ARTICLE 4 DISTRIBUTIONS OF CASH FLOW

4.1 Net Cash from Operations. Net Cash from Operations shall be distributed in the following priority, subject to Section 4.3 and Article 9:

(a) Net Cash from Operations shall first be distributed to any Partner who has advanced funds to the Partnership as a Lender, to the extent of and in proportion to such advances, including interest thereon, if any;

(b) Distributions, if any, of additional Net Cash from Operations will be made, without priority, to the Partners in proportion to their respective Partnership Interests, unless the Partners have agreed, in a writing signed by all of the Partners, to a different division permitted by law and applicable regulation.

4.2 Net Cash from Sales or Refinancings. Net Cash from Sales or Refinancings shall be distributed in the following priority, subject to Section 4.3 and Article 9:

- (a) First, to any Partner who has advanced funds to the Partnership as a Lender, to the extent of and in proportion to such advances, including interest thereon, if any;
- (b) Distributions, if any, of additional Net Cash from Sales or Refinancings will be made, without priority, to the Partners in proportion to their respective Partnership Interests, unless the Partners have agreed, in a writing signed by all of the Partners, to a different division permitted by law and applicable regulation.

4.3 Restrictions on Distributions of Cash Flow.

- (a) The Partnership may be restricted from making distributions under the terms of notes, mortgages, or other types of debt obligations which it may issue or assume in connection with borrowed funds, if any. In addition, distributions are subject to the payment of Partnership expenses and to the maintenance of sufficient reasonable reserves for such expenses and for alterations, repairs, improvements, maintenance and replacement of Partnership assets. Distributions may also be restricted or suspended in circumstances when the General Partners determines, in the General Partners's absolute discretion, that such action is in the best interest of the Partnership.
- (b) Distributions of Net Cash from Operations and Net Cash from Sales or Refinancings shall be made in such amounts and at such times as determined by the discretion of the General Partners. The Partnership may distribute at least annually to the Partners so much of its Net Cash from Operations or Net Cash from Sales or Refinancings as is not, in the opinion of the General Partners, necessary for the conduct of the Partnership's business, after setting aside such amounts as the General Partners deems necessary to create adequate reserves for future capital or operating needs of the Partnership. The General Partners shall also have the authority, in the General Partners's discretion, to return to the Partners all or part of the Capital Contributions of the Partners, provided that such payments are made to the Partners in the order and in the proportions permitted for distributions of Net Cash from Sales or Refinancings.
- (c) If any assets of the Partnership are distributed in kind, such assets shall be distributed to the Partners entitled thereto as tenants-in-common in the same proportions as such Partners would have been entitled to cash distributions.
- (d) No Partner shall be entitled to demand and receive property other than cash in return for Capital Contributions to the Partnership.
- (e) The Partners irrevocably waive, during the term of the Partnership and during the period of any liquidation following the dissolution of the Partnership, any right to maintain any action or claim for partition with respect to any assets of the Partnership.

**ARTICLE 5
POWERS OF THE PARTNERS**

5.1 Voting Powers of General Partners. Except as otherwise expressly provided in this Agreement, all decisions with respect to the management and conduct of the business of the Partnership shall be made by a majority vote of the General Partners. Nothing contained in this Agreement shall require any person to inquire into the authority of the General Partners to execute and deliver any document on behalf of the Partnership or to bind the Partnership pursuant to such document.

5.2 Voting Powers of Limited Partners. Except as otherwise expressly provided for in this Agreement, the Limited Partners shall not have any voting rights or take any part in the day-to-day management or conduct of the business of the Partnership, nor shall the Limited Partners have any right or authority to act for or bind the Partnership.

5.3 General Powers of General Partners. The General Partners' powers and rights shall be exercised in the General Partners' absolute discretion on behalf of the Partnership, and shall include, but not be limited to, the power and right to:

(a) Acquire, develop, renovate, improve, lease, subdivide, sell, assign, convey or otherwise transfer title to any portion of, or interest in, the Partnership's real and personal property;

(b) Purchase, lease or otherwise acquire or obtain the use of machinery, equipment, tools, staff and personnel, and material, and other types of real and personal property that may be deemed necessary or desirable in connection with carrying on the business of the Partnership;

(c) Borrow money for the Partnership on the security of all or any portion of the Partnership's real or personal property, and in conjunction therewith, execute all the necessary papers and documents, including, but not limited to, bonds, notes, mortgages, pledges, security agreements and confessions of judgment for and on behalf of the Partnership;

(d) Prepay in whole or in part, refinance, recast, increase, modify, consolidate, correlate, or extend, on such terms as the General Partners may deem proper, any mortgages affecting the Partnership's real or personal property;

(e) Place record title to the Partnership's real or personal property in the name or names of a nominee or nominees for the purpose of mortgage financing or any other convenience or benefit to the Partnership;

(f) Employ from time to time, on such terms and for such compensation as are proper, persons to operate and manage the Partnership's real and personal property;

(g) Set aside Partnership capital or other funds for payment of past, current and future liabilities of the Partnership;

DRAFT

(h) In accordance with sound accounting principles consistently applied, and unless otherwise provided herein, determine whether items of income, gain, loss, deduction or credit shall be treated either as capital or extraordinary items, or, alternatively, as profit or loss items;

(i) Select and open Partnership bank accounts pursuant to Section 9.6 of this Agreement, with withdrawals therefrom to be made upon signature(s) as designated by the General Partners;

(j) Keep books of account pursuant to Section 9.3 below, including such accounts as required to reflect the Partners' profit or loss and capital accounts as adjusted from time to time pursuant to the terms of this Agreement;

(k) Have the accountants for the Partnership prepare annual financial reports, and if requested by the General Partners, monthly or quarterly reports of operations;

(l) Adjust, compromise, settle or refer to arbitration any claims in favor of or against the Partnership or any nominee of the Partnership or any property held or owned by the Partnership or its nominee, and to institute, prosecute and defend any legal proceedings as the General Partners shall deem advisable; and

(m) Execute, acknowledge and deliver any and all instruments on behalf of the Partnership (the "*Instruments*") to effectuate any of the foregoing powers.

By way of extension of the foregoing, and not in limitation thereof, the General Partners shall possess all of the powers, rights and privileges of the General Partners in a limited partnership under applicable laws.

5.4 Partnership Basis Elections. In the event of the distribution of property by the Partnership within the meaning of Section 734 of the Code, or the transfer of an interest in the Partnership within the meaning of Section 743 of the Code, the General Partners, in the General Partners's sole and absolute discretion, may elect to adjust the basis of the Partnership property pursuant to Sections 734, 743 and 754 of the Code. Partners affected by this election, if made, shall supply to the Partnership the information that may be required to make the election.

5.5 Power of Attorney.

(a) Each Limited Partner, by executing this Agreement, does hereby irrevocably constitute and appoint the General Partners, and any successors, with full power of substitution, as such Partner's true and lawful attorney-in-fact (the "*Attorney-in-Fact*"), in his name, place and stead, to execute, acknowledge, swear to, deliver, file and record (i) all certificates of limited partnership, assumed name or similar certificates, and all other certificates and instruments which the General Partners deems necessary or appropriate to be filed by the Partnership; (ii) any and all amendments to this Agreement which the General Partners deems necessary or appropriate to effect a change or modification of the Partnership in accordance with the terms of this Agreement; (iii) all certificates of cancellation and other instruments which the General Partners deems necessary or appropriate to effect the dissolution and termination of the Partnership pursuant to the terms of this Agreement; (iv) negotiate any and all checks made

payable to the Partnership and all instruments required to effectuate and defend the valid and subsisting existence and rights of the Partnership; (v) with respect to the Partnership, documents of transfer of Limited Partners' interests and all other instruments to effect said transfers in the event the provisions of this Agreement have been complied with; and (vi) any other instrument which is now or may hereafter be required by law to be filed on behalf of the Partnership or is deemed necessary or desirable by the General Partners to carry out fully the provisions of this Agreement in accordance with its terms.

(b) The grant of authority in 5.5 (a), above, by each Limited Partner (i) is a special power of attorney coupled with an interest in favor of the Attorney-in-Fact and as such shall be irrevocable and shall survive the merger, dissolution or other termination of existence of the Partner; (ii) may be exercised for the Partner by listing all Partners, including such Partner executing any instrument, with a single signature of the Attorney-in-Fact acting as Attorney-in-Fact; and (iii) shall survive the assignment by the Partner of all or any portion of this Partnership Interest, except that where the assignee of the entire Partnership Interest of the Partner has furnished a power of attorney and has been approved by the General Partners to admission to the Partnership as a substitute Partner, the power of attorney granted in 5.5 (a), above, shall survive such assignment for the sole purpose of enabling the Attorney-in-Fact to execute, acknowledge and file any instrument necessary to effect such substitution and shall thereafter terminate.

(c) The powers of the General Partners set forth in this Agreement shall survive the death or legal incapacity of one or more of the Limited Partners, as well as the delivery by a Limited Partner of an assignment of the whole or any portion of his Partnership Interest.

5.6 Actions in Good Faith. Any action taken or omitted by the General Partners in good faith or in reasonable reliance upon the advice of counsel shall not subject the General Partners to any liability to the Partnership or to the Partners.

5.7 Duties of General Partners. The General Partners shall devote whatever time and effort may be necessary or appropriate to the business and affairs of the Partnership. Specifically, the General Partners shall perform for the Partnership all management services in accordance with sound management practices, including without limitation, the hiring and firing of an on-site manager, if necessary, and other on-site personnel, as needed, the furnishing of services in connection with advertising, maintenance, bill paying, bookkeeping, purchasing of goods and supplies and the performance of such other duties as are required for the proper management, maintenance and operation of the Partnership's property. In addition, the General Partners shall be responsible for the day-to-day management of the Partnership including all aspects of finance, administration, accounting, purchasing and operations. The General Partners may contract with an affiliated company or entity for the furnishing of such services. The General Partners shall also be responsible for negotiating and securing the financial support required to adequately sustain the ongoing operation of the Partnership. The General partners may appoint one of them as the Managing General Partner who shall have the authority to sign and execute contracts and other documents on behalf of the Partnership.

5.8 Compensation of General Partners. The General Partners shall be entitled to receive reasonable compensation for their services in management of the Partnership's business.

DRAFT

The Partners acknowledge that they have been advised by the General Partners that the General Partners and their affiliates may act in various capacities with respect to the Partnership. In exchange for services rendered in connection with Partnership, and the Property, the General Partners' affiliates may receive fees and compensation. The General Partners expressly reserves the right, for themselves and affiliates, to contract for management, consulting or other services with an affiliated or unaffiliated company.

5.9 Tax Matters Partner. The General Partners' shall designate one of them as the "*Tax Matters Partner*" under Section 6231(a)(7) of the Internal Revenue Code of 1986, as amended, to manage administrative tax proceedings with the Internal Revenue Service. Harvey A. Mackler is hereby designated as the initial Tax Matters Partner.

5.10 Other Activities of Partners. Any Partner may engage in or possess an interest in other business ventures of any nature, whether or not similar to or competitive with the activities of the Partnership. Neither the Partnership nor any of the Partners shall have any right, by virtue of this Agreement, in or to such ventures or the income derived therefrom. During the continuance of the Partnership, the General Partners or its affiliates or any other Partner may acquire, promote, develop, operate and manage real property on its own behalf or on behalf of other entities with which it is affiliated. The General Partners and any of their affiliates or associates, may, notwithstanding the existence of this Agreement, engage in any activity they choose whether the same be competitive with the Partnership or otherwise, without having or incurring any obligation to offer any interest in such activities to the Partnership or any party hereto. Neither this Agreement nor any activity undertaken pursuant hereto shall prevent the General Partners or any of its affiliates or associates from engaging in such activities or require the General Partners to permit the Partnership or any Partner to participate in any such activities, and as a material part of the consideration for the General Partners' execution hereof, each Partner hereby waives, relinquishes and renounces any such right or claim of participation.

5.11 Limitation of Personal Liability of General Partners to Partners.

(a) **Generally.** The General Partners shall not be liable to the Partnership or any Partner for any act or omission performed or omitted by it in a manner reasonably believed by the General Partners to be within the scope of the authority granted to the General Partners by this Agreement (other than for willful misfeasance), so long as the General Partners determines, in good faith, that its course of conduct was in the best interests of the Partnership. Any and all Partnership obligations to any Partner shall be paid solely from Partnership property. The General Partners shall not be personally liable or obligated to any Partner for any Partnership obligation to such Partner, including, but not limited to, the return of any Capital Contribution. Notwithstanding anything to the contrary in this Agreement, and to the extent permitted by law, no Partner shall have any fiduciary duty or obligation to any Economic Interest Owner or other transferee of an interest in the Partnership or to any other creditor of the Partnership.

(b) **Upon Foreclosure.** The General Partners shall not be liable to the Partners for his failure to take any action that may prevent the foreclosure of all or any portion of the Property due to the Partnership's lack of sufficient funds therefor, provided the General Partners gives the Partners prior notice thereof so that the Partners may, but shall not be obligated to, contribute such funds if they then desire that such action be taken. Moreover, if after such notice

is given, and such funds are not contributed to the Partnership by the Partners, the Partners shall have the power, but shall not be obligated to cause the dissolution of the Partnership or the abandonment of all or any portion of Partnership property.

5.12 Indemnification.

(a) The General Partners shall indemnify and hold harmless the Partnership from any loss, damage, claim or liability (including reasonable attorney fees) incurred by reason of the General Partners's gross negligence or willful misconduct.

(b) The General Partners shall be indemnified by the Partnership against any losses, judgments, liabilities and expenses (including reasonable attorney fees) incurred by the General Partners by reason of any act or omission performed or omitted by the General Partners in good faith on behalf of the Partnership in a manner reasonably believed by the General Partners to be within the scope of the authority granted to the General Partners by this Agreement, providing that the General Partners was not guilty of gross negligence or willful misconduct.

**ARTICLE 6
TRANSFER OF LIMITED PARTNERSHIP INTERESTS**

6.1 General Restriction. Neither a Limited Partner nor an Economic Interest Owner may transfer, whether voluntarily or involuntarily, any portion of such person's Partnership Interest or Economic Interest, except as otherwise expressly provided for in this Agreement. For purposes of this Agreement, a "*transfer*" includes, but is not limited to, any sale, assignment, gift, exchange, hypothecation, collateral assignment or subjection to any security interest.

6.2 Permitted Transfers. Notwithstanding Section 6.1 or 6.3, and subject to compliance with the conditions of Section 6.5, a Limited Partner shall have the right to transfer, during life or at death, all or part of such Partner's Partnership Interest to a (i) Related Party or (ii) any other individual or entity with the written permission of the General Partners (both (i) and (ii) being referred to herein as the "Permitted Transferee(s)"). Such transfer to a Permitted Transferee shall be made by a written instrument of assignment, the terms of which are not in contravention of any of the provisions of this Agreement. A proposed transfer in accordance with this Section shall be null and void and of no force or effect unless and until the assigning Partner delivers to the General Partners a written instrument of assignment in form and substance satisfactory to the General Partner, duly executed by the transferring Partner or such Partner's personal representative or authorized agent and further complies with the terms of Section 6.5 below. The transfer shall be accompanied by such assurances of genuineness and effectiveness and by such consents or authorizations of governmental or other authorities as may be reasonably required by the General Partner.

6.3 Transfer of Partnership Interest.

(a) Transfer During Life. If, during the term of this Agreement and the life of a Limited Partner, and after such time as such Limited Partner has reached the age of thirty-five (35), such Limited Partner desires to transfer all or part of his Limited Partnership Interest (the "Selling Partner") other than to a Permitted Transferee under Section 6.2 above, he shall give

DRAFT

written notice to the other Limited Partners ("Remaining Partners") of his desire to so transfer. Such notice shall constitute an offer to sell all but not part of such Limited Partner's Interest to the Remaining Partners and/or the Partnership on the terms set forth in this Section 6.3. Within fifteen days of such notice to sell by a Selling Partner, the Partnership shall order an valuation of the Partnership by Appraisers in accordance with the criteria set forth on Schedule B.

(i) First Option. The Remaining Partners shall have the first option to purchase that portion of the Selling Partner's Interest equal to a fraction the denominator of which is the total of all the Limited Partnership Interests held by all Remaining Partners and the numerator of which is the Limited Partnership Interest held by any Individual Remaining Partner.

(ii) Exercise of Option. If a Remaining Partner desires to exercise the option contained in subsection (a)(i), he shall give written notice to the Selling Partner and the other Remaining Partners, no later than thirty (30) days from the date of the "Appraiser's Notice" as set forth on Schedule C. If all of the Selling Partners Interest is not subscribed for, the Remaining Partners exercising their purchase option shall have the opportunity to purchase such additional amount of the Selling Partner's Interest as equal's a fraction the denominator of which is the total of the Limited Partnership Interests of all Remaining Partners exercising their purchase option under subsection (a)(i) above and the numerator of which is any Remaining Partners Limited Interest in the Partnership. Notice of any such Remaining Partners desire to purchase under this subsection (a)(ii) shall occur not later than forty-five days from the date of the Appraiser's Notice. Any Interest not purchased by the Remaining Partners shall be redeemed by the Partnership.

(b) Mandatory Sale on Death. If on the death of a Partner, such Partner has not made a bequest of all of that Partner's then Partnership Interest to Permitted Transferees or all of such Partnership Interest will not pass to Permitted Transferees under the laws of intestate, then the estate of such Partner shall be obligated to sell and Partnership shall be required to purchase, all of the then Partnership Interest of the deceased Partner for the price and on the terms set forth in subsection 6.3 (c) through (f) below. Within fifteen days of the deceased Limited Partner's death, the Partnership shall order an valuation of the Partnership by Appraisers in accordance with the criteria set forth on Schedule B.

(c) Purchase Price. The purchase price for any sale and purchase under this Section 6.3 shall be set in accordance with the formula set forth on Schedule B attached hereto.

(d) Closing. The closing for any purchase under this section 6.3 shall take place as mutual agreed by the parties but no later than 90 days after the date of the Appraiser's Notice.

(e) Payment of Purchase Price. The purchase price shall be paid, in proportion to the amount of the Seller's Interest purchased by a Remaining Partner or the Partnership, as the case may be. The relevant portion of the purchase price shall be paid by each Purchaser by the down payment of ten percent (10%) of the purchase price applicable to each Purchaser and the balance by promissory note with interest at the lowest applicable federal rate and shall be payable in 60 equal monthly installments.

(f) Guarantee of Payment. In such case as the Partnership purchases all or any portion of the Selling Partners Interest, the Remaining Partners shall severally guarantee the payment of such amounts to the Selling Partner or the Selling Partner's estate, as the case may be.

(g) Multiple Purchases. In such case where the Remaining Partners and or the Partnership are purchasing the Partnership Interests of more than one Selling Partner, whether simultaneously or concurrently, the term under any such promissory note in Section 6.3(e) above shall be extended by thirty (30) months for each additional Selling Partner so that there shall be equal monthly payments under any such note. Any note then outstanding with respect to a Selling Partner shall also be extended by such additional thirty (30) months for each then Selling Partner. The Partners hereby agree to this extension provision for any and all promissory notes executed under this Section 6.3.

6.4 Admission of Additional Limited Partners. Any person acceptable to the General Partner and Limited Partners holding a majority of Partnership Interests may become an additional Limited Partner in the Partnership by the issuance of additional Partnership Interests in exchange for such consideration as such Partners may determine. Such person may become an additional Limited Partner in the Partnership only if, in addition to the requirements of Section 6.5, the person executes such instruments as the General Partner may deem necessary or desirable to effect such admission. Admission of an additional Limited Partner shall be recognized by the Partnership as provided in Section 6.6.

6.5 Conditions on Transfers of Partnership Interest. A transfer of a Partnership Interest or Economic Interest otherwise permitted by this Article 6 shall be subject to the following additional limitations:

(a) No Interest may be transferred or issued if such proposed action, in the opinion of counsel for the Partnership, (i) would result in the termination of the Partnership under Section 708 of the Code, or (ii) would result in the cancellation of the Certificate of Limited Partnership or an obligation to file a Certificate of Cancellation, or (iii) would impair the ability of the Partnership to be taxed as a partnership for Federal income tax purposes.

(b) No Interest may be issued by the Partnership or transferred by a Limited Partner unless the transferee confirms in a writing acceptable to the General Partner, and at the election of the General Partner, a writing deemed necessary or appropriate in the opinion of counsel to the Partnership, to confirm that such transferee has accepted, assumed, and agreed to be bound subject to and bound by all of the terms and conditions of this Agreement.

(c) No transfer of an Interest may be made unless the transferee shall have paid or, at the election of the General Partner, becomes obligated to pay all reasonable expenses, not less than \$50, connected with such transfer, substitution and admission, including but not limited to reasonable attorneys' and accountants' fees and the cost of preparing and filing an amendment required, if any, to effect the transferee's admission as a substituted Partner pursuant to Section 6.6.

(d) No Interest may be transferred unless, if requested, the General Partner receives an opinion of counsel, satisfactory in form and substance to the Partnership's counsel, to the effect that such transfer will not violate the Federal Securities laws, or any state securities or syndication laws. Such opinion shall, be furnished at the expense of such Partner or Owner.

(e) No Interest may be held by a tax exempt entity or a foreign person (as defined in Section 1445 of the Code).

6.6 Recognition of Transferees and Substituted Partners. Amendments to the books and records of the Partnership and, as may be required by law, amendments to the Certificate of Limited Partnership, shall be made monthly (or less frequently to the extent that such assignments or substitutions occur less frequently) to recognize the transfer of a Partnership Interest and, as applicable, admission of substituted or additional Partners. Assignments of Partnership Interests and admissions of new Partners shall be recognized and effective on and as of the first day of the first month following the date of the satisfaction of the conditions to the transfer and substitution set forth in this Article, as applicable.

6.7 Obligations of Transferring Partner. Except as otherwise agreed to by the General Partner, no transfer by a Limited Partner of all or any portion of an interest in the Partnership shall, to any extent, relieve the transferring Partner of any of such Partner's obligations to the Partnership or liability, if any, as a Partner (whether or not such person remains as a Partner).

6.8 Allocations Upon Transfer of Partnership Interest or Upon Admission.

(a) As between a Partner and such Partner's transferee, profits, losses and credits for any semi-monthly period shall be apportioned to the person who is the holder of the Partnership Interest transferred on the last day of such semi-monthly period, without regard to the results of the Partnership's operations during the period before or after such transfer. However, in the event that it is determined by the General Partner that the convention adopted by the Partnership to allocate income, gain, loss, deduction or credit of the Partnership is not in compliance with Section 706(d) of the Code, as modified by Regulations promulgated thereunder, then the General Partner shall revise the method of allocation to comply with such Regulations.

(b) No new Partners shall be entitled to any retroactive allocation of Profits or Losses incurred by the Partnership. The General Partner may, as a matter of discretion, at the time a Partner is admitted, or an Interest transferred, close the Partnership's books or make an allocation of tax items using any reasonable method permitted under Section 706(d) of the Code and applicable Treasury Regulations.

(c) Any distributions of cash or other property shall be made to the holder of record of any portion of a Partnership Interest on the date of distribution.

ARTICLE 7
DISSOCIATION OR WITHDRAWAL OF A LIMITED PARTNER

7.1 Dissociation. A person shall cease to be a Limited Partner upon the happening of any of the following events:

- (a) the bankruptcy of a Limited Partner;
- (b) the assignment or transfer by a Limited Partner of such person's entire Partnership Interest in accordance with the terms of this Agreement;
- (c) in the case of a Limited Partner who is a natural person, the death of the Partner or the entry of an order by a court of competent jurisdiction adjudicating the Partner incompetent to manage the Partner's personal estate;
- (d) in the case of a Limited Partner who is acting as a Partner by virtue of being a trustee of a trust, the termination of the trust (but not merely the substitution of a new trustee);
- (e) in the case of a Limited Partner that is a separate organization other than a corporation, the dissolution and commencement of winding up of the separate organization; or
- (f) in the case of a Limited Partner that is a corporation, the filing of a certificate of dissolution, or its equivalent, for the corporation or the revocation of its charter.

7.2 Rights of Dissociating Partner. In the event any Limited Partner dissociates prior to the expiration of the term of the Partnership:

- (a) the dissociation shall not cause a dissolution and winding up of the Partnership under Article 9 of this Agreement or under any provision of the Act;
- (b) the Limited Partner who dissociates, or such Partner's successor in interest shall, regardless of whether the dissociation was the result of a voluntary act by such Partner, not be entitled to receive any distributions to which the Partner would not have been entitled had the Partner remained a Partner, and the dissociating Partner shall thereafter be an Economic Interest Owner; and
- (c) if the dissociation occurs by virtue of an assignment of such person's entire Partnership Interest in accordance with this Agreement, then the rights of the dissociating Limited Partner (and such Partner's successor) shall be determined under Article 6

7.3 Withdrawal of Partner. Except as otherwise expressly provided in Article 6 or this Article, no Limited Partner shall be entitled to withdraw or resign from the Company.

ARTICLE 8
TRANSFER OF GENERAL PARTNERSHIP INTEREST AND
TERMINATION OF GENERAL PARTNERS

8.1 Admissions and Withdrawals of General Partners.

(a) **Admission with Consent.** With the consent of the Limited Partners holding two-thirds of the aggregate Partnership Interests held by the Limited Partners, and with the consent of all other General Partners, if any, a General Partners may at any time designate one or more persons to succeed to all or part of his or its General Partnership interest, or to be an additional General Partners, in each case with such participation in such General Partners's interest in the Partnership as such General Partners and such person may agree upon, provided that the admission of such person as a General Partners does not in any way change, alter or modify the cash distributions and tax allocations to which the Limited Partner(s) are entitled under this Agreement.

(b) **Transfer Not Requiring Consent.** A General Partners may transfer his interest in the Partnership, in whole or part, to (i) any corporation or firm directly or indirectly controlling, controlled by or under common control of such General Partners, or (ii) any entity that has, by merger, consolidation or otherwise, acquired substantially all of its stock or assets and continued its business and has assumed all of the obligations of the terminating General Partners. A transferee of all or a portion of the General Partners's Partnership Interest may not be admitted to the Partnership as an additional General Partners except in accordance with the provisions of Section 8.1(a). The successor in interest of such General Partners who is not admitted as a General Partners shall thereafter be an Economic Interest Owner entitled, as may be agreed upon between the General Partners and the transferee, to a share of allocations and distributions from the Partnership's operations or otherwise, without dilution by reason of such transfer. The General Partners agrees, however, not to make or allow any transfer that will or might cause the Partnership to be terminated for federal income tax purposes or to be treated as an association taxable as a corporation for federal income tax purposes.

(c) **Involuntary Withdrawal.** A General Partners shall be deemed to have involuntarily withdrawn as a General Partners from the Partnership upon the occurrence of any of the following events: (i) in the case of any General Partners that is a corporation, upon the filing of a certificate of dissolution, or its equivalent, or the revocation of its charter, (ii) in the case of a General Partners that is a partnership, upon the death, physical or mental incapacity (as determined by certificate of a licensed physician), dissolution or bankruptcy of all of the General Partners of such partnership, (iii) in the case of any General Partners that is an individual, upon the death, or physical or mental incapacity (as determined by certificate of a licensed physician) of such individual, (iv) the making of an assignment for the benefit of creditors, the filing of a voluntary petition in bankruptcy, or an adjudication of bankruptcy of such General Partners, the filing of a petition or answer proposing the adjudication of such person as a bankrupt, and such person either consents to the filing thereof, or fails to cause such petition or answer to be discharged or denied within sixty (60) days from the date of such filing, or (v) any other event that constitutes an event of withdrawal under the Act. Upon the involuntary withdrawal of a General Partners, the personal representative, guardian or other successor in interest of such General Partners shall thereafter become an Economic Interest Owner entitled to such General

Partners's share of allocations and distributions from operations or otherwise, without dilution by reason of such conversion. The personal representative, guardian or other successor in interest of such General Partners shall have all of the rights of a Partner for the sole purpose of settling the estate or business of such General Partners and for transferring such interest to its successors and assigns. Any provisions of the Act not in accordance with the terms of this Article shall be inapplicable and of no force and effect.

(d) **Withdrawal by General Partners.** Except as set forth above in this Article, the General Partners agrees not to transfer or assign a General Partnership interest or to withdraw from the Partnership or to undertake or fail to undertake any action that would cause an event of withdrawal from the Partnership.

8.2 Continuation of Partnership Business.

(a) **Procedure if there is a Remaining General Partners.** In any circumstance where an additional General Partners is admitted to the Partnership in accordance with the Article, the additional General Partners, together with all then remaining General Partners, may continue the business of the Partnership without dissolution. If a successor General Partners is admitted to the Partnership when the transferring General Partners is the sole General Partners and is transferring its entire Partnership Interest (and is therefore withdrawing from the Partnership), such successor shall be admitted as a General Partners immediately prior to the effective date of the withdrawal of the transferring General Partners, and such successor General Partners may continue the business of the Partnership without dissolution.

(b) **Procedure if there is no Remaining General Partners.** If following the involuntary withdrawal of the General Partners, there is no remaining General Partners, then any Limited Partner (including, without limitation, Special Limited Partners as successors to the Partnership Interest held by a withdrawn General Partners) may notify the other Limited Partners of such circumstances and may propose for admission a successor General Partners. Any person proposed by such Limited Partners shall become a successor General Partners upon receiving within a ninety (90) day period after the date of withdrawal of the General Partners the affirmative written consent of Limited Partners holding two-thirds of the Partnership Interests held by such Limited Partners and upon executing an agreement accepting the terms and conditions of this Agreement. The effect of such withdrawal by the General Partners upon the continuing status or dissolution of the Partnership shall be determined under Article 9 of this Agreement.

8.3 Liability of a Withdrawn General Partners. If the business of the Partnership is continued after the involuntary withdrawal or the transfer of the General Partners's entire interest in the Partnership in accordance with this Agreement, then such General Partners, or his estate or personal representative, shall remain liable for all obligations and liabilities incurred while a General Partners and for which he was liable as a General Partners, but shall be free of any obligation or liability incurred on account of or arising from the activities of the Partnership from and after the date such withdrawal or transfer becomes effective.

ARTICLE 9 DISSOLUTION AND LIQUIDATION

9.1 Events Triggering Dissolution. The Partnership shall dissolve and commence winding up and liquidating upon the first to occur of any of the following ("*Liquidating Events*"):

- (a) the determination by the General Partners, or by unanimous agreement of all of the Partners, that the Partnership should be dissolved;
- (b) the withdrawal or removal of a General Partners, the assignment by a General Partners of its entire interest in the Partnership, the bankruptcy, liquidation or dissolution of a General Partners, or any other event that causes a General Partners to cease to be a General Partners under the Act, provided that any such event shall not constitute a Liquidating Event if there are at least two remaining Partners and the business of the Partnership is continued either by the consent, within 90 days after the dissociation, of the remaining Partners holding at least a majority of the Partnership Interests;
- (c) the insolvency or bankruptcy of the Partnership;
- (d) the sale of all or substantially all of the Partnership assets;
- (e) any event that makes it impossible, unlawful or impractical to carry on the business of the Partnership; or
- (f) the expiration of the period fixed for the duration of the Partnership pursuant to Section 1.5 of this Agreement.

9.2 Continuation upon Dissolution. 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, or if upon the occurrence of an event specified in Section 9.1(b), the Partners either fail to designate a successor General Partners or fail to consent to the continuation of the Partnership within the specified 90-day period, then within an additional ninety (90) days after such determination or the expiration of the initial 90-day period, as the case may be (the "*Reconstitution Period*"), Partners holding at least two-thirds of the Partnership Interests may elect to reconstitute the Partnership and continue its business on the same terms and conditions set forth in this Agreement by forming a new limited partnership on terms identical to those set forth in this Agreement and having as a General Partners a person or entity elected by such two-thirds majority; provided that the right of a two-thirds majority in interest of the Partners to reconstitute and continue the business of the Partnership shall not exist and may not be exercised unless the Partnership has received an opinion of counsel that the exercise of the right would not result in the loss of limited liability of any Limited Partner and neither the Partnership nor the reconstituted partnership would cease to be treated as a partnership for federal income tax purposes upon the exercise of such right to continue. Upon any such election by a majority in interest of the Partners, all Partners shall be bound thereby and shall be deemed to have consented to such continuation. Unless such an election is made within the Reconstitution

DRAFT

Period, the Partnership shall wind up its affairs in accordance with Section 9.4. If such an election is made within the Reconstitution Period, then:

(a) The reconstituted limited partnership shall continue until the occurrence of a Liquidating Event as provided in Section 9.1;

(b) If the successor General Partners is not a former General Partners or successor in interest to the former General Partners, then the holder of such interest in the Partnership of any former General Partners shall be treated thereafter as an Economic Interest Owner not admitted as a Partner; and

(c) All necessary steps shall be taken to cancel this Agreement and the Certificate and to enter into a new partnership agreement and certificate of limited partnership, and the successor General Partners may for this purpose exercise the powers of attorney granted the General Partners pursuant to Section 5.5.

9.3 Effect of Dissolution. No dissolution of the Partnership shall release any of the parties to this Agreement from their contractual obligations under this Agreement. Each Partner (for himself, his legal representatives, heirs and transferees) hereby waives any rights that are inconsistent with this Article 9 which may be provided by the Act, such as, for example, any right to be paid in cash the value of his Partnership Interest before the expiration of the term of the Partnership; any right to a court-approved bond for the deferred payment of the value of his Partnership Interest; any right to be indemnified against liabilities of the Partnership; and any right to obtain an accounting as at the date of dissolution. The Limited Partners hereby make, constitute and appoint the General Partners as their lawful attorney to make and file a Certificate of Cancellation and all other documents necessary or advisable to effect the dissolution, termination and liquidation of the Partnership. Following a dissolution, each of the Partnership and the Partner causing the dissolution may give notice to creditors of the Partnership to the effect that he is not longer a Partner, in accordance with the Act.

9.4 Liquidation. Upon dissolution of the Partnership in accordance with Section 9.1, the Partnership shall be liquidated. The General Partners (or if there is no General Partners, then the Partners holding a majority of the Partnership Interests) shall select a Liquidating Manager (who may be any Partner or Manager) who shall serve only for purposes of winding up the Partnership. The proceeds of such liquidation shall be applied and distributed in the following order of priority:

(a) to the payment of the debts and liabilities of the Partnership (other than debts or liabilities owing to a Partner or Economic Interest Owner) and the expenses of liquidation (including, if applicable, the reasonable fees of the Liquidating Manager);

(b) the setting up of any reserves which the Liquidating Manager may deem reasonably necessary for any contingent or unforeseen liabilities or obligations of the Partnership, which reserves shall be paid over to an attorney at law of the State of New Jersey, as escrow-holder, to be held for the purpose of disbursing (under the direction of the Liquidating Manager) such reserves in payment of any of the aforementioned liabilities and, at the expiration

of such period (not to exceed two (2) years) as the Liquidating Manager may deem advisable, for distribution in the manner hereinafter provided;

(c) to the repayment of any outstanding advances or loans that may have been made by any of the Partners or Economic Interest Owners to the Partnership, other than Capital Contributions, pro rata among them on the basis of such advances and loans to the Partnership; and

(d) the balance, if any, to the Partners or Economic Interest Owners (or to their permitted transferees of their Interest in the Partnership, in whole or in part) in accordance with their respective Capital Accounts, after adjustment for all income, loss, and gain of the Partnership and after adjustment for all previous contributions and distributions of the Partnership, provided that, if any General Partners'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), each such General Partners 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), and such contributions shall be distributed in accordance with this Section 3.3(a).

9.5 Revaluation. If the Partnership assets are not sold, but instead are distributed in kind, such assets, for purposes of determining the amount to be distributed to the parties, shall be revalued on the Partnership books to reflect their then current fair market value as of a date reasonably close to the date of liquidation. Any unrealized appreciation or depreciation shall be allocated among the Partners (in accordance with the provisions of Article 3 as if such assets were sold at such fair market value) and taken into account in determining the Capital Accounts of the Partners as of the date of liquidation.

9.6 Distributions in Kind. The Liquidating Manager may make distributions to the Partners in cash or in kind, or partly in cash or partly in kind, in divided or undivided interests, and to allocate any property towards the satisfaction of any payment or distribution due to the Partners in such manner as the Liquidating Manager may determine, whether or not such distributive shares may as a result be composed of differently. Distribution of any asset in kind to a Partner shall be considered as a distribution of an amount equal to the asset's fair market value for purposes of this Article 9.

9.7 Timing of Liquidation. Distributions and liquidation of the Partnership shall be made in compliance with Treasury Regulation Section 1.704-1(b)(2)(ii)(b). Distributions may be made 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 and Economic Interest Owners from time to time in the reasonable discretion of the Liquidating Manager, in the same proportions as the amount distributed to such trust by the Partnership would otherwise have been distributed to such persons pursuant to this Agreement.

9.8 Certificate of Cancellation. Upon the dissolution of the Partnership and the completion of the liquidation and winding of the Partnership's affairs and business, the

Liquidating Manager shall (or if the Liquidating Manager fails to act, then any Partner may) prepare and file a certificate of cancellation with the New Jersey Secretary of State, as required by the Act. When such certificate is filed, the Partnership's existence shall cease.

ARTICLE 10 ACCOUNTING AND FISCAL MATTERS

10.1 Fiscal Year. The fiscal year of the Partnership shall be the calendar year.

10.2 Method of Accounting. The General Partners shall keep, or cause to be kept, full and accurate records of all transactions of the Partnership on the cash method in accordance with sound accounting principles consistently applied, unless another method is deemed necessary or advisable by the General Partners.

10.3 Books and Records. All books of account shall, at all times, be maintained in the principal office of the Partnership, and shall be open during reasonable business hours for the reasonable inspection and examination by the Limited Partners or their authorized representatives. Such reasonable inspection shall include the right to make copies thereof at such Partner's own expense.

10.4 Federal Income Tax Returns. The General Partners shall prepare, or cause to be prepared, Federal income tax returns for the Partnership, and, in connection therewith and in the discretion of the General Partners, make any available or necessary elections, including elections with respect to the useful lives and rates of depreciation of the properties of the Partnership.

10.5 Reports and Statements. By the first of April of each calendar year of the Partnership, the General Partners shall cause to be delivered to the Limited Partners such information as shall be necessary for the preparation by the Limited Partners of their Federal, state and local income and other tax returns. The General Partners shall also furnish such other information to the Limited Partners as, in the judgment of the General Partners, shall be reasonably necessary for the Partners to be advised of the financial status and results of operations of the Partnership.

10.6 Bank Accounts. The General Partners shall open and maintain (in the name of the Partnership) such bank accounts in which shall be deposited all funds of the partnership. Withdrawals from such account or accounts shall be made upon the signature or signatures of such person or persons as the General Partners shall designate.

ARTICLE 11 MISCELLANEOUS

11.1 Amendment. Except as otherwise provided in this Section 11.1 or elsewhere in this Agreement, this Agreement may be amended only with the consent of the General Partners and by Limited Partners holding 75% of the aggregate Partnership Interests held by the Limited Partners.

(a) **Amendments Without Consent of Limited Partners.** In addition to any amendments otherwise authorized in this Agreement, amendments may be made to this

Agreement from time to time by the General Partners, without the consent of any Limited Partner, which (i) do not adversely affect the rights of the Limited Partners or their assignees in any material respect; (ii) correct any error or resolve any ambiguity in or inconsistency among any of the provision of this Agreement; (iii) delete or add any provision of this Agreement that is required to be so deleted or added by any federal or state securities commission or other governmental authority; (iv) amend this Agreement and any Certificate of Limited Partnership to at new Partners in accordance with this Agreement; (v) amend Article 3 in accordance with the provisions of Section 3.3(c); or (vi) is in response to a change in the Act that permits or requires an amendment so long as no Partner is adversely affected in any material respect.

(b) **Amendments Requiring Consent of Affected Partners.**

Notwithstanding anything to the contrary in this Section 11.1, this Agreement may not be amended, without the consent of the Partner or Partners affected by any amendment to this Agreement, to (i) convert a Limited Partner's interest into a General Partners's interest; (ii) modify the limited liability of a Limited Partner; (iii) alter the status of the Partnership as a partnership for federal income tax purposes; or (iv) otherwise modify the compensation, distributions, or rights of reimbursement to which the General Partners is entitled or affect the duties of the General Partners or the indemnification to which the General Partners and its affiliates, employees or agents are entitled.

11.2 Definitions. As used in this Agreement, capitalized words and phrases shall have the following meanings:

(a) **Bankruptcy.** "*Bankruptcy*" of any individual, corporation or partnership shall be deemed to occur when (1) such individual, corporation or partnership files a petition in bankruptcy, or voluntarily takes advantage of any bankruptcy or insolvency law or (2) is the subject of a petition or answer proposing the adjudication of such person as a bankrupt, and such individual, corporation or partnership either consents to the filing thereof, or fails to cause such petition or answer to be discharged or denied prior to the expiration of sixty (60) days from the date of such filing, or (3) such person's or entity's assets are insufficient to pay his or its liabilities, or he or it has so admitted in writing.

(b) **Capital Account.** "*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 that are specially allocated pursuant to Section 3.3 (other than Section 3.3(a)) or 3.4 of this Agreement, and the amount of any Partnership liabilities that are assumed by such Partner or that are secured by any Partnership property distributed to such Partner.

(ii) To each Partner's Capital Account there shall be debited the amount of cash (exclusive of amounts, if any, paid in exchange for management services of the General Partners pursuant to Section 5.8) and the Gross Asset Value of any Partnership property 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 that are specially allocated pursuant to Section 3.3 (other than Section 3.3(a)) or 3.4 of this Agreement, such

Partner's distributive share of noncapital, nondeductible expenditures of the Partnership under Code Section 705(a)(2)(B) (including items treated as such expenditures pursuant to Treasury Regulation 1.704-1(b)(2)(iv)(I)), and the amount of any liabilities of such Partner that are assumed by the Partnership or that are secured by any property contributed by such Partner to the Partnership.

(iii) In the event any Partner transfers all or any portion of its Partnership Interest 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 the event the Gross Asset Values of Partnership property are adjusted pursuant to Section 11.2(i) of this Agreement, the Capital Accounts of all Partners shall be adjusted simultaneously to reflect the aggregate net adjustment as if the Partnership recognized gain or loss equal to the amount of such aggregate net adjustment.

(v) In determining the amount of any liability for purposes of this Section 11.2(b), there shall be taken into account Code Section 752(c) and other applicable Code Sections and Treasury Regulations.

(vi) The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulation Section 1.704-1(b), and shall be interpreted and applied in a manner consistent with the Treasury Regulations. In the event the General Partners determines 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 that are secured by contributed or distributed property or that are assumed by the Partnership or the Partners), are computed in order to comply with such Regulations, the General Partners may make such modification, provided that it is not likely to have a material effect on the amounts distributable to any General Partners or other Partner pursuant to Article 9 of this Agreement upon the dissolution of the Partnership. The General Partners also shall (1) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Partners and the amount of capital reflected on the Partnership's balance sheet, as computed for book purposes, in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(g), and (2) make any appropriate modifications in the event unanticipated events might otherwise cause this Agreement not to comply with Regulations Section 1.704(b).

(c) **Capital Account Deficit.** "*Capital Account Deficit*" means, with respect to any Partner, the deficit balance, if any, in such Partner's Capital Account as of the end of the relevant fiscal year of the Partnership, after giving effect to the following adjustments:

(i) Credit to such Capital Account any amounts which such Partner is obligated to restore (pursuant to the terms of any promissory note of such Partner or otherwise) or is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(I)(5); and

(ii) Debit to such Partner's Capital Account the items described in Sections 1.704-1(b)(2)(ii)(d)(4), (5) or (6) of the Regulations.

DRAFT

The foregoing definition of Capital Account Deficit is intended to comply with Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

(d) **Capital Contribution.** "*Capital Contribution*" 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 a Partnership interest held by such Partner. The principal amount of a promissory note which is not readily tradable on an established securities market and which is contributed to the Partnership by the maker of the note (or a person related to the maker of the note within the meaning of Treasury Regulation 1.704-1(b)(2)(ii)(c)) shall not be included in the Capital Account of any Partner until the Partnership makes a taxable disposition of the note or until (and to the extent that) principal payments are made on the note, all in accordance with Treasury Regulation 1.704-1(b)(2)(iv)(d)(2)

(e) **Code.** "*Code*" means the Internal Revenue Code of 1986, as amended from time to time (or any corresponding provisions of succeeding law).

(f) **Depreciation.** "*Depreciation*" means, for each fiscal year or other period, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable, if any, with respect to a partnership 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.

(g) **Economic Interest.** "*Economic Interest*" means a Partner's or Economic Interest Owner's share of the Partnership's Profits, Losses, Net Cash Flow, and other distributions of the Partnership's assets pursuant to this Agreement and the Act, but shall not include any right to participate in the management or affairs of the Partnership, including, without limitation, the right to vote on, consent to, or otherwise participate in any decision of the Partners, all as provided in Section 6.2.

(h) **Economic Interest Owner.** "*Economic Interest Owner*" shall mean the owner of an Economic Interest who is not a Partner, including without limitation, a person who has acquired an Economic Interest (i) as an assignee pursuant to Section 6.2, or (ii) as the personal representative, guardian or other successor in interest upon the death (in the case of a Partner who is an individual), dissolution (in the case of a Partner who is not an individual), bankruptcy or physical or mental incapacity of a Partner pursuant to Article 7.

(i) **Gross Asset Value.** "*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 General Partners, 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 property other than money, unless all Partners receive simultaneous distributions of undivided interests in the distributed property in proportion to their interests in the Partnership; (c) the liquidation of the Partnership within the meaning of Regulation Section 1.704-1(b)(2)(ii)(g); and (d) the termination of the Partnership for federal income tax purposes pursuant to Code Section 708(b)(1)(B);

(iii) 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 Sections 1.12(p)(v) and 3.3(d); and

(iv) If the Gross Asset Value of an asset has been determined or adjusted pursuant to this subsection, 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.

(j) **Lender.** "Lender" means any Partner who advances (other than as a Capital Contribution) any money or property to the Partnership.

(k) **Net Cash from Operations.** "Net Cash from Operations" means the gross cash proceeds from Partnership operations (including sales and dispositions in the ordinary course of business) less the portion of such proceeds used to pay or establish reserves for all Partnership expenses, debt payments, capital improvements, replacements, and contingencies, all as determined by the General 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 pursuant to Section 4.3(b). Payments of principal and interest on any debts or other obligations of the Partnership, whether or not secured by mortgages or liens on Partnership property, shall be considered as a deduction from Net Cash from Operations.

(l) **Net Cash from Sales or Refinancings.** "Net Cash from Sales or Refinancings" means the net cash proceeds from all sales and other dispositions (other than on the ordinary course of business) and all refinancings or placement of new mortgages on the Property, less any portion of such proceeds used to establish reserves, all as determined by the General Partners. "Net Cash from Sales or Refinancings" shall include all principal and interest payments received by the Partnership with respect to any note or other obligations received by the Partnership in connection with sales and other dispositions (other than in the ordinary course of business) of Property. For purposes of this Agreement, Net Cash from Sales or Refinancings shall also include Capital Contributions of the Partners.

(m) **Partners.** "Partners" means the General Partners, the persons listed on attached Schedule A, and any person admitted to the Partnership as a Partner in accordance with Article 6 or 8. The "General Partners", as General Partners, and the "Limited Partners", as

DRAFT

limited partners, shall have the powers, rights and privileges provided to them in this Agreement. If the General Partners also holds an Interest in the Partnership as a Limited Partner, the General Partners shall be treated as a Limited Partner to the extent that the terms and conditions of this Agreement relate to such Limited Partnership Interest.

(n) **Partnership.** "*Partnership*" means the limited partnership governed by this Agreement.

(o) **Partnership Interest.** "*Partnership Interest*" means a Partner's Economic Interest in the Partnership and such Partner's right, if any, to participate in the management of the business and affairs of the Partnership, including, without limitation, the right to vote on, consent to, or otherwise participate in any decision or action of the Partners pursuant to this Agreement or the Act. Except as otherwise agreed to in a writing signed by all of the Partners and attached to this Agreement, the Partner's respective percentage Partnership Interests shall be equal to the proportionate agreed-upon values of the Capital Contributions made by each Partner, to the extent that such Contributions have been received by the Partnership and not returned. For this purpose, distributions pursuant to Article 4 shall not be considered as a return of Capital Contributions unless specifically identified as such by the General Partners in writing.

(p) **Profit and Losses.** "*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) (and 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 this Subsection shall be 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 Treasury Regulation Section 1.704-1(b)(2)(iv)(I), and not otherwise required to be taken into account in computing Profits or Losses pursuant to this Subsection, shall be subtracted from such taxable income or loss;

(iii) Gain or loss resulting from any disposition of Partnership 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;

(iv) 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 Section 11.2(f) of this Agreement;

(v) In the event that the Gross Asset Value of any Partnership asset is adjusted pursuant to Section 11.2(i)(ii), the amount of such adjustment shall be taken into

DRAFT

account as gain or loss from the disposition of such asset for purposes of computing Profits and Losses;

(vi) To the extent that an adjustment to the adjusted tax basis of any Partnership asset pursuant to Code Section 734(b) or Code Section 743(b) is required under Treasury Regulation 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Partner's interest in the Partnership, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or an item of loss (if the adjustment decreases the basis of the asset) from the disposition of the asset and shall be taken into account for purposes of computing Profits or Losses; and

(vii) Any items that are specially allocated pursuant to Section 3.3(a) shall not be taken into account in computing Profits or Losses.

(q) **Property.** "*Property*" means the Partnership's interest in the assets more fully described on attached Schedule B, and such other real or personal property as the Partnership shall, from time to time, acquire.

(r) **Related Party.** "*Related Party*" means an eligible transferee of Partnership Interest (in accordance with Article 6 of this Agreement) from a Partner, provided that, in each case, such transferee (i) is a child born to such Partner or a grandchild born to such child of a Partner, related by blood, or is the Trustee of a trust established for the sole benefit of such person(s), or (ii) a sibling related by blood, to a Partner but only if the Partner concurrently transfers an equal percentage of his Partnership Interest to each of his or her other siblings, and (iii) in both (i) and (ii) agrees to become bound by the terms and conditions of this Agreement in accordance with Section 6.5. A Partner can be considered a Related Party but only if, to the extent and in circumstances where that Partner received his Partnership Interest or portion thereof as a Related Party.

(s) **Treasury Regulations.** "*Treasury Regulations*" means the Income Tax Regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

11.3 Notices. Unless otherwise provided in this Agreement or by written agreement of the Partners, all notices or other communications required or permitted to be given under this Agreement shall be deemed given when delivered personally or mailed by registered or certified mail, return receipt required, postage prepaid, or delivered by overnight courier service, to the Partners at their addresses on the records of the Partnership, or at such other addresses as a Partner may hereafter designate in writing to the Partnership in writing.

11.4 Binding Effect. Except as herein otherwise provided to the contrary, this Agreement shall be binding upon and inure to the benefit of the parties hereto, their personal representatives, successors and assigns.

11.5 Counterparts. This Agreement may be executed in several counter-parts, each of which shall be deemed an original, and said counterparts shall constitute but one and the same instrument which may be sufficiently evidenced by one counterpart.

DRAFT

11.6 **Governing Law**. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida.

11.7 **Severability**. The invalidity or unenforceability of any particular provision of this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

11.8 **Gender**. As used in this Agreement, the masculine gender shall include the feminine and the neuter, and vice versa.

11.9 **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties, and their respective successors and assigns.

The parties to this Agreement have executed this Agreement as of the day and year first above written.

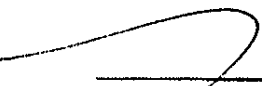
GENERAL PARTNERS:




Harvey A. Mackler



Randi Mackler Windheim



Lynn Snyder-Mackler



Helen Mackler

LIMITED PARTNERS:

Hillary Ruth Mackler

Jessica Robbyn Stepkin

DRAFT

Justin Leigh Windheim

Marc Ian Windeim

Alexander Nathan Snyder-Mackler

Noah Marsh Snyder-Mackler

DRAFT

SCHEDULE A

GENERAL PARTNERS

Capital Contributions

**Partnership
Interest**

Harvey Alan Mackler
1515 Brock Creek Drive
Yardley, PA 19067

TBD

.02%

Randi Mackler Windheim
1216 Duncan Drive
Dresher, PA 19025

TBD

.02%

Lynn Snyder-Mackler
219 Hullihen Drive
Newark, DE 19711

TBD

.02%

Helen Mackler
110 Beverly Road
Bloomfield, NJ 07003

TBD

2.94%

LIMITED PARTNERS

97%*

Hillary Ruth Mackler

Jessica Robbyn Stepkin

Justin Leigh Windheim

Marc Ian Windeim

Alexander Nathan Snyder-Mackler

Noah Marsh Snyder-Mackler

*Combined interests of limited partners

SCHEDULE B
VALUATION FORMULA

Purchase Price. (a) If a Limited Partner sells his Partnership Interest during his life under Section 6.3(a), the Partners hereby agree that the purchase price to be paid for such Interests shall be equal to (x) the Appraised Value of the Property, as defined below less a discount of thirty percent (30%), (y) multiplied by the then percentage interest in the Partnership held by the Selling Partner.

(b) If a Limited Partner sells his Partnership Interest under Section 6.3(b) due to the death of such Limited Partner, the Partners hereby agree that the purchase price to be paid for such interests shall be equal to (x) the Appraised Value of the Property, as defined below (y) multiplied by the then percentage interest in the Partnership held by the deceased Selling Partner's estate.

Appraised Value. "*Appraised Value*," as of any day, shall mean (i) 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 (ii) the additional amount, if any, that such buyer would pay for an existing favorable financing or leases on the Property, and decreased by (iii) any encumbrances or mortgages on such property and decreased by (iv) 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, and (v) increased by the fair market value of other Partnership assets, and (vi) decreased by other Partnership liabilities.

Appointment of Appraiser. The Selling Partner and the Partnership shall, by mutual agreement, appoint an appraiser to determine the Appraised Value which determination shall be binding on all of the Partners and the Partnership. Such determination of Appraised Value shall be made by the appraiser in writing within thirty (30) days of such appointment.

If the Partnership and Selling Partner cannot agree on the appointment of one appraiser, then the Partnership shall appoint one appraiser (the "*First Appraiser*") and the Selling Partner shall appoint one appraiser (the "*Second Appraiser*"). The First and Second Appraisers shall meet within ten (10) days of such appointment and shall endeavor, within thirty (30) days of such appointment, to agree upon, and give written notice to the Partnership, the Members 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 Superior Court of the State of New Jersey, to appoint the Third Appraiser. After the appointment of the Third Appraiser, the Gross Appraised Value shall be the amount included in an Appraiser's Notice subscribed to by at least two (2) of the three (3) appraisers; provided that before subscribing to a

DRAFT

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 (2) the appraisers have not given an Appraisers' Notice within twenty (20) days of the appointment of the Third Appraiser, the Appraised Value of the Property shall be determined solely by the Third Appraiser, who shall give an Appraisers' Notice within thirty (30) days of his appointment.

Each appraiser shall be disinterested and shall be a member of the Appraisal Institute or other appropriate body and qualified to appraise property similar to the Property and located in the vicinity of the Property.

DRAFT

AMENDED
ARTICLES OF LIMITED PARTNERSHIP
OF
MACKLER FAMILY PARTNERSHIP, L.P.
A NEW JERSEY LIMITED PARTNERSHIP

Prepared by:
Norris, McLaughlin & Marcus
721 Route 202-206
P.O. Box 1018
Somerville, NJ 08876-1018
EIN#

TABLE OF CONTENTS**PAGE**

ARTICLE 1 FORMATION, PURPOSE AND DEFINITIONS	1
1.1 Establishment of Partnership	1
1.2 Name.....	1
1.3 Principal Office of the Partnership	1
1.4 Purpose	1
1.5 Term.....	2
1.6 Defined Terms	2
ARTICLE 2 PARTNERS' CAPITAL	2
2.1 Capital Contributions.....	2
2.2 Maintenance of Capital Accounts.....	2
2.3 Withdrawal of Capital	2
2.4 Additional Capital Contributions.....	2
2.5 Interest on Capital Contributions.....	3
2.6 Priority and Return of Capital	3
2.7 Limitation on Liability of Limited Partner	3
2.8 Loans	3
2.9 Default in Capital Contribution	3
ARTICLE 3 ALLOCATION OF PROFITS AND LOSSES	4
3.1 Profits.....	4
3.2 Losses	4
3.3 Special Allocations	4
3.4 Allocation Rules.	6
ARTICLE 4 DISTRIBUTIONS OF CASH FLOW	6
4.1 Net Cash from Operations	6
4.2 Net Cash from Sales or Refinancings.....	7
4.3 Restrictions on Distributions of Cash Flow.....	7
ARTICLE 5 POWERS OF THE PARTNERS	8
5.1 Voting Powers of General Partners	8
5.2 Voting Powers of Limited Partners	8
5.3 General Powers of General Partners.....	8
5.4 Partnership Basis Elections	9
5.5 Power of Attorney.	9
5.6 Actions in Good Faith.....	10
5.7 Duties of General Partners.....	10
5.8 Compensation of General Partners	10
5.9 Tax Matters Partner	11
5.10 Other Activities of Partners	11
5.11 Limitation of Personal Liability of General Partners to Partners.	11

DRAFT

5.12	Indemnification.....	12
ARTICLE 6 TRANSFER OF LIMITED PARTNERSHIP INTERESTS		12
6.1	General Restriction	12
6.2	Permitted Transfers.....	12
6.3	Transfer of Partnership Interest.....	12
6.4	Admission of Additional Limited Partners.....	14
6.5	Conditions on Transfers of Partnership Interest.....	14
6.6	Recognition of Transferees and Substituted Partners.....	15
6.7	Obligations of Transferring Partner.....	15
6.8	Allocations Upon Transfer of Partnership Interest or Upon Admission.....	15
ARTICLE 7 DISSOCIATION OR WITHDRAWAL OF A LIMITED PARTNER		16
7.1	Dissociation	16
7.2	Rights of Dissociating Partner	16
7.3	Withdrawal of Partner	16
ARTICLE 8 TRANSFER OF GENERAL PARTNERSHIP INTEREST AND TERMINATION OF GENERAL PARTNERS		17
8.1	Admissions and Withdrawals of General Partners.....	17
8.2	Continuation of Partnership Business.....	18
8.3	Liability of a Withdrawn General Partners.....	18
ARTICLE 9 DISSOLUTION AND LIQUIDATION		19
9.1	Events Triggering Dissolution.....	19
9.2	Continuation upon Dissolution.....	19
9.3	Effect of Dissolution.....	20
9.4	Liquidation.....	20
9.5	Revaluation.....	21
9.6	Distributions in Kind	21
9.7	Timing of Liquidation	21
9.8	Certificate of Cancellation.....	21
ARTICLE 10 ACCOUNTING AND FISCAL MATTERS.....		22
10.1	Fiscal Year.....	22
10.2	Method of Accounting.....	22
10.3	Books and Records	22
10.4	Federal Income Tax Returns.....	22
10.5	Reports and Statements	22
10.6	Bank Accounts.....	22
ARTICLE 11 MISCELLANEOUS		22
11.1	Amendment	22
11.2	Definitions	23
11.3	Notices	28
11.4	Binding Effect.....	28
11.5	Counterparts.....	28

DRAFT

11.6	Governing Law	29
11.7	Severability	29
11.8	Gender	29
11.9	Binding Effect.....	29

DRAFT

AMENDED ARTICLES OF LIMITED PARTNERSHIP

OF

MACKLER FAMILY PARTNERSHIP, L.P.

A NEW JERSEY LIMITED PARTNERSHIP

These **AMENDED ARTICLES OF LIMITED PARTNERSHIP OF MACKLER FAMILY PARTNERSHIP, L.P.** are entered into and shall be effective as of _____, by and among the parties whose names are set forth on Schedule A attached to this Agreement and incorporated by reference in this Agreement as the "Partners". The adoption of this amended Agreement by the partners hereto is intended to memorialize the prior transfer of a general partner interest from Scott Andrew Mackler to his spouse, Lynn Snyder-Mackler.

RECITAL

The persons listed on attached Schedule A desire to continue to maintain a limited partnership to hold, manage and invest certain securities and other assets. The partners desire to set forth in this Agreement the terms of their understandings and agreement. In consideration of the mutual promises in this Agreement, the parties, intending legally to be bound, agree as follows:

ARTICLE 1

FORMATION, PURPOSE AND DEFINITIONS

1.1 Establishment of Partnership. The Partners hereby agree to establish a limited partnership pursuant to the provisions of the New Jersey Uniform Limited Partnership Law (1976) (the "*Act*") and upon the terms set forth in this Agreement.

1.2 Name. Pursuant to the terms of this Agreement, the Partners intend to carry on a business for profit as co-owners under the name "*Mackler Family Partnership, L.P.*" The Partnership may conduct its activities under any other permissible name designated by the General Partners. The General Partners shall be responsible for complying with any registration requirements in the event an alternate name is used.

1.3 Principal Office of the Partnership. The principal office of the Partnership shall be located at 1515 Brock Creek Drive, Yardley, PA 19067, or at such other location as the General Partners, as a matter of discretion, may determine. The registered agent for the service of process and registered office of the Partnership shall be the person and location set forth in the Certificate of Limited Partnership filed with the New Jersey Secretary of State, and the General Partners may, from time to time, change such agent and office by appropriate filings as required by law.

1.4 Purpose. The Partnership is to own and manage a securities portfolio, and such other real or personal property as the Partnership may, from time to time, acquire. The Partnership is being created for a number of reasons. First, to centrally control and manage assets, thereby enabling each partner to benefit from an economy of scale. Second, it will simplify gift giving

among partners, especially from parent to children. Third, it will facilitate buy-sell arrangements that assure assets are kept in the family and not squandered. Fourth, it provides for asset protection in the event of failed marriages, or for other reasons, since creditors cannot force distributions. As a vehicle of asset protection it is a more flexible and easily amended structure than a trust.

1.5 Term. The term of this Partnership shall begin on the filing and acceptance of the Certificate of Limited Partnership by the New Jersey Secretary of State, and shall continue for a period of 40 years after such date, unless the Partnership is earlier dissolved in accordance with the provisions of Article 9 of this Agreement.

1.6 Defined Terms. Capitalized words and phrases used in this Agreement shall have the meanings ascribed to such terms in the Glossary contained in Section 11.2 of this Agreement.

ARTICLE 2 PARTNERS' CAPITAL

2.1 Capital Contributions. Limited Partners acknowledge that the initial capital contributions required to be made by the partners in their individual capacity have been made.

2.2 Maintenance of Capital Accounts. The Partnership shall establish and maintain a Capital Account for each Partner.

2.3 Withdrawal of Capital. A Partner shall not be entitled to withdraw any part of such Partner's Capital Account or to receive any distribution from the Partnership, except as provided in this Agreement.

2.4 Additional Capital Contributions. (a) Additional Capital Contributions may be called for by the General Partner by written demand upon all of the Partners from time to time for any purpose deemed appropriate by the General Partner. Such additional Capital Contributions shall be payable in proportion to the then Partnership Interests of the Partners.

(b) In the event any Partner shall fail to make all or any part of such additional Capital Contribution within ten (10) business days of written demand from the General Partner (the "Defaulting Partner"), then the other Partners shall have the right to contribute that portion of the Defaulting Partner's unpaid obligation as equals a fraction the denominator of which is the total of all the Partnership Interests held by all Partners other than the Defaulting Partner and the numerator of which is the Partnership Interest held by any of the other Partners. If all of the additional contribution required by this Section 2.4 is not made by the other Partners, then the Defaulting Partner shall be obligated to give the Partnership a promissory note for the amount of his additional capital contribution which has not been paid by the other Partners. Such note shall be a demand note, demand for payment of which shall not be made by the Partnership until the time which is immediately prior the earlier of (i) the transfer of all of the Defaulting Partners Partnership Interest or (ii) the liquidation of the Partnership. Such note shall accumulate interest at the then lowest applicable federal rate until maturity or payment. The note shall be prepayable in whole or in part without penalty. Amounts due any Defaulting Partner under any provision of this Agreement shall be offsetable against amounts owed by such Defaulting Partner under any such promissory note. The contributing other Partners shall have the right to additional

Partnership Interest and the Defaulting Partner shall be subject to a decrease in his Partnership Interest as set forth in subsection 2.4(c) below.

(c) Where the other Partners meet all or part of the obligation of the Defaulting Partner to make the additional Capital Contribution required in subsection 2.4(a) above, each such contributing Partner's Partnership Interest in the Partnership shall be increased by a fraction the numerator of which is the additional Capital Contribution made by such other Partner in subsection 2.4(b) above and the denominator of which is all Capital Contributions made by all Partners from the inception of the Partnership, including all additional Capital Contributions. The Partnership Interest of the Defaulting Partner shall be decreased by the total of all increases made to the other Partners making his additional Capital Contribution.

(d) No Limited Partner shall have an obligation to restore any deficit in such Partner's Capital Account, except as provided in this Agreement, and such deficit, if any, shall not be considered a debt owed to the Partnership or to any other person for any purpose.

2.5 Interest on Capital Contributions. No interest shall be due from the Partnership on any Capital Contribution of any Partner.

2.6 Priority and Return of Capital. Except as may be expressly provided in this Agreement, no Partner or Economic Interest Owner shall have priority over any other Partner or Economic Interest Owner, either for the return of Capital Contributions or for Net Cash from Operations or from Sales or Refinancings, provided that this section shall not apply to loans (as distinguished from Capital Contributions) which a Partner has made to the Partnership.

2.7 Limitation on Liability of Limited Partner. The Limited Partners shall have no liability or obligation for any debts, liabilities or obligations of the Partnership beyond the Limited Partner's respective Capital Contribution or obligation to make a Capital Contribution, except as expressly required by this Agreement or applicable law. A Limited Partner who rightfully received any distribution of cash or Property from the Partnership is nevertheless liable to the Partnership only to the extent now or hereafter provided by the Act.

2.8 Loans. If any Partner makes any loan or loans to the Partnership, or advances money on its behalf, the amount of any such loan or advance shall not be deemed an increase in, or contribution to, the capital account of the lending Partner or entitle the lending Partner to any increase in a share of the distributions of the Partnership. Interest shall accrue on any such loan at an annual rate agreed to by the Partnership and the lending Partner (but not in excess of the maximum rate allowable under applicable usury laws).

2.9 Default in Capital Contribution. If any Partner fails to make any Capital Contribution when due, such Partner shall be in default, and the Partnership may exercise all legal rights including, without limitation, the commencement of an action to collect from such defaulting Partner by legal process the entire amount of the unpaid Capital Contribution (including those not currently in default), together with all court costs and reasonable attorney fees.

ARTICLE 3
ALLOCATION OF PROFITS AND LOSSES

3.1 Profits. After giving effect to the special allocations set forth in Section 3.3, Profits for any fiscal year shall be allocated in the following order and priority:

(a) First, to the extent that Losses have been allocated pursuant to Section 3.2(b) for any prior year, Profits shall be allocated to the Partners until the cumulative Profits allocated pursuant to this Section for the current and all previous years are equal to the cumulative Losses allocated pursuant to Section 3.2(b) of this Agreement for all prior periods pro rata among the Partners in proportion to their share of the Losses being offset); and to the extent any allocations of Losses are offset pursuant to this Section 3.1(a), such allocations shall be disregarded for purposes of computing subsequent allocations pursuant to this Section 3.1(a); and

(b) Second, the balance, without priority, to the Partners in proportion to their respective Partnership Interests, unless the Partners have agreed, in a writing signed by all Partners and attached to this Agreement, to a different allocation of Profits permitted by law and applicable regulation.

3.2 Losses. After giving effect to the special allocations set forth in Section 3.3, Losses for any fiscal year shall be allocated in the following order and priority:

(a) First, to the extent that Profits have been allocated pursuant to Section 3.1(b) for any prior year, Losses shall be allocated first to offset any Profits allocated pursuant to any Profits allocated pursuant to Section 3.1(b) (pro rata among the Partners in proportion to their share of the Profits being offset). To the extent any allocations of Profits are offset pursuant to this Section 3.2(a), such allocations shall be disregarded for purposes of computing subsequent allocations pursuant to this Section 3.2(a).

(b) Additional Losses, if any, shall then be allocated, without priority, to the Partners in proportion to their respective Partnership Interests, unless the Partners have agreed, in a writing signed by all Partners and attached to this Agreement, to a different allocation of Losses permitted by law and applicable regulation.

(c) The losses allocated pursuant to Sections 3.2(a) and 3.2(b) of this Agreement shall not exceed the maximum amount of losses that can be allocated to a Limited Partner without causing such Partner to have a Capital Account Deficit at the end of any fiscal year. All Losses in excess of the limitation set forth in this Section 3.2(c) shall be allocated to the General Partners.

3.3 Special Allocations. The following special allocations shall be made in the following order:

(a) Tax Allocations: Code Section 704(c).

(i) In accordance with Code Section 704(c) and the Treasury 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 Section 11.2(i) of this Agreement).

(ii) In the event the Gross Asset Value of any Partnership is adjusted pursuant to Section 11.2(i)(ii) of this Agreement, subsequent allocations of income, gain, loss and deduction with respect to such asset shall take account of 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 Treasury Regulations thereunder.

(iii) Any elections or other decisions relating to such allocations shall be made by the General Partners in any manner that reasonably reflects the purpose and intention of this Agreement. Allocations pursuant to this Section 3.3(a) 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 Partner's Capital Account or share of Profits, Losses, other items, or distributions pursuant to any provision of this Agreement.

(b) Qualified Income Offset Allocation. In the event any Partner unexpectedly receives any adjustments, allocations, or distributions described in Regulation Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6) which causes or increases a Partner's Capital Account Deficit as of the end of the taxable year to which such allocation, distribution or adjustment relates, then items of Partnership income and gain shall be specially allocated (prior to any other allocation required by Section 3.1, but after the allocations required by the foregoing provisions of this Section 3.3) to such Partner in an amount and manner sufficient to eliminate (to the extent required by the Regulations) the Capital Account Deficit balances, if any, created by such adjustments, allocations, or distributions as quickly as possible; provided that an allocation pursuant to this Section 3.3(b) shall be made only if and to the extent that such Partner would have a Capital Account Deficit after all other allocations provided for in this Article 3 have been tentatively made as if this Section 3.3(b) was not in the Agreement.

(c) Gross Income Allocation. In the event that any Partner has a Capital Account Deficit at the end of any Partnership fiscal year, each such Partner shall be specially allocated items of Partnership income and gain in the amount of such Deficit as quickly as possible, provided that an allocation pursuant to this Section 3.3(c) shall be made only if and to the extent that such Partner would have a Capital Account Deficit in excess of such sum after all other allocations provided for in this Article 3 have been tentatively made as if Section 3.3(b) and this Section 3.3(c) were not in this Agreement.

(d) Code Section 754 Adjustments. 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 Regulation 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.

(e) Curative Allocations. To the extent permitted by the Code and the Regulations, any special allocations of items of income, gain or loss pursuant to all of the preceding subsection of this Section 3.3 (other than Section 3.3(a)), or any reallocations of such items pursuant to the Regulations under Sections 704(b) of the Code prevailing over the allocations otherwise provided for in this Agreement, shall be taken into account in determining subsequent allocations of income, gain, and loss pursuant to this Article 3, so that the net amounts so allocated shall, to the extent possible, be equal to the net amounts that would have been allocated to each Partner pursuant to the provisions of this Agreement if such special allocations or reallocations had not occurred.

3.4 Allocation Rules.

(a) Determination Generally. The Profits, Losses and credits of the Partnership shall be determined for each fiscal year in accordance with the accounting method adopted by the Partnership for federal income tax purposes. Where the accounting method adopted by the Partnership for federal income tax purposes provides no rule regarding a specific transaction, the transaction shall be accounted for in accordance with sound accounting procedures applied in a consistent manner. Allocations to the Limited Partners, as a class, unless otherwise expressly indicated, shall be made among them in proportion to their respective Partnership Interests.

(b) Income Characterization. For purposes of determining the character (as ordinary income or capital gain) of any Profit allocated to a Partner, the portion of such Profit that is treated as ordinary income attributable to the recapture of depreciation, if any, shall be allocated among the Partners in the proportion that the amount of depreciation, if any, previously allocated to each Partner relating to Partnership assets or property bears to the total of such depreciation allocated to all Partners.

(c) Allocation of Other Items. 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.

(d) Binding Effects. The Partners are aware of the income tax consequences of the allocations made by this Article and hereby agree to be bound by the provisions of this Article in reporting their shares of Partnership Profits and Losses for income tax purposes.

ARTICLE 4 DISTRIBUTIONS OF CASH FLOW

4.1 Net Cash from Operations. Net Cash from Operations shall be distributed in the following priority, subject to Section 4.3 and Article 9:

(a) Net Cash from Operations shall first be distributed to any Partner who has advanced funds to the Partnership as a Lender, to the extent of and in proportion to such advances, including interest thereon, if any;

(b) Distributions, if any, of additional Net Cash from Operations will be made, without priority, to the Partners in proportion to their respective Partnership Interests, unless the Partners have agreed, in a writing signed by all of the Partners, to a different division permitted by law and applicable regulation.

4.2 Net Cash from Sales or Refinancings. Net Cash from Sales or Refinancings shall be distributed in the following priority, subject to Section 4.3 and Article 9:

(a) First, to any Partner who has advanced funds to the Partnership as a Lender, to the extent of and in proportion to such advances, including interest thereon, if any;

(b) Distributions, if any, of additional Net Cash from Sales or Refinancings will be made, without priority, to the Partners in proportion to their respective Partnership Interests, unless the Partners have agreed, in a writing signed by all of the Partners, to a different division permitted by law and applicable regulation.

4.3 Restrictions on Distributions of Cash Flow.

(a) The Partnership may be restricted from making distributions under the terms of notes, mortgages, or other types of debt obligations which it may issue or assume in connection with borrowed funds, if any. In addition, distributions are subject to the payment of Partnership expenses and to the maintenance of sufficient reasonable reserves for such expenses and for alterations, repairs, improvements, maintenance and replacement of Partnership assets. Distributions may also be restricted or suspended in circumstances when the General Partners determines, in the General Partners's absolute discretion, that such action is in the best interest of the Partnership.

(b) Distributions of Net Cash from Operations and Net Cash from Sales or Refinancings shall be made in such amounts and at such times as determined by the discretion of the General Partners. The Partnership may distribute at least annually to the Partners so much of its Net Cash from Operations or Net Cash from Sales or Refinancings as is not, in the opinion of the General Partners, necessary for the conduct of the Partnership's business, after setting aside such amounts as the General Partners deems necessary to create adequate reserves for future capital or operating needs of the Partnership. The General Partners shall also have the authority, in the General Partners's discretion, to return to the Partners all or part of the Capital Contributions of the Partners, provided that such payments are made to the Partners in the order and in the proportions permitted for distributions of Net Cash from Sales or Refinancings.

(c) If any assets of the Partnership are distributed in kind, such assets shall be distributed to the Partners entitled thereto as tenants-in-common in the same proportions as such Partners would have been entitled to cash distributions.

(d) No Partner shall be entitled to demand and receive property other than cash in return for Capital Contributions to the Partnership.

(e) The Partners irrevocably waive, during the term of the Partnership and during the period of any liquidation following the dissolution of the Partnership, any right to maintain any action or claim for partition with respect to any assets of the Partnership.

**ARTICLE 5
POWERS OF THE PARTNERS**

5.1 Voting Powers of General Partners. Except as otherwise expressly provided in this Agreement, all decisions with respect to the management and conduct of the business of the Partnership shall be made by a majority vote of the General Partners. Nothing contained in this Agreement shall require any person to inquire into the authority of the General Partners to execute and deliver any document on behalf of the Partnership or to bind the Partnership pursuant to such document.

5.2 Voting Powers of Limited Partners. Except as otherwise expressly provided for in this Agreement, the Limited Partners shall not have any voting rights or take any part in the day-to-day management or conduct of the business of the Partnership, nor shall the Limited Partners have any right or authority to act for or bind the Partnership.

5.3 General Powers of General Partners. The General Partners' powers and rights shall be exercised in the General Partners' absolute discretion on behalf of the Partnership, and shall include, but not be limited to, the power and right to:

(a) Acquire, develop, renovate, improve, lease, subdivide, sell, assign, convey or otherwise transfer title to any portion of, or interest in, the Partnership's real and personal property;

(b) Purchase, lease or otherwise acquire or obtain the use of machinery, equipment, tools, staff and personnel, and material, and other types of real and personal property that may be deemed necessary or desirable in connection with carrying on the business of the Partnership;

(c) Borrow money for the Partnership on the security of all or any portion of the Partnership's real or personal property, and in conjunction therewith, execute all the necessary papers and documents, including, but not limited to, bonds, notes, mortgages, pledges, security agreements and confessions of judgment for and on behalf of the Partnership;

(d) Prepay in whole or in part, refinance, recast, increase, modify, consolidate, correlate, or extend, on such terms as the General Partners may deem proper, any mortgages affecting the Partnership's real or personal property;

(e) Place record title to the Partnership's real or personal property in the name or names of a nominee or nominees for the purpose of mortgage financing or any other convenience or benefit to the Partnership;

(f) Employ from time to time, on such terms and for such compensation as are proper, persons to operate and manage the Partnership's real and personal property;

(g) Set aside Partnership capital or other funds for payment of past, current and future liabilities of the Partnership;

DRAFT

(h) In accordance with sound accounting principles consistently applied, and unless otherwise provided herein, determine whether items of income, gain, loss, deduction or credit shall be treated either as capital or extraordinary items, or, alternatively, as profit or loss items;

(i) Select and open Partnership bank accounts pursuant to Section 9.6 of this Agreement, with withdrawals therefrom to be made upon signature(s) as designated by the General Partners;

(j) Keep books of account pursuant to Section 9.3 below, including such accounts as required to reflect the Partners' profit or loss and capital accounts as adjusted from time to time pursuant to the terms of this Agreement;

(k) Have the accountants for the Partnership prepare annual financial reports, and if requested by the General Partners, monthly or quarterly reports of operations;

(l) Adjust, compromise, settle or refer to arbitration any claims in favor of or against the Partnership or any nominee of the Partnership or any property held or owned by the Partnership or its nominee, and to institute, prosecute and defend any legal proceedings as the General Partners shall deem advisable; and

(m) Execute, acknowledge and deliver any and all instruments on behalf of the Partnership (the "*Instruments*") to effectuate any of the foregoing powers.

By way of extension of the foregoing, and not in limitation thereof, the General Partners shall possess all of the powers, rights and privileges of the General Partners in a limited partnership under applicable laws.

5.4 Partnership Basis Elections. In the event of the distribution of property by the Partnership within the meaning of Section 734 of the Code, or the transfer of an interest in the Partnership within the meaning of Section 743 of the Code, the General Partners, in the General Partners's sole and absolute discretion, may elect to adjust the basis of the Partnership property pursuant to Sections 734, 743 and 754 of the Code. Partners affected by this election, if made, shall supply to the Partnership the information that may be required to make the election.

5.5 Power of Attorney.

(a) Each Limited Partner, by executing this Agreement, does hereby irrevocably constitute and appoint the General Partners, and any successors, with full power of substitution, as such Partner's true and lawful attorney-in-fact (the "*Attorney-in-Fact*"), in his name, place and stead, to execute, acknowledge, swear to, deliver, file and record (i) all certificates of limited partnership, assumed name or similar certificates, and all other certificates and instruments which the General Partners deems necessary or appropriate to be filed by the Partnership; (ii) any and all amendments to this Agreement which the General Partners deems necessary or appropriate to effect a change or modification of the Partnership in accordance with the terms of this Agreement; (iii) all certificates of cancellation and other instruments which the General Partners deems necessary or appropriate to effect the dissolution and termination of the Partnership pursuant to the terms of this Agreement; (iv) negotiate any and all checks made

payable to the Partnership and all instruments required to effectuate and defend the valid and subsisting existence and rights of the Partnership; (v) with respect to the Partnership, documents of transfer of Limited Partners' interests and all other instruments to effect said transfers in the event the provisions of this Agreement have been complied with; and (vi) any other instrument which is now or may hereafter be required by law to be filed on behalf of the Partnership or is deemed necessary or desirable by the General Partners to carry out fully the provisions of this Agreement in accordance with its terms.

(b) The grant of authority in 5.5 (a), above, by each Limited Partner (i) is a special power of attorney coupled with an interest in favor of the Attorney-in-Fact and as such shall be irrevocable and shall survive the merger, dissolution or other termination of existence of the Partner; (ii) may be exercised for the Partner by listing all Partners, including such Partner executing any instrument, with a single signature of the Attorney-in-Fact acting as Attorney-in-Fact; and (iii) shall survive the assignment by the Partner of all or any portion of this Partnership Interest, except that where the assignee of the entire Partnership Interest of the Partner has furnished a power of attorney and has been approved by the General Partners to admission to the Partnership as a substitute Partner, the power of attorney granted in 5.5 (a), above, shall survive such assignment for the sole purpose of enabling the Attorney-in-Fact to execute, acknowledge and file any instrument necessary to effect such substitution and shall thereafter terminate.

(c) The powers of the General Partners set forth in this Agreement shall survive the death or legal incapacity of one or more of the Limited Partners, as well as the delivery by a Limited Partner of an assignment of the whole or any portion of his Partnership Interest.

5.6 Actions in Good Faith. Any action taken or omitted by the General Partners in good faith or in reasonable reliance upon the advice of counsel shall not subject the General Partners to any liability to the Partnership or to the Partners.

5.7 Duties of General Partners. The General Partners shall devote whatever time and effort may be necessary or appropriate to the business and affairs of the Partnership. Specifically, the General Partners shall perform for the Partnership all management services in accordance with sound management practices, including without limitation, the hiring and firing of an on-site manager, if necessary, and other on-site personnel, as needed, the furnishing of services in connection with advertising, maintenance, bill paying, bookkeeping, purchasing of goods and supplies and the performance of such other duties as are required for the proper management, maintenance and operation of the Partnership's property. In addition, the General Partners shall be responsible for the day-to-day management of the Partnership including all aspects of finance, administration, accounting, purchasing and operations. The General Partners may contract with an affiliated company or entity for the furnishing of such services. The General Partners shall also be responsible for negotiating and securing the financial support required to adequately sustain the ongoing operation of the Partnership. The General partners may appoint one of them as the Managing General Partner who shall have the authority to sign and execute contracts and other documents on behalf of the Partnership.

5.8 Compensation of General Partners. The General Partners shall be entitled to receive reasonable compensation for their services in management of the Partnership's business.

The Partners acknowledge that they have been advised by the General Partners that the General Partners and their affiliates may act in various capacities with respect to the Partnership. In exchange for services rendered in connection with Partnership, and the Property, the General Partners' affiliates may receive fees and compensation. The General Partners expressly reserves the right, for themselves and affiliates, to contract for management, consulting or other services with an affiliated or unaffiliated company.

5.9 Tax Matters Partner. The General Partners' shall designate one of them as the "*Tax Matters Partner*" under Section 6231(a)(7) of the Internal Revenue Code of 1986, as amended, to manage administrative tax proceedings with the Internal Revenue Service. Harvey A. Mackler is hereby designated as the initial Tax Matters Partner.

5.10 Other Activities of Partners. Any Partner may engage in or possess an interest in other business ventures of any nature, whether or not similar to or competitive with the activities of the Partnership. Neither the Partnership nor any of the Partners shall have any right, by virtue of this Agreement, in or to such ventures or the income derived therefrom. During the continuance of the Partnership, the General Partners or its affiliates or any other Partner may acquire, promote, develop, operate and manage real property on its own behalf or on behalf of other entities with which it is affiliated. The General Partners and any of their affiliates or associates, may, notwithstanding the existence of this Agreement, engage in any activity they choose whether the same be competitive with the Partnership or otherwise, without having or incurring any obligation to offer any interest in such activities to the Partnership or any party hereto. Neither this Agreement nor any activity undertaken pursuant hereto shall prevent the General Partners or any of its affiliates or associates from engaging in such activities or require the General Partners to permit the Partnership or any Partner to participate in any such activities, and as a material part of the consideration for the General Partners' execution hereof, each Partner hereby waives, relinquishes and renounces any such right or claim of participation.

5.11 Limitation of Personal Liability of General Partners to Partners.

(a) **Generally.** The General Partners shall not be liable to the Partnership or any Partner for any act or omission performed or omitted by it in a manner reasonably believed by the General Partners to be within the scope of the authority granted to the General Partners by this Agreement (other than for willful misfeasance), so long as the General Partners determines, in good faith, that its course of conduct was in the best interests of the Partnership. Any and all Partnership obligations to any Partner shall be paid solely from Partnership property. The General Partners shall not be personally liable or obligated to any Partner for any Partnership obligation to such Partner, including, but not limited to, the return of any Capital Contribution. Notwithstanding anything to the contrary in this Agreement, and to the extent permitted by law, no Partner shall have any fiduciary duty or obligation to any Economic Interest Owner or other transferee of an interest in the Partnership or to any other creditor of the Partnership.

(b) **Upon Foreclosure.** The General Partners shall not be liable to the Partners for his failure to take any action that may prevent the foreclosure of all or any portion of the Property due to the Partnership's lack of sufficient funds therefor, provided the General Partners gives the Partners prior notice thereof so that the Partners may, but shall not be obligated to, contribute such funds if they then desire that such action be taken. Moreover, if after such notice

DRAFT

is given, and such funds are not contributed to the Partnership by the Partners, the Partners shall have the power, but shall not be obligated to cause the dissolution of the Partnership or the abandonment of all or any portion of Partnership property.

5.12 Indemnification.

(a) The General Partners shall indemnify and hold harmless the Partnership from any loss, damage, claim or liability (including reasonable attorney fees) incurred by reason of the General Partners's gross negligence or willful misconduct.

(b) The General Partners shall be indemnified by the Partnership against any losses, judgments, liabilities and expenses (including reasonable attorney fees) incurred by the General Partners by reason of any act or omission performed or omitted by the General Partners in good faith on behalf of the Partnership in a manner reasonably believed by the General Partners to be within the scope of the authority granted to the General Partners by this Agreement, providing that the General Partners was not guilty of gross negligence or willful misconduct.

**ARTICLE 6
TRANSFER OF LIMITED PARTNERSHIP INTERESTS**

6.1 General Restriction. Neither a Limited Partner nor an Economic Interest Owner may transfer, whether voluntarily or involuntarily, any portion of such person's Partnership Interest or Economic Interest, except as otherwise expressly provided for in this Agreement. For purposes of this Agreement, a "transfer" includes, but is not limited to, any sale, assignment, gift, exchange, hypothecation, collateral assignment or subjection to any security interest.

6.2 Permitted Transfers. Notwithstanding Section 6.1 or 6.3, and subject to compliance with the conditions of Section 6.5, a Limited Partner shall have the right to transfer, during life or at death, all or part of such Partner's Partnership Interest to a (i) Related Party or (ii) any other individual or entity with the written permission of the General Partners (both (i) and (ii) being referred to herein as the "Permitted Transferee(s)"). Such transfer to a Permitted Transferee shall be made by a written instrument of assignment, the terms of which are not in contravention of any of the provisions of this Agreement. A proposed transfer in accordance with this Section shall be null and void and of no force or effect unless and until the assigning Partner delivers to the General Partners a written instrument of assignment in form and substance satisfactory to the General Partner, duly executed by the transferring Partner or such Partner's personal representative or authorized agent and further complies with the terms of Section 6.5 below. The transfer shall be accompanied by such assurances of genuineness and effectiveness and by such consents or authorizations of governmental or other authorities as may be reasonably required by the General Partner.

6.3 Transfer of Partnership Interest.

(a) Transfer During Life. If, during the term of this Agreement and the life of a Limited Partner, and after such time as such Limited Partner has reached the age of thirty-five (35), such Limited Partner desires to transfer all or part of his Limited Partnership Interest (the "Selling Partner") other than to a Permitted Transferee under Section 6.2 above, he shall give

DRAFT

written notice to the other Limited Partners ("Remaining Partners") of his desire to so transfer. Such notice shall constitute an offer to sell all but not part of such Limited Partner's Interest to the Remaining Partners and/or the Partnership on the terms set forth in this Section 6.3. Within fifteen days of such notice to sell by a Selling Partner, the Partnership shall order an valuation of the Partnership by Appraisers in accordance with the criteria set forth on Schedule C.

(i) First Option. The Remaining Partners shall have the first option to purchase that portion of the Selling Partner's Interest equal to a fraction the denominator of which is the total of all the Limited Partnership Interests held by all Remaining Partners and the numerator of which is the Limited Partnership Interest held by any Individual Remaining Partner.

(ii) Exercise of Option. If a Remaining Partner desires to exercise the option contained in subsection (a)(i), he shall give written notice to the Selling Partner and the other Remaining Partners, no later than thirty (30) days from the date of the "Appraiser's Notice" as set forth on Schedule C. If all of the Selling Partners Interest is not subscribed for, the Remaining Partners exercising their purchase option shall have the opportunity to purchase such additional amount of the Selling Partner's Interest as equal's a fraction the denominator of which is the total of the Limited Partnership Interests of all Remaining Partners exercising their purchase option under subsection (a)(i) above and the numerator of which is any Remaining Partners Limited Interest in the Partnership. Notice of any such Remaining Partners desire to purchase under this subsection (a)(ii) shall occur not later than forty-five days from the date of the Appraiser's Notice. Any Interest not purchased by the Remaining Partners shall be redeemed by the Partnership.

(b) Mandatory Sale on Death. If on the death of a Partner, such Partner has not made a bequest of all of that Partner's then Partnership Interest to Permitted Transferees or all of such Partnership Interest will not pass to Permitted Transferees under the laws of intestate, then the estate of such Partner shall be obligated to sell and Partnership shall be required to purchase, all of the then Partnership Interest of the deceased Partner for the price and on the terms set forth in subsection 6.3 (c) through (f) below. Within fifteen days of the deceased Limited Partner's death, the Partnership shall order an valuation of the Partnership by Appraisers in accordance with the criteria set forth on Schedule C.

(c) Purchase Price. The purchase price for any sale and purchase under this Section 6.3 shall be set in accordance with the formula set forth on Schedule C attached hereto.

(d) Closing. The closing for any purchase under this section 6.3 shall take place as mutual agreed by the parties but no later than 90 days after the date of the Appraiser's Notice.

(e) Payment of Purchase Price. The purchase price shall be paid, in proportion to the amount of the Seller's Interest purchased by a Remaining Partner or the Partnership, as the case may be. The relevant portion of the purchase price shall be paid by each Purchaser by the down payment of ten percent (10%) of the purchase price applicable to each Purchaser and the balance by promissory note with interest at the lowest applicable federal rate and shall be payable in 60 equal monthly installments.

(f) Guarantee of Payment. In such case as the Partnership purchases all or any portion of the Selling Partners Interest, the Remaining Partners shall severally guarantee the payment of such amounts to the Selling Partner or the Selling Partner's estate, as the case may be.

(g) Multiple Purchases. In such case where the Remaining Partners and or the Partnership are purchasing the Partnership Interests of more than one Selling Partner, whether simultaneously or concurrently, the term under any such promissory note in Section 6.3(e) above shall be extended by thirty (30) months for each additional Selling Partner so that there shall be equal monthly payments under any such note. Any note then outstanding with respect to a Selling Partner shall also be extended by such additional thirty (30) months for each then Selling Partner. The Partners hereby agree to this extension provision for any and all promissory notes executed under this Section 6.3.

6.4 Admission of Additional Limited Partners. Any person acceptable to the General Partner and Limited Partners holding a majority of Partnership Interests may become an additional Limited Partner in the Partnership by the issuance of additional Partnership Interests in exchange for such consideration as such Partners may determine. Such person may become an additional Limited Partner in the Partnership only if, in addition to the requirements of Section 6.5, the person executes such instruments as the General Partner may deem necessary or desirable to effect such admission. Admission of an additional Limited Partner shall be recognized by the Partnership as provided in Section 6.6.

6.5 Conditions on Transfers of Partnership Interest. A transfer of a Partnership Interest or Economic Interest otherwise permitted by this Article 6 shall be subject to the following additional limitations:

(a) No Interest may be transferred or issued if such proposed action, in the opinion of counsel for the Partnership, (i) would result in the termination of the Partnership under Section 708 of the Code, or (ii) would result in the cancellation of the Certificate of Limited Partnership or an obligation to file a Certificate of Cancellation, or (iii) would impair the ability of the Partnership to be taxed as a partnership for Federal income tax purposes.

(b) No Interest may be issued by the Partnership or transferred by a Limited Partner unless the transferee confirms in a writing acceptable to the General Partner, and at the election of the General Partner, a writing deemed necessary or appropriate in the opinion of counsel to the Partnership, to confirm that such transferee has accepted, assumed, and agreed to be bound subject to and bound by all of the terms and conditions of this Agreement.

(c) No transfer of an Interest may be made unless the transferee shall have paid or, at the election of the General Partner, becomes obligated to pay all reasonable expenses, not less than \$50, connected with such transfer, substitution and admission, including but not limited to reasonable attorneys' and accountants' fees and the cost of preparing and filing an amendment required, if any, to effect the transferee's admission as a substituted Partner pursuant to Section 6.6.

(d) No Interest may be transferred unless, if requested, the General Partner receives an opinion of counsel, satisfactory in form and substance to the Partnership's counsel, to the effect that such transfer will not violate the Federal Securities laws, or any state securities or syndication laws. Such opinion shall, be furnished at the expense of such Partner or Owner.

(e) No Interest may be held by a tax exempt entity or a foreign person (as defined in Section 1445 of the Code).

6.6 Recognition of Transferees and Substituted Partners. Amendments to the books and records of the Partnership and, as may be required by law, amendments to the Certificate of Limited Partnership, shall be made monthly (or less frequently to the extent that such assignments or substitutions occur less frequently) to recognize the transfer of a Partnership Interest and, as applicable, admission of substituted or additional Partners. Assignments of Partnership Interests and admissions of new Partners shall be recognized and effective on and as of the first day of the first month following the date of the satisfaction of the conditions to the transfer and substitution set forth in this Article, as applicable.

6.7 Obligations of Transferring Partner. Except as otherwise agreed to by the General Partner, no transfer by a Limited Partner of all or any portion of an interest in the Partnership shall, to any extent, relieve the transferring Partner of any of such Partner's obligations to the Partnership or liability, if any, as a Partner (whether or not such person remains as a Partner).

6.8 Allocations Upon Transfer of Partnership Interest or Upon Admission.

(a) As between a Partner and such Partner's transferee, profits, losses and credits for any semi-monthly period shall be apportioned to the person who is the holder of the Partnership Interest transferred on the last day of such semi-monthly period, without regard to the results of the Partnership's operations during the period before or after such transfer. However, in the event that it is determined by the General Partner that the convention adopted by the Partnership to allocate income, gain, loss, deduction or credit of the Partnership is not in compliance with Section 706(d) of the Code, as modified by Regulations promulgated thereunder, then the General Partner shall revise the method of allocation to comply with such Regulations.

(b) No new Partners shall be entitled to any retroactive allocation of Profits or Losses incurred by the Partnership. The General Partner may, as a matter of discretion, at the time a Partner is admitted, or an Interest transferred, close the Partnership's books or make an allocation of tax items using any reasonable method permitted under Section 706(d) of the Code and applicable Treasury Regulations.

(c) Any distributions of cash or other property shall be made to the holder of record of any portion of a Partnership Interest on the date of distribution.

ARTICLE 7
DISSOCIATION OR WITHDRAWAL OF A LIMITED PARTNER

7.1 Dissociation. A person shall cease to be a Limited Partner upon the happening of any of the following events:

- (a) the bankruptcy of a Limited Partner;
- (b) the assignment or transfer by a Limited Partner of such person's entire Partnership Interest in accordance with the terms of this Agreement;
- (c) in the case of a Limited Partner who is a natural person, the death of the Partner or the entry of an order by a court of competent jurisdiction adjudicating the Partner incompetent to manage the Partner's personal estate;
- (d) in the case of a Limited Partner who is acting as a Partner by virtue of being a trustee of a trust, the termination of the trust (but not merely the substitution of a new trustee);
- (e) in the case of a Limited Partner that is a separate organization other than a corporation, the dissolution and commencement of winding up of the separate organization; or
- (f) in the case of a Limited Partner that is a corporation, the filing of a certificate of dissolution, or its equivalent, for the corporation or the revocation of its charter.

7.2 Rights of Dissociating Partner. In the event any Limited Partner dissociates prior to the expiration of the term of the Partnership:

- (a) the dissociation shall not cause a dissolution and winding up of the Partnership under Article 9 of this Agreement or under any provision of the Act;
- (b) the Limited Partner who dissociates, or such Partner's successor in interest shall, regardless of whether the dissociation was the result of a voluntary act by such Partner, not be entitled to receive any distributions to which the Partner would not have been entitled had the Partner remained a Partner, and the dissociating Partner shall thereafter be an Economic Interest Owner; and
- (c) if the dissociation occurs by virtue of an assignment of such person's entire Partnership Interest in accordance with this Agreement, then the rights of the dissociating Limited Partner (and such Partner's successor) shall be determined under Article 6

7.3 Withdrawal of Partner. Except as otherwise expressly provided in Article 6 or this Article, no Limited Partner shall be entitled to withdraw or resign from the Company.

ARTICLE 8
TRANSFER OF GENERAL PARTNERSHIP INTEREST AND
TERMINATION OF GENERAL PARTNERS

8.1 Admissions and Withdrawals of General Partners.

(a) **Admission with Consent.** With the consent of the Limited Partners holding two-thirds of the aggregate Partnership Interests held by the Limited Partners, and with the consent of all other General Partners, if any, a General Partners may at any time designate one or more persons to succeed to all or part of his or its General Partnership interest, or to be an additional General Partners, in each case with such participation in such General Partners's interest in the Partnership as such General Partners and such person may agree upon, provided that the admission of such person as a General Partners does not in any way change, alter or modify the cash distributions and tax allocations to which the Limited Partner(s) are entitled under this Agreement.

(b) **Transfer Not Requiring Consent.** A General Partners may transfer his interest in the Partnership, in whole or part, to (i) any corporation or firm directly or indirectly controlling, controlled by or under common control of such General Partners, or (ii) any entity that has, by merger, consolidation or otherwise, acquired substantially all of its stock or assets and continued its business and has assumed all of the obligations of the terminating General Partners. A transferee of all or a portion of the General Partners's Partnership Interest may not be admitted to the Partnership as an additional General Partners except in accordance with the provisions of Section 8.1(a). The successor in interest of such General Partners who is not admitted as a General Partners shall thereafter be an Economic Interest Owner entitled, as may be agreed upon between the General Partners and the transferee, to a share of allocations and distributions from the Partnership's operations or otherwise, without dilution by reason of such transfer. The General Partners agrees, however, not to make or allow any transfer that will or might cause the Partnership to be terminated for federal income tax purposes or to be treated as an association taxable as a corporation for federal income tax purposes.

(c) **Involuntary Withdrawal.** A General Partners shall be deemed to have involuntarily withdrawn as a General Partners from the Partnership upon the occurrence of any of the following events: (i) in the case of any General Partners that is a corporation, upon the filing of a certificate of dissolution, or its equivalent, or the revocation of its charter, (ii) in the case of a General Partners that is a partnership, upon the death, physical or mental incapacity (as determined by certificate of a licensed physician), dissolution or bankruptcy of all of the General Partners of such partnership, (iii) in the case of any General Partners that is an individual, upon the death, or physical or mental incapacity (as determined by certificate of a licensed physician) of such individual, (iv) the making of an assignment for the benefit of creditors, the filing of a voluntary petition in bankruptcy, or an adjudication of bankruptcy of such General Partners, the filing of a petition or answer proposing the adjudication of such person as a bankrupt, and such person either consents to the filing thereof, or fails to cause such petition or answer to be discharged or denied within sixty (60) days from the date of such filing, or (v) any other event that constitutes an event of withdrawal under the Act. Upon the involuntary withdrawal of a General Partners, the personal representative, guardian or other successor in interest of such General Partners shall thereafter become an Economic Interest Owner entitled to such General

Partners's share of allocations and distributions from operations or otherwise, without dilution by reason of such conversion. The personal representative, guardian or other successor in interest of such General Partners shall have all of the rights of a Partner for the sole purpose of settling the estate or business of such General Partners and for transferring such interest to its successors and assigns. Any provisions of the Act not in accordance with the terms of this Article shall be inapplicable and of no force and effect.

(d) **Withdrawal by General Partners.** Except as set forth above in this Article, the General Partners agrees not to transfer or assign a General Partnership interest or to withdraw from the Partnership or to undertake or fail to undertake any action that would cause an event of withdrawal from the Partnership.

8.2 Continuation of Partnership Business.

(a) **Procedure if there is a Remaining General Partners.** In any circumstance where an additional General Partners is admitted to the Partnership in accordance with the Article, the additional General Partners, together with all then remaining General Partners, may continue the business of the Partnership without dissolution. If a successor General Partners is admitted to the Partnership when the transferring General Partners is the sole General Partners and is transferring its entire Partnership Interest (and is therefore withdrawing from the Partnership), such successor shall be admitted as a General Partners immediately prior to the effective date of the withdrawal of the transferring General Partners, and such successor General Partners may continue the business of the Partnership without dissolution.

(b) **Procedure if there is no Remaining General Partners.** If following the involuntary withdrawal of the General Partners, there is no remaining General Partners, then any Limited Partner (including, without limitation, Special Limited Partners as successors to the Partnership Interest held by a withdrawn General Partners) may notify the other Limited Partners of such circumstances and may propose for admission a successor General Partners. Any person proposed by such Limited Partners shall become a successor General Partners upon receiving within a ninety (90) day period after the date of withdrawal of the General Partners the affirmative written consent of Limited Partners holding two-thirds of the Partnership Interests held by such Limited Partners and upon executing an agreement accepting the terms and conditions of this Agreement. The effect of such withdrawal by the General Partners upon the continuing status or dissolution of the Partnership shall be determined under Article 9 of this Agreement.

8.3 Liability of a Withdrawn General Partners. If the business of the Partnership is continued after the involuntary withdrawal or the transfer of the General Partners's entire interest in the Partnership in accordance with this Agreement, then such General Partners, or his estate or personal representative, shall remain liable for all obligations and liabilities incurred while a General Partners and for which he was liable as a General Partners, but shall be free of any obligation or liability incurred on account of or arising from the activities of the Partnership from and after the date such withdrawal or transfer becomes effective.

**ARTICLE 9
DISSOLUTION AND LIQUIDATION**

9.1 Events Triggering Dissolution. The Partnership shall dissolve and commence winding up and liquidating upon the first to occur of any of the following ("*Liquidating Events*"):

- (a) the determination by the General Partners, or by unanimous agreement of all of the Partners, that the Partnership should be dissolved;
- (b) the withdrawal or removal of a General Partners, the assignment by a General Partners of its entire interest in the Partnership, the bankruptcy, liquidation or dissolution of a General Partners, or any other event that causes a General Partners to cease to be a General Partners under the Act, provided that any such event shall not constitute a Liquidating Event if there are at least two remaining Partners and the business of the Partnership is continued either by the consent, within 90 days after the dissociation, of the remaining Partners holding at least a majority of the Partnership Interests;
- (c) the insolvency or bankruptcy of the Partnership;
- (d) the sale of all or substantially all of the Partnership assets;
- (e) any event that makes it impossible, unlawful or impractical to carry on the business of the Partnership; or
- (f) the expiration of the period fixed for the duration of the Partnership pursuant to Section 1.5 of this Agreement.

9.2 Continuation upon Dissolution. 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, or if upon the occurrence of an event specified in Section 9.1(b), the Partners either fail to designate a successor General Partners or fail to consent to the continuation of the Partnership within the specified 90-day period, then within an additional ninety (90) days after such determination or the expiration of the initial 90-day period, as the case may be (the "*Reconstitution Period*"), Partners holding at least two-thirds of the Partnership Interests may elect to reconstitute the Partnership and continue its business on the same terms and conditions set forth in this Agreement by forming a new limited partnership on terms identical to those set forth in this Agreement and having as a General Partners a person or entity elected by such two-thirds majority; provided that the right of a two-thirds majority in interest of the Partners to reconstitute and continue the business of the Partnership shall not exist and may not be exercised unless the Partnership has received an opinion of counsel that the exercise of the right would not result in the loss of limited liability of any Limited Partner and neither the Partnership nor the reconstituted partnership would cease to be treated as a partnership for federal income tax purposes upon the exercise of such right to continue. Upon any such election by a majority in interest of the Partners, all Partners shall be bound thereby and shall be deemed to have consented to such continuation. Unless such an election is made within the Reconstitution

DRAFT

Period, the Partnership shall wind up its affairs in accordance with Section 9.4. If such an election is made within the Reconstitution Period, then:

(a) The reconstituted limited partnership shall continue until the occurrence of a Liquidating Event as provided in Section 9.1;

(b) If the successor General Partners is not a former General Partners or successor in interest to the former General Partners, then the holder of such interest in the Partnership of any former General Partners shall be treated thereafter as an Economic Interest Owner not admitted as a Partner; and

(c) All necessary steps shall be taken to cancel this Agreement and the Certificate and to enter into a new partnership agreement and certificate of limited partnership, and the successor General Partners may for this purpose exercise the powers of attorney granted the General Partners pursuant to Section 5.5.

9.3 Effect of Dissolution. No dissolution of the Partnership shall release any of the parties to this Agreement from their contractual obligations under this Agreement. Each Partner (for himself, his legal representatives, heirs and transferees) hereby waives any rights that are inconsistent with this Article 9 which may be provided by the Act, such as, for example, any right to be paid in cash the value of his Partnership Interest before the expiration of the term of the Partnership; any right to a court-approved bond for the deferred payment of the value of his Partnership Interest; any right to be indemnified against liabilities of the Partnership; and any right to obtain an accounting as at the date of dissolution. The Limited Partners hereby make, constitute and appoint the General Partners as their lawful attorney to make and file a Certificate of Cancellation and all other documents necessary or advisable to effect the dissolution, termination and liquidation of the Partnership. Following a dissolution, each of the Partnership and the Partner causing the dissolution may give notice to creditors of the Partnership to the effect that he is not longer a Partner, in accordance with the Act.

9.4 Liquidation. Upon dissolution of the Partnership in accordance with Section 9.1, the Partnership shall be liquidated. The General Partners (or if there is no General Partners, then the Partners holding a majority of the Partnership Interests) shall select a Liquidating Manager (who may be any Partner or Manager) who shall serve only for purposes of winding up the Partnership. The proceeds of such liquidation shall be applied and distributed in the following order of priority:

(a) to the payment of the debts and liabilities of the Partnership (other than debts or liabilities owing to a Partner or Economic Interest Owner) and the expenses of liquidation (including, if applicable, the reasonable fees of the Liquidating Manager);

(b) the setting up of any reserves which the Liquidating Manager may deem reasonably necessary for any contingent or unforeseen liabilities or obligations of the Partnership, which reserves shall be paid over to an attorney at law of the State of New Jersey, as escrow-holder, to be held for the purpose of disbursing (under the direction of the Liquidating Manager) such reserves in payment of any of the aforementioned liabilities and, at the expiration

DRAFT

of such period (not to exceed two (2) years) as the Liquidating Manager may deem advisable, for distribution in the manner hereinafter provided;

(c) to the repayment of any outstanding advances or loans that may have been made by any of the Partners or Economic Interest Owners to the Partnership, other than Capital Contributions, pro rata among them on the basis of such advances and loans to the Partnership; and

(d) the balance, if any, to the Partners or Economic Interest Owners (or to their permitted transferees of their Interest in the Partnership, in whole or in part) in accordance with their respective Capital Accounts, after adjustment for all income, loss, and gain of the Partnership and after adjustment for all previous contributions and distributions of the Partnership, provided that, if any General Partners'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), each such General Partners 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), and such contributions shall be distributed in accordance with this Section 3.3(a).

9.5 Revaluation. If the Partnership assets are not sold, but instead are distributed in kind, such assets, for purposes of determining the amount to be distributed to the parties, shall be revalued on the Partnership books to reflect their then current fair market value as of a date reasonably close to the date of liquidation. Any unrealized appreciation or depreciation shall be allocated among the Partners (in accordance with the provisions of Article 3 as if such assets were sold at such fair market value) and taken into account in determining the Capital Accounts of the Partners as of the date of liquidation.

9.6 Distributions in Kind. The Liquidating Manager may make distributions to the Partners in cash or in kind, or partly in cash or partly in kind, in divided or undivided interests, and to allocate any property towards the satisfaction of any payment or distribution due to the Partners in such manner as the Liquidating Manager may determine, whether or not such distributive shares may as a result be composed of differently. Distribution of any asset in kind to a Partner shall be considered as a distribution of an amount equal to the asset's fair market value for purposes of this Article 9.

9.7 Timing of Liquidation. Distributions and liquidation of the Partnership shall be made in compliance with Treasury Regulation Section 1.704-1(b)(2)(ii)(b). Distributions may be made 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 and Economic Interest Owners from time to time in the reasonable discretion of the Liquidating Manager, in the same proportions as the amount distributed to such trust by the Partnership would otherwise have been distributed to such persons pursuant to this Agreement.

9.8 Certificate of Cancellation. Upon the dissolution of the Partnership and the completion of the liquidation and winding of the Partnership's affairs and business, the

DRAFT

Liquidating Manager shall (or if the Liquidating Manager fails to act, then any Partner may) prepare and file a certificate of cancellation with the New Jersey Secretary of State, as required by the Act. When such certificate is filed, the Partnership's existence shall cease.

**ARTICLE 10
ACCOUNTING AND FISCAL MATTERS**

10.1 Fiscal Year. The fiscal year of the Partnership shall be the calendar year.

10.2 Method of Accounting. The General Partners shall keep, or cause to be kept, full and accurate records of all transactions of the Partnership on the cash method in accordance with sound accounting principles consistently applied, unless another method is deemed necessary or advisable by the General Partners.

10.3 Books and Records. All books of account shall, at all times, be maintained in the principal office of the Partnership, and shall be open during reasonable business hours for the reasonable inspection and examination by the Limited Partners or their authorized representatives. Such reasonable inspection shall include the right to make copies thereof at such Partner's own expense.

10.4 Federal Income Tax Returns. The General Partners shall prepare, or cause to be prepared, Federal income tax returns for the Partnership, and, in connection therewith and in the discretion of the General Partners, make any available or necessary elections, including elections with respect to the useful lives and rates of depreciation of the properties of the Partnership.

10.5 Reports and Statements. By the first of April of each calendar year of the Partnership, the General Partners shall cause to be delivered to the Limited Partners such information as shall be necessary for the preparation by the Limited Partners of their Federal, state and local income and other tax returns. The General Partners shall also furnish such other information to the Limited Partners as, in the judgment of the General Partners, shall be reasonably necessary for the Partners to be advised of the financial status and results of operations of the Partnership.

10.6 Bank Accounts. The General Partners shall open and maintain (in the name of the Partnership) such bank accounts in which shall be deposited all funds of the partnership. Withdrawals from such account or accounts shall be made upon the signature or signatures of such person or persons as the General Partners shall designate.

**ARTICLE 11
MISCELLANEOUS**

11.1 Amendment. Except as otherwise provided in this Section 11.1 or elsewhere in this Agreement, this Agreement may be amended only with the consent of the General Partners and by Limited Partners holding 75% of the aggregate Partnership Interests held by the Limited Partners.

(a) **Amendments Without Consent of Limited Partners.** In addition to any amendments otherwise authorized in this Agreement, amendments may be made to this

Agreement from time to time by the General Partners, without the consent of any Limited Partner, which (i) do not adversely affect the rights of the Limited Partners or their assignees in any material respect; (ii) correct any error or resolve any ambiguity in or inconsistency among any of the provision of this Agreement; (iii) delete or add any provision of this Agreement that is required to be so deleted or added by any federal or state securities commission or other governmental authority; (iv) amend this Agreement and any Certificate of Limited Partnership to at new Partners in accordance with this Agreement; (v) amend Article 3 in accordance with the provisions of Section 3.3(e); or (vi) is in response to a change in the Act that permits or requires an amendment so long as no Partner is adversely affected in any material respect.

(b) **Amendments Requiring Consent of Affected Partners.**

Notwithstanding anything to the contrary in this Section 11.1, this Agreement may not be amended, without the consent of the Partner or Partners affected by any amendment to this Agreement, to (i) convert a Limited Partner's interest into a General Partners's interest; (ii) modify the limited liability of a Limited Partner; (iii) alter the status of the Partnership as a partnership for federal income tax purposes; or (iv) otherwise modify the compensation, distributions, or rights of reimbursement to which the General Partners is entitled or affect the duties of the General Partners or the indemnification to which the General Partners and its affiliates, employees or agents are entitled.

11.2 Definitions. As used in this Agreement, capitalized words and phrases shall have the following meanings:

(a) **Bankruptcy.** "*Bankruptcy*" of any individual, corporation or partnership shall be deemed to occur when (1) such individual, corporation or partnership files a petition in bankruptcy, or voluntarily takes advantage of any bankruptcy or insolvency law or (2) is the subject of a petition or answer proposing the adjudication of such person as a bankrupt, and such individual, corporation or partnership either consents to the filing thereof, or fails to cause such petition or answer to be discharged or denied prior to the expiration of sixty (60) days from the date of such filing, or (3) such person's or entity's assets are insufficient to pay his or its liabilities, or he or it has so admitted in writing.

(b) **Capital Account.** "*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 that are specially allocated pursuant to Section 3.3 (other than Section 3.3(a)) or 3.4 of this Agreement, and the amount of any Partnership liabilities that are assumed by such Partner or that are secured by any Partnership property distributed to such Partner.

(ii) To each Partner's Capital Account there shall be debited the amount of cash (exclusive of amounts, if any, paid in exchange for management services of the General Partners pursuant to Section 5.8) and the Gross Asset Value of any Partnership property 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 that are specially allocated pursuant to Section 3.3 (other than Section 3.3(a)) or 3.4 of this Agreement, such

DRAFT

Partner's distributive share of noncapital, nondeductible expenditures of the Partnership under Code Section 705(a)(2)(B) (including items treated as such expenditures pursuant to Treasury Regulation 1.704-1(b)(2)(iv)(I)), and the amount of any liabilities of such Partner that are assumed by the Partnership or that are secured by any property contributed by such Partner to the Partnership.

(iii) In the event any Partner transfers all or any portion of its Partnership Interest 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 the event the Gross Asset Values of Partnership property are adjusted pursuant to Section 11.2(i) of this Agreement, the Capital Accounts of all Partners shall be adjusted simultaneously to reflect the aggregate net adjustment as if the Partnership recognized gain or loss equal to the amount of such aggregate net adjustment.

(v) In determining the amount of any liability for purposes of this Section 11.2(b), there shall be taken into account Code Section 752(c) and other applicable Code Sections and Treasury Regulations.

(vi) The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulation Section 1.704-1(b), and shall be interpreted and applied in a manner consistent with the Treasury Regulations. In the event the General Partners determines 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 that are secured by contributed or distributed property or that are assumed by the Partnership or the Partners), are computed in order to comply with such Regulations, the General Partners may make such modification, provided that it is not likely to have a material effect on the amounts distributable to any General Partners or other Partner pursuant to Article 9 of this Agreement upon the dissolution of the Partnership. The General Partners also shall (1) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Partners and the amount of capital reflected on the Partnership's balance sheet, as computed for book purposes, in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(g), and (2) make any appropriate modifications in the event unanticipated events might otherwise cause this Agreement not to comply with Regulations Section 1.704(b).

(c) **Capital Account Deficit.** "*Capital Account Deficit*" means, with respect to any Partner, the deficit balance, if any, in such Partner's Capital Account as of the end of the relevant fiscal year of the Partnership, after giving effect to the following adjustments:

(i) Credit to such Capital Account any amounts which such Partner is obligated to restore (pursuant to the terms of any promissory note of such Partner or otherwise) or is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(I)(5); and

(ii) Debit to such Partner's Capital Account the items described in Sections 1.704-1(b)(2)(ii)(d)(4), (5) or (6) of the Regulations.

DRAFT

The foregoing definition of Capital Account Deficit is intended to comply with Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

(d) **Capital Contribution.** "*Capital Contribution*" 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 a Partnership interest held by such Partner. The principal amount of a promissory note which is not readily tradable on an established securities market and which is contributed to the Partnership by the maker of the note (or a person related to the maker of the note within the meaning of Treasury Regulation 1.704-1(b)(2)(ii)(c)) shall not be included in the Capital Account of any Partner until the Partnership makes a taxable disposition of the note or until (and to the extent that) principal payments are made on the note, all in accordance with Treasury Regulation 1.704-1(b)(2)(iv)(d)(2)

(e) **Code.** "*Code*" means the Internal Revenue Code of 1986, as amended from time to time (or any corresponding provisions of succeeding law).

(f) **Depreciation.** "*Depreciation*" means, for each fiscal year or other period, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable, if any, with respect to a partnership 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.

(g) **Economic Interest.** "*Economic Interest*" means a Partner's or Economic Interest Owner's share of the Partnership's Profits, Losses, Net Cash Flow, and other distributions of the Partnership's assets pursuant to this Agreement and the Act, but shall not include any right to participate in the management or affairs of the Partnership, including, without limitation, the right to vote on, consent to, or otherwise participate in any decision of the Partners, all as provided in Section 6.2.

(h) **Economic Interest Owner.** "*Economic Interest Owner*" shall mean the owner of an Economic Interest who is not a Partner, including without limitation, a person who has acquired an Economic Interest (i) as an assignee pursuant to Section 6.2, or (ii) as the personal representative, guardian or other successor in interest upon the death (in the case of a Partner who is an individual), dissolution (in the case of a Partner who is not an individual), bankruptcy or physical or mental incapacity of a Partner pursuant to Article 7.

(i) **Gross Asset Value.** "*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 General Partners, 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 property other than money, unless all Partners receive simultaneous distributions of undivided interests in the distributed property in proportion to their interests in the Partnership; (c) the liquidation of the Partnership within the meaning of Regulation Section 1.704-1(b)(2)(ii)(g); and (d) the termination of the Partnership for federal income tax purposes pursuant to Code Section 708(b)(1)(B);

(iii) 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 Sections 11.2(p)(v) and 3.3(d); and

(iv) If the Gross Asset Value of an asset has been determined or adjusted pursuant to this subsection, 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.

(j) **Lender.** "*Lender*" means any Partner who advances (other than as a Capital Contribution) any money or property to the Partnership.

(k) **Net Cash from Operations.** "*Net Cash from Operations*" means the gross cash proceeds from Partnership operations (including sales and dispositions in the ordinary course of business) less the portion of such proceeds used to pay or establish reserves for all Partnership expenses, debt payments, capital improvements, replacements, and contingencies, all as determined by the General 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 pursuant to Section 4.3(b). Payments of principal and interest on any debts or other obligations of the Partnership, whether or not secured by mortgages or liens on Partnership property, shall be considered as a deduction from Net Cash from Operations.

(l) **Net Cash from Sales or Refinancings.** "*Net Cash from Sales or Refinancings*" means the net cash proceeds from all sales and other dispositions (other than on the ordinary course of business) and all refinancings or placement of new mortgages on the Property, less any portion of such proceeds used to establish reserves, all as determined by the General Partners. "*Net Cash from Sales or Refinancings*" shall include all principal and interest payments received by the Partnership with respect to any note or other obligations received by the Partnership in connection with sales and other dispositions (other than in the ordinary course of business) of Property. For purposes of this Agreement, Net Cash from Sales or Refinancings shall also include Capital Contributions of the Partners.

(m) **Partners.** "*Partners*" means the General Partners, the persons listed on attached Schedule A, and any person admitted to the Partnership as a Partner in accordance with Article 6 or 8. The "*General Partners*", as General Partners, and the "*Limited Partners*", as

limited partners, shall have the powers, rights and privileges provided to them in this Agreement. If the General Partners also holds an Interest in the Partnership as a Limited Partner, the General Partners shall be treated as a Limited Partner to the extent that the terms and conditions of this Agreement relate to such Limited Partnership Interest.

(n) **Partnership.** "*Partnership*" means the limited partnership governed by this Agreement.

(o) **Partnership Interest.** "*Partnership Interest*" means a Partner's Economic Interest in the Partnership and such Partner's right, if any, to participate in the management of the business and affairs of the Partnership, including, without limitation, the right to vote on, consent to, or otherwise participate in any decision or action of the Partners pursuant to this Agreement or the Act. Except as otherwise agreed to in a writing signed by all of the Partners and attached to this Agreement, the Partner's respective percentage Partnership Interests shall be equal to the proportionate agreed-upon values of the Capital Contributions made by each Partner, to the extent that such Contributions have been received by the Partnership and not returned. For this purpose, distributions pursuant to Article 4 shall not be considered as a return of Capital Contributions unless specifically identified as such by the General Partners in writing.

(p) **Profit and Losses.** "*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) (and 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 this Subsection shall be 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 Treasury Regulation Section 1.704-1(b)(2)(iv)(I), and not otherwise required to be taken into account in computing Profits or Losses pursuant to this Subsection, shall be subtracted from such taxable income or loss;

(iii) Gain or loss resulting from any disposition of Partnership 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;

(iv) 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 Section 11.2(f) of this Agreement;

(v) In the event that the Gross Asset Value of any Partnership asset is adjusted pursuant to Section 11.2(i)(ii), 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 and Losses;

(vi) To the extent that an adjustment to the adjusted tax basis of any Partnership asset pursuant to Code Section 734(b) or Code Section 743(b) is required under Treasury Regulation 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Partner's interest in the Partnership, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or an item of loss (if the adjustment decreases the basis of the asset) from the disposition of the asset and shall be taken into account for purposes of computing Profits or Losses; and

(vii) Any items that are specially allocated pursuant to Section 3.3(a) shall not be taken into account in computing Profits or Losses.

(q) **Property.** "*Property*" means the Partnership's interest in the assets more fully described on attached Schedule B, and such other real or personal property as the Partnership shall, from time to time, acquire.

(r) **Related Party.** "*Related Party*" means an eligible transferee of Partnership Interest (in accordance with Article 6 of this Agreement) from a Partner, provided that, in each case, such transferee (i) is a child born to such Partner or a grandchild born to such child of a Partner, related by blood, or is the Trustee of a trust established for the sole benefit of such person(s), or (ii) a sibling related by blood, to a Partner but only if the Partner concurrently transfers an equal percentage of his Partnership Interest to each of his or her other siblings, and (iii) in both (i) and (ii) agrees to become bound by the terms and conditions of this Agreement in accordance with Section 6.5. A Partner can be considered a Related Party but only if, to the extent and in circumstances where that Partner received his Partnership Interest or portion thereof as a Related Party.

(s) **Treasury Regulations.** "*Treasury Regulations*" means the Income Tax Regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

11.3 Notices. Unless otherwise provided in this Agreement or by written agreement of the Partners, all notices or other communications required or permitted to be given under this Agreement shall be deemed given when delivered personally or mailed by registered or certified mail, return receipt required, postage prepaid, or delivered by overnight courier service, to the Partners at their addresses on the records of the Partnership, or at such other addresses as a Partner may hereafter designate in writing to the Partnership in writing.

11.4 Binding Effect. Except as herein otherwise provided to the contrary, this Agreement shall be binding upon and inure to the benefit of the parties hereto, their personal representatives, successors and assigns.

11.5 Counterparts. This Agreement may be executed in several counter-parts, each of which shall be deemed an original, and said counterparts shall constitute but one and the same instrument which may be sufficiently evidenced by one counterpart.

DRAFT

11.6 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New Jersey.

11.7 Severability. The invalidity or unenforceability of any particular provision of this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

11.8 Gender. As used in this Agreement, the masculine gender shall include the feminine and the neuter, and vice versa.

11.9 Binding Effect . This Agreement shall be binding upon and inure to the benefit of the parties, and their respective successors and assigns.

The parties to this Agreement have executed this Agreement as of the day and year first above written.


GENERAL PARTNERS:



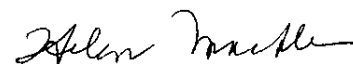
Harvey A. Mackler



Randi Mackler Windheim



Lynn Snyder-Mackler



LIMITED PARTNERS:

Hillary Ruth Mackler

Jessica Robbyn Stepkin

Justin Leigh Windheim

DRAFT

Justin Leigh Windheim

Marc Ian Windeim

Alexander Nathan Snyder-Mackler

Noah Marsh Snyder-Mackler

DRAFT

SCHEDULE A

GENERAL PARTNERS

Capital Contributions

**Partnership
Interest**

Harvey Alan Mackler
1515 Brock Creek Drive
Yardley, PA 19067

\$10.00

.02%

Randi Mackler Windheim
1216 Duncan Drive
Dresher, PA 19025

\$10.00

.02%

Lynn Snyder-Mackler
219 Hullihen Drive
Newark, DE 19711

\$10.00

.02%

Helen Mackler
110 Beverly Road
Bloomfield, NJ 07003

\$1,500.00*

2.94%

LIMITED PARTNERS

97%*

Hillary Ruth Mackler

Jessica Robbyn Stepkin

Justin Leigh Windheim

Marc Ian Windeim

Alexander Nathan Snyder-Mackler

Noah Marsh Snyder-Mackler

*Combined interest of limited partners

DRAFT

SCHEDULE B
LIST OF SECURITIES CONTRIBUTED

SCHEDULE C
VALUATION FORMULA

Purchase Price. (a) If a Limited Partner sells his Partnership Interest during his life under Section 6.3(a), the Partners hereby agree that the purchase price to be paid for such Interests shall be equal to (x) the Appraised Value of the Property, as defined below less a discount of thirty percent (30%), (y) multiplied by the then percentage interest in the Partnership held by the Selling Partner.

(b) If a Limited Partner sells his Partnership Interest under Section 6.3(b) due to the death of such Limited Partner, the Partners hereby agree that the purchase price to be paid for such interests shall be equal to (x) the Appraised Value of the Property, as defined below (y) multiplied by the then percentage interest in the Partnership held by the deceased Selling Partner's estate.

Appraised Value. "*Appraised Value*," as of any day, shall mean (i) 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 (ii) the additional amount, if any, that such buyer would pay for an existing favorable financing or leases on the Property, and decreased by (iii) any encumbrances or mortgages on such property and decreased by (iv) 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, and (v) increased by the fair market value of other Partnership assets, and (vi) decreased by other Partnership liabilities.

Appointment of Appraiser. The Selling Partner and the Partnership shall, by mutual agreement, appoint an appraiser to determine the Appraised Value which determination shall be binding on all of the Partners and the Partnership. Such determination of Appraised Value shall be made by the appraiser in writing within thirty (30) days of such appointment.

If the Partnership and Selling Partner cannot agree on the appointment of one appraiser, then the Partnership shall appoint one appraiser (the "*First Appraiser*") and the Selling Partner shall appoint one appraiser (the "*Second Appraiser*"). The First and Second Appraisers shall meet within ten (10) days of such appointment and shall endeavor, within thirty (30) days of such appointment, to agree upon, and give written notice to the Partnership, the Members 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 Superior Court of the State of New Jersey, to appoint the Third Appraiser. After the appointment of the Third Appraiser, the Gross Appraised Value shall be the amount included in an Appraiser's Notice subscribed to by at least two (2) of the three (3) appraisers; provided that before subscribing to a

DRAFT

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 (2) the appraisers have not given an Appraisers' Notice within twenty (20) days of the appointment of the Third Appraiser, the Appraised Value of the Property shall be determined solely by the Third Appraiser, who shall give an Appraisers' Notice within thirty (30) days of his appointment.

Each appraiser shall be disinterested and shall be a member of the Appraisal Institute or other appropriate body and qualified to appraise property similar to the Property and located in the vicinity of the Property.