

**A9600000712** **PAID**  
 of Grill, Ltd

**CAPITAL CONNECTION, INC.**  
 417 E. Virginia St. Suite 1, Tallahassee, FL 32301 (904) 222-1222  
 Mailing Address: Post Office Box 149, Tallahassee, FL 32301  
 TOLL FREE No. 1-800-342-8062  
 FAX (904) 222-1222

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REQUEST TAKEN CONFIRMED APPROVED  
 DATE \_\_\_\_\_  
 TIME \_\_\_\_\_  
 BY Ayer CK No. \_\_\_\_\_

WALK-IN  
 We Pick Up  
9/10/96

FEE.....	\$
DISBURSED.....	\$
SURCHARGE.....	\$
TAX on corporate supplies.....	\$
<b>SUBTOTAL</b> .....	\$
PREPAID.....	\$
<b>BALANCE DUE</b> .....	\$

Please remit invoice number with payment  
**TERMS: NET 10 DAYS FROM INVOICE DATE**  
 1 1/2% per month on Past Due Amounts  
 Past 30 Days, 18% per Annum.

**THANK YOU**  
 from  
 Your Capital Connection



**FLORIDA DEPARTMENT OF STATE**  
**Sandra B. Mortham**  
Secretary of State

September 16, 1996

**CAPITAL CONNECTION**

**TALLAHASSEE, FL**

**SUBJECT: J. RYAN'S ON THE GRILL, LTD.**  
**Ref. Number: W96000019449**

We have received your document for J. RYAN'S ON THE GRILL, LTD. and check(s) totaling \$1924.00. However, your check(s) and document are being returned for the following:

In addition to the principal place of business, the Certificate must state a MAILING ADDRESS for the partnership.

The law requires that ALL THE GENERAL PARTNERS must sign the Affidavit of Capital Contributions. You could either have ALL the General Partners sign the Affidavit, or retitle the AGREEMENT AND CERTIFICATE document adding the words "AND AFFIDAVIT OF CAPITAL CONTRIBUTIONS."

The wording on the Affidavit in Item 2 is NOT adequate. It should state the initial amount contributed by limited partners -- which from the Agreement appears to be \$90,000.00. Then it should state that "The total amount anticipated to be contributed by the limited partners is \$300,000.00." The law requires that the initial amount be stated and then the total anticipated amount be stated.

The AMENDMENT must include an address for the new General Partner. And the new General Partner MUST BE FILED before this Amendment can be filed.

ALSO, AS DISCUSSED, the total required to file the partnership and obtain a certified copy is \$1,837.50. And the total required to file the Amendment and obtain a certified copy is \$105.00.

So the total amount required will be \$1,942.50.

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 (904) 487-6914.

Buck Kohr  
Corporate Specialist

Letter Number: 996A00042847

**BENDER, BENDER & CHANDLER, P.A.**  
ATTORNEYS AT LAW

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CORAL GABLES, FLORIDA 33146  
(305) 662-1133  
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(941) 551-1503  
FAX (941) 551-1308

HARRY K. BENDER  
GEORGE C. BENDER  
JAMES R. CHANDLER, III

REPLY TO: \_\_\_\_\_

Sarasota

September 13, 1996

Secretary of State of Florida  
409 E. Gaines Street  
Tallahassee, Florida 32399

**Re: Filing Limited Partnership Agreement of  
J. RYAN'S ON THE GRILL, LTD.**

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Ladies/Gentlemen:

Enclosed herewith please find the original Limited Partnership Agreement of J. RYAN'S ON THE GRILL, LTD. for purposes of filing with your office for the establishment of this Limited Partnership. Also enclosed is a Certificate of First Amendment to such Agreement and Certificate, to be filed immediately after the filing of the original partnership agreement and Certificate. Also enclosed are duplicate copies of such Agreement and First Amendment together with our office check in the amount of \$1,924.00 for the \$1,750.00 maximum filing fee, the \$35.00 charged for Designation of Registered Agent, \$86.50 for an optional certified copy of the Certificate of Limited Partnership (\$52.50 for the first 15 pages and \$1.00 per page for the additional 34 pages) and \$52.50 for the certified copy of the First Amendment.

Also enclosed is a Statutory Affidavit.

If you should have any questions or comments concerning the foregoing, please contact the undersigned at the above telephone number.

Sincerely yours,

  
James R. Chandler, III

JRC:il  
Enclosures

**LIMITED PARTNERSHIP AGREEMENT  
AND  
CERTIFICATE OF LIMITED PARTNERSHIP  
AND AFFIDAVIT OF CAPITAL CONTRIBUTIONS  
OF**

**J. RYAN'S  
ON THE GRILL, LTD.**

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LIMITED PARTNERSHIP AGREEMENT  
AND  
CERTIFICATE OF LIMITED PARTNERSHIP

AND AFFIDAVIT OF CAPITAL CONTRIBUTIONS

LIMITED PARTNERSHIP AGREEMENT made this \_\_\_ day of \_\_\_, 1966, and between James R. Chandler, III, Nicholas Bonfrere, and Rafael Gonzalez, General Partners ("the General Partners"), and all other persons, partnerships, corporations, trusts or other entities who or which shall thereby contribute to the capital of this Partnership and agree to be bound by the provisions of this Limited Partnership Agreement, such parties being identified on Exhibit A hereto and who collectively, together with any person, partnership, corporation, trust or other entity hereafter admitted as Substituted Limited Partners, are sometimes referred to as the "Limited Partners." The General Partners and Limited Partners are herein sometimes referred to collectively as the "Partners."

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ARTICLE I  
DEFINITIONS

As used in this Limited Partnership Agreement, the following terms have the definitions as hereinafter indicated (unless otherwise specifically indicated):

- 1.1 Act: The Securities Act of 1933, as amended.
- 1.2 Affiliate: A person or other entity within the definition and meaning as set forth in Rule 405 promulgated under the Act, except as otherwise provided herein.
- 1.3 Capital Contribution: The initial Capital contribution or additional Capital contributions. The initial Capital contribution shall mean, for the General Partners, the aggregate Capital to be made pursuant to Paragraph 7.1 hereof, and for each Limited Partner it shall mean the amount of the Capital contribution set forth in Schedule A attached to this Agreement, pursuant to Paragraphs 7.2. Additional "Capital contribution" shall mean any Capital Contribution added to the initial contribution.
- 1.4 Cash Available for Distribution or Cash Flow: The excess of cash revenue from operations of the Partnership over the sum of cash set aside by the General Partners for the "Replacement Reserve Account" or for anticipated obligations or other contingencies.

1.5 Certificate: Certificate of Limited Partnership of the Partnership to be duly filed in accordance with, and in all respects sufficient in form and substance under the laws of the State of Florida.

1.6 Code: The Internal Revenue Code of 1986 pursuant to the Tax Reform Act of 1986.

1.7 General Partners: James R. Chandler, III, Nicholas Bonfrere, and Raquel Gonzalez who shall, with respect to the entirety of the General Partners' interest hereunder, have a fifty percent (50%) interest, thirty percent (30%) interest, and twenty percent (20%) interest respectively in the aggregate General Partners' interest.

1.8 Limited Partners: Those persons enumerated as such in Exhibit A hereto.

1.9 Limited Partnership Interest or Interest: The percentage interest (also expressed as the "Number of Units") set forth opposite the name of each Limited Partner in Schedule A hereto.

1.10 Limited Partnership or Partnership: The legal relationship and entity created by this Agreement pursuant to the laws of the State of Florida.

1.11 Memorandum: The Private Placement Memorandum dated August 21, 1996, pursuant to which the Partnership has offered up to thirty (30) Units of Limited Partnership Interest at a cost of Ten Thousand Dollars (\$10,000.00) per Unit.

1.12 Net Income: The net earnings of the Limited Partnership determined in accordance with generally accepted accounting principles, unless otherwise specifically provided herein.

1.13 Net Losses: The excess of deductions over revenues of the Limited Partnership determined in accordance with generally accepted accounting principles, unless otherwise specifically provided herein.

1.14 Net Proceeds: The net cash remaining from the sale, or other disposition, of the Partnership Property after (1) all real estate brokerage fees; (2) all other costs, fees, commissions and expenses of the transaction; and (3) the amount of any reserves deemed necessary by the General Partners.

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1.15 Paid Out: The point in time at which the Limited Partners have been allocated net cash proceeds derived from activities of the Partnership from the sale of the Partnership property equal to one hundred percent (100%) of the Limited Partners' initial capital contribution.

1.16 Partners: The General Partners and all Limited Partners where no distinction is required by the context in which the term is used here. Reference to a "Partner" shall be to any one (1) of the Partners.

1.17 Phantom Capital Account: The account which shall be established for each Limited Partner of the Partnership which will consist of the initial cash payment to the Partnership by the Limited Partner and which will be decreased by all actual cash distributions until such account has been terminated by reason of its having been Paid Out in full.

1.18 Property: All assets to be purchased by the Partnership pursuant to the Sale of Assets Agreement executed as of June 18, 1996 by Nicholas Bonfrere and James R. Chandler, III as purchaser and R & A Food Services, Inc, a Delaware Corporation, as Seller, which contract shall be assigned by James R. Chandler, III and Nicholas Bonfrere to the Partnership together with all improvements to the leasehold premises described in such agreement together with all tangible and/or intangible personal property to be purchased by the Partnership as is set forth in the Memorandum for the business purposes of the Partnership with respect to the operation of the restaurant, including, without limiting the generality of the foregoing, all restaurant equipment, furniture, and leasehold improvements to be made to the leasehold above described as well as initial inventory and necessary licenses for the business operations of the Partnership.

1.19 Unit: One (1) of the twenty-five (25) to thirty (30) Units of Limited Partnership Interest in the Partnership as such numbers shall finally be enumerated on Schedule A hereto.

**ARTICLE II  
FORMATION OF LIMITED  
PARTNERSHIP AND EXPENSE THEREOF**

2.1 FORMATION: The Partnership will be formed by the filing of this Certificate of Limited Partnership with the Secretary of State of Florida in accordance with the laws of such state. The General Partners shall promptly file such other documents in such public offices in the State as shall be required

under the law of the State of Florida to give effect to the provisions of the Agreement and to preserve the character of the Partnership as a Limited Partnership.

**2.2 Expense of Formation:** The Partnership shall bear the expenses incident to its formation as set forth in the Memorandum. Each Limited Partner shall bear his personal expenses incurred in connection with the acquisition of his Unit(s), except as otherwise expressly provided herein. The Partnership shall pay or reimburse the General Partners for all other expenses of formation of every nature and description, including, without limiting the generality of the foregoing, reproduction, printing and stenographic costs, filing and recording fees, taxes and costs of legal publication, expenses of registration, qualification or obtaining exemptions under any federal or State of Florida securities laws, and legal fees of the General Partners incident to the formation and operation of the Partnership, the acquisition by the Partnership of any property to be owned by the Partnership and the offering and sale of the Unit(s), and fees and disbursements of any certified public accountants consulted by the General Partners in connection with the formation and operation of the Partnership and the offering and sale of the Unit(s).

**ARTICLE III  
NAME AND PLACE OF BUSINESS  
AND ADDRESS OF PARTIES**

**3.1 Name and Principal Place of Business of Limited Partnership:** The Partnership's name shall be J. Ryan's On The Grill, Ltd., and shall conduct business as J. Ryan's On The Grill or J. Ryan's or such other name as the General Partners may advise the Limited Partners in writing. The principal place of business for the Partnership shall be within the leasehold premises described in the lease, a true copy of which is appended to the Sale of Assets Agreement which forms an exhibit to the Memorandum and which has a street address of 8389 South Tamiami Trail, Sarasota, Florida. The mailing address of the partnership is 1819 Main Street, Suite 302, Sarasota, Florida 34236.

**3.2 Addresses of General Partners:** The General Partners' addresses for purposes of any notices to be provided or which may be provided to the General Partners pursuant to the provisions of this agreement shall be as follows:

1. James R. Chandler, III - 1819 Main Street, Suite 302,  
Sarasota, Florida 34236.

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2. Nicholas Bonfrere - 7535 Calle Facil, Sarasota, Florida  
34238.
3. Rafael Gonzalez - 3185 Novus Court, Sarasota, Florida  
34237.

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Any General Partner may change the address to which notice is to be provided hereunder by mailing a written notice to each Limited Partner of such change which notice shall become effective upon mailing.

### 3.3 Addresses of Limited Partners:

The addresses of the Limited Partners shall be those stated after their names in Schedule A attached hereto and incorporated herein by reference. A Limited Partner may change such address by written notice to any two (2) of the three (3) General Partners, which notice shall become effective upon receipt of such notice by at least one (1) of the General Partners. In addition to such notice to be given to at least two of the General Partners, the Limited Partner shall further provide notice of such change to the Limited Partnership at its principal address as aforesated.

## ARTICLE IV PURPOSE AND BUSINESS OF THE PARTNERSHIP

4.1 The purpose and/or business of the Limited Partnership shall be to invest in, acquire, hold, maintain, operate, own, lease, improve, sell, exchange and otherwise develop a restaurant for profit, and to engage in any and all activities related or incidental thereto. Real estate interests may be in fee as well as leasehold and equitable in nature (including land contracts ) and personal property interests may be by purchase or by lease or otherwise where permitted.

In particular, it is the intention of the Partnership and the agreement of the Partners hereto, to acquire all property, including by assignment a real estate lease for property located at 8389 South Tamiami Trail, Sarasota, Florida, as is designated in that certain "Sale of Assets Agreement," a true copy of which is attached to the Memorandum. Following the acquisition of the property described in such "Sale of Assets Agreement," inclusive of the assignment of the lease, the necessary improvements to the premises shall be made, and the purchases of all additional necessary tangible and intangible property shall be

made so as to enable the Partnership to open and operate a restaurant with a 4-COP Alcoholic Beverage License on the premises to be known as the aforesaid name of J. Ryan's On The Grill. In connection therewith, the Partnership shall be entitled to take the following actions:

(a) Employ such personnel and obtain such legal, accounting, and other professional services, including the services of a management company for the management of the day-to-day operations of the Partnership Property, as the General Partners deem necessary in the course of the Partnership's acquisition and operation of the business as is set forth in the Memorandum and Management Agreement which is an Exhibit to the Memorandum;

(b) Borrow money and issue evidences of indebtedness and secure any such indebtedness by mortgage or deed of trust, as is necessary for the conduct of the Partnership's business as provided herein and in the Memorandum;

(c) Negotiate for and conclude agreements for the acquisition, ownership, maintenance, operation, leasing, sale, or other disposition of all or any portion of the business; and

(d) Take such actions, employ such personnel, and obtain such legal, accounting, and other professional services and advice as the General Partners deem necessary and advisable in furtherance of the Partnership's business.

**ARTICLE V  
FURTHER ASSURANCES;  
NET WORTH OF GENERAL PARTNERS**

**5.1 Further Assurances:** The parties hereto will execute such certificates and documents, and the General Partners will file, record and publish such certificates and documents, as may be necessary or appropriate to comply with the requirements for the formation and operation of a Limited Partnership under the Uniform Limited Partnership Act of the State of Florida. The parties hereto will also execute such certificates and documents, and the General Partners will file, record and publish such certificates and documents as the General Partners, upon advise of counsel, deem necessary or appropriate to comply with the requirements of applicable law governing the formation and operations of Limited Partnerships.

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5.2 Net Worth of General Partners: Nicholas Bonfrere and Rafael Gonzalez make no representations as to their current net worth, but James R. Chandler, III represents and warrants that his current net worth is in excess of \$300,000.00 and that it shall never be less than such sum during the term of this Agreement.

ARTICLE VI  
COMMENCEMENT AND TERM OF PARTNERSHIP

6.1 The Partnership shall commence its existence upon the filing hereof in the office of the Secretary of State of Florida. The term of the Partnership shall expire on December 31, 2030, unless sooner terminated in accordance with the provisions of Article XIII of this Agreement or as otherwise provided by law.

ARTICLE VII  
CAPITAL CONTRIBUTIONS, CAPITAL ACCOUNTS AND PHANTOM CAPITAL ACCOUNTS

7.1 Capital Contribution by General Partners: The General Partners shall make a Capital Contribution to the Partnership consisting of cash in a total amount of Ten Thousand Dollars (\$10,000.00), Ninety-eight Hundred Dollars (\$9,800.00) to be contributed by James R. Chandler, III and One Hundred Dollars (\$100.00) each to be contributed by Nicholas Bonfrere and Rafael Gonzalez. In consideration of their contribution to the capital of the Partnership, becoming the General Partners of the Partnership, exposing their assets to the liabilities incurred by the Partnership and undertaking other obligations as are herein set forth, the General Partners shall receive the interests in the Partnership allocated to them in Article VIII hereof and the fees set forth in Article X hereof.

7.2 Limited Partners: The Limited Partners to this Agreement are those persons who have contributed an aggregate of at least Ten Thousand Dollars (\$10,000.00) per Unit (or lesser amount per fractional Unit) as set forth in Schedule A hereto, for the interest indicated On Schedule A. No notes have been taken by the General Partners in payment of any of such initial contributions and such payments have been made by the Limited Partners as of the date of their execution of this Agreement.

7.3 Additional Capital Contribution of Limited Partners: No Limited Partner shall be required to contribute any capital to the Partnership, other than as provided in the preceding Paragraph 7.2 hereof, or to lend any funds to the Partnership and, except as otherwise provided herein, no Partner may withdraw

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his Capital Contribution or any part thereof. None of the Partners shall be entitled to demand a refund or return of any Capital Contributions or any interest thereon.

**7.4 Certificate:** Each Limited Partner shall be issued a Certificate signed by the General Partners representing all Unit(s) to which each Limited Partner is entitled. When a holder of a Certificate representing Units claims that the Certificate has been lost, destroyed, or wrongfully taken, the Partnership shall issue a new Certificate in place of such missing Certificate if the owner (i) files a request with the Partnership; (ii) immediately files with the Partnership an indemnity bond with a surety or indemnity company acceptable to the General Partners in an amount determined by the General Partners; and (iii) submits to the Partnership an affidavit giving all relevant facts and circumstances surrounding the loss of the Certificate, including: (a) the time, date, place and manner in which the Certificate was lost, stolen or destroyed; (b) the person(s) involved in such loss; (c) the number of the Certificate; (d) the number of Unit(s) represented by the Certificate; and (e) any other information relevant to the loss. Subject to the provisions of this Agreement, upon surrender to the Partnership of a Certificate representing Unit(s) duly endorsed or accompanied by proper evidence of succession, assignment, or authority to transfer, the Partnership shall issue a new certificate, to the person entitled thereto, cancel the old Certificate and record the transaction upon its Unit Transfer Book.

**7.5 Capital Accounts:** A Capital Account shall be maintained for each Partner in accordance with the Federal Income Tax Accounting Principles. The Capital Account of each Partner shall be increased by (i) the amount of any cash and the fair market value of any property contributed to the Partnership by such Partner (net of liability secured by such contributed property that the Partnership is considered to assume or take subject to; (ii) the amount of Partnership income and gain or items thereof allocated to such Partner; and (iii) such Partner's pro rata share (determined in the same manner as such Partner's share of income, gains, losses, deductions and credits) of any other amount received by the Partnership during such year which is exempt from federal income tax. The Capital Account of each Partner shall be reduced by (i) the amount of money distributed to the Partner by the Partnership; (ii) the fair market value of the Property distributed by the Partnership to the Partner (net of liability secured by such distributed property that the Partner is considered to assume or take subject to; (iii) the amount of Partnership losses and deductions or items thereof allocated to the Partner, except that in no event shall any such losses or deductions decrease the account of any Limited Partner to a balance of less than zero dollars ; (iv) such Partner's pro rata share (determined in the same

manner as such Partner's share of income, gains, losses, deductions or credits of any other expenditures of the Partnership which are reductions in the Capital Accounts, except that in no event shall any such losses or deductions decrease the account of any Limited Partner to a balance of less than zero dollars. Every admission of a Limited Partner to the Partnership occurring during the first fifteen days (15) of a month shall be deemed to have occurred as of the opening of business on the first day of the month in which such admission takes place and each admission after the 15th day of a month shall be deemed to have occurred as of the opening of business on the 16th day of such month. Any questions with respect to a Partner's Capital Account shall be resolved by the General Partners in their reasonably exercised discretion applying principles consistent with this agreement.

If a Partner has a deficit balance in his capital account following the liquidation of his interest in the Partnership, as determined after taking into account all capital account adjustments for the Partnership taxable year during which such liquidation occurs, the Partner shall restore the amount of such deficit balance to the Partnership by the end of the taxable year (or, if later, within ninety days (90) after the date of the liquidation), which amount shall, upon liquidation of the Partnership, be paid to creditors of the Partnership or distributed to other Partners in accordance with their positive Capital Account balances.

**7.6 Phantom Capital Accounts:** The Partnership shall establish for each Limited Partner a "Phantom Capital Account." The Phantom Capital Account shall consist of each Limited Partner's initial cash payment to the Limited Partnership in purchase of his Unit(s) and such Phantom Capital Account shall be decreased by all actual cash distributions to him, if any, as more fully set forth hereinafter, until such actual cash distributions have reduced the balance in such Phantom Capital Account to Zero Dollars (\$0.00) at which point in time such Partner's Phantom Capital Account shall be paid Out in full. Once any Limited Partner's Phantom Capital Account has been fully Paid Out, it shall be permanently and fully extinguished and shall not be reestablished by reason of any subsequent additional Capital Contributions by such Limited Partner or by reason of any other increase in the capital account of such Partner.

**ARTICLE VII**  
**ALLOCATION OF NET INCOME, NET LOSSES AND DISTRIBUTIONS**

**8.1 Generally:** The taxable income, gain, losses, deductions, distributions, and credits of the Partnership shall be determined for each fiscal year of the

Partnership in accordance with the accounting method followed by the Partnership for federal income tax purposes and otherwise in accordance with generally accepted accounting principles applied in a consistent manner. Profits and losses shall be allocated to the Partners on the last day of each fiscal year of the Partnership.

**8.2 Allocation of Net Income and Net Losses from Operations and/or from Sale or Other Total Disposition of Property:** All net income, if any, and credits of the Partnership from operations for any fiscal year (or part thereof), or as the result of any sale or other disposition of the entire Property as determined for federal income tax purposes, will be allocated on the basis of ninety percent (90%) to the Limited Partners and ten percent (10%) to the General Partners (five percent (5%) to James R. Chandler, III, three percent (3%) to Nicholas Bonfrere, and two (2%) to Rafael Gonzalez) until such time as the Phantom Capital Accounts of all Limited Partners have been fully paid out. Profits so allocated to the Limited Partners as a class will be allocated among the Limited Partners in the proportion that the number of Units each Limited Partner owns bears to the aggregate number of Units of all the Limited Partners at the time of such allocation.

At such time, if ever, as the Phantom Capital Account for each Limited Partner has been fully Paid Out, all net income, and credits of the Partnership from operations for any fiscal year (or part thereof), will be allocated on the basis of fifty percent (50%) to the Limited Partners and fifty percent (50%) to the General Partners (twenty-five percent (25%) to James R. Chandler, III, fifteen percent (15%) to Nicholas Bonfrere, and ten percent (10%) to Rafael Gonzalez). Profits and losses are allocated among the Limited Partners in the proportion that the number of Units each Limited Partner owns bears to the aggregate number of Units of all the Limited Partners at the time of such allocation.

Upon any sale of other total disposition of the Property of the Partnership, assuming that all Limited Partners' Phantom Capital Accounts have been fully Paid Out, income will be allocated on the basis of fifty percent (50%) to the Limited Partners and fifty percent (50%) (twenty-five percent (25%) to James R. Chandler, III, fifteen percent (15) to Nicholas Bonfrere, and ten percent (10%) to Rafael Gonzalez) to the General Partners.

All losses of the Partnership in connection with operations or the sale or other total disposition of the Property of the Partnership, as determined for federal income tax purposes, shall be allocated as follows:

(1) To the Partners, pro rata, in proportion to their Capital Accounts until the balances therein have been reduced to zero; and,

(2) The balance of such loss is one hundred percent (100%) to the General Partners.

Solely for purposes of allocation of losses, the General Partners' Capital Accounts shall be deemed to include, in addition to their balances as would otherwise be calculated, the amount of the Partnership's current and long term liabilities of a non-contingent nature.

**8.3 Allocation of Cash Flow From Operations:** After providing for the satisfaction of the Partnership's current debts and obligations and subject to the conditions and qualifications set forth in the Partnership Agreement in Paragraph 8.6 relating to the establishment of a "Replacement Reserve Account," the Partnership will distribute cash from operations as expeditiously as possible after the end of each calendar year to the extent available on the basis of ninety percent (90%) to the Limited Partners and ten percent (10%) to the General Partners (five percent (5%) to James R. Chandler, III, three percent (3%) to Nicholas Bonfrere, and two percent (2%) to Rafael Gonzalez) until such time as the Phantom Capital Accounts of all Limited Partners have been fully Paid Out.

At such time as the Phantom Capital Accounts of all Limited Partners have been fully Paid Out, cash distributions from operations of the Partnership will be allocated fifty percent (50%) to the Limited Partners and fifty percent (50%) (twenty-five percent (25%) to James R. Chandler, III, fifteen percent (15%) to Nicholas Bonfrere, and ten percent (10%) to Rafael Gonzalez) to the General Partners.

**8.4 Distributions of Proceeds from Sale or Other Disposition of the Entire Property:** The proceeds derived from the sale or other disposition of the entire property of the Partnership will be distributed, to the extent available for distribution as follows:

(1) First, ninety percent (90%) to the Limited Partners and ten percent (10%) (five percent (5%) to James R. Chandler, III, three percent (3%) to Nicholas Bonfrere, and two percent (2%) to Rafael Gonzalez) to the General Partners until such time as each Limited Partner shall have received distributions sufficient to pay off his Phantom Capital Account; however, the distributions made hereunder shall not be in excess of the aggregate positive balance, if any, of the Phantom Capital Accounts of all Limited Partners;

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(2) Thereafter, fifty percent (50%) to the Limited Partners and fifty percent (50%) (twenty-five percent (25%) to James R. Chandler, III, twenty percent (15%) to Nicholas Bonfrere, and ten percent (10%) to Rafael Gonzalez to the General Partners.

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**8.5 Distribution of Proceeds on Dissolution:** Upon the dissolution and winding up of the Partnership, the assets of the Partnership will be distributed as follows:

(1) First to the payment of debts and liabilities of the Partnership and expenses of liquidation;

(2) Then to the setting up of such reserves as the person required by law to wind up the Partnership's affairs may reasonably deem necessary for any contingent liabilities or obligations of the Partnership, provided that any such reserve shall be paid by such person to an independent escrow agent, who will hold the reserves for a period that he deems advisable, for the purposes of applying the reserves to the payment of such liabilities or obligations, and, at the expiration of such period, the balance of such reserves, if any, shall be distributed as set forth in the Partnership Agreement; and,

(3) To the Partners in the order or priority as provided in the preceding Paragraph No. 8.4 above.

**8.6 Replacement Reserve Account:** The General Partners may establish a separate Replacement Reserve Account and may deposit therein from time to time such amounts from revenues from operations as they shall determine in their sole discretion to be appropriate. However, the maximum deposit to be made into such account during any fiscal year of the Partnership shall in no event exceed the total of all depreciation taken or to be taken by the Partnership as such is determined or calculated for purposes of the Partnership Return of Income for each fiscal year of the Partnership.

The Replacement Reserve Account may be charged with any expenditures for the acquisition, repair or construction of items which are treated as capital expenditures as opposed to expense deductions under generally accepted account principles. To the extent that a separate Replacement Reserve Account is established by the General Partners, the General Partners will not use any other assets of the Partnership for the acquisition, repair or construction of such items which are treated as capital expenditures under generally accepted accounting principles. To the extent that there is no Replacement Reserve

Account or that there are insufficient funds in such account to pay for such expenditures, then the General Partners may use the other assets of the Partnership for such acquisition, repair or construction.

**ARTICLE IX**  
**RIGHTS AND DUTIES OF THE GENERAL PARTNERS**

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9.1 **Generally:** The General Partners shall have full, exclusive and complete authority and discretion in the management and control of the business of the Limited Partnership for the purposes herein stated and shall make all decisions affecting the business of the Limited Partnership. Further, the General Partners shall have all of the rights and powers of a General Partner as provided in the Florida Uniform Limited Partnership Act and as otherwise provided by law, and any action taken by the General Partners shall constitute the act of and serve to bind the Limited Partnership to the best of their ability and shall use their best efforts to carry out the business of the Limited Partnership set forth in Article IV. In particular, and without limitation of the foregoing, the General Partners, in their discretion, shall have the full right, power, and authority, at any time, on behalf of the Partnership, to:

(a) Acquire such interests in real estate and other real or personal property as is described in the Memorandum and replacements thereof, provided such replacements are related to the operation of the Partnership's restaurant at the located described in the Memorandum.

(b) Make or have made for the Partnership such research reports, economic and statistical data, evaluations, analyses, opinions, and recommendations as they may deem necessary or desirable with respect to investment opportunities for the Partnership;

(c) Formulate a program for the investment of the assets of the Partnership; select and evaluate potential projects, investments and loans for the Partnership; make determinations as to the nature, terms, and amount of involvement or participation in such projects, investments, and loans and the timing thereof; evaluate and make recommendations as to the sale or other disposition of assets of the Partnership; and take such further actions as the General Partners may deem necessary or desirable;

(d) Investigate and make determinations with respect to selection of and relations with management companies, consultants, borrowers, lenders and other persons (including without limitation accountants, mortgage loan

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originators, correspondents and services, architects, engineers and other technical advisors, attorneys, real estate and mortgage loan brokers and dealers, corporate fiduciaries, escrow agents, depositaries, custodians, agents for collection, insurers, insurance agents, banks, builders, and developers acting in any other capacity, in connection with projects, investments, mortgage loans and other properties which may be acquired, sold or otherwise disposed of by the Partnership;

(e) Expend the capital and revenues of the Limited Partnership in furtherance of the Limited Partnership's business; however, the Partnership shall not make loans to affiliated persons or entities;

(f) Manage, operate, and develop any Limited Partnership property or investment and enter into operating agreements, containing such terms, provisions and conditions as the General Partners shall approve, with others with respect to properties and investments acquired by the Limited Partnership;

(g) Sell, lease, trade, exchange, or otherwise dispose of all or any portion of Limited Partnership Property upon such terms and conditions and for such consideration as the General Partners deem appropriate; however, the General Partners shall promptly notify the Limited Partners of the terms of any license, sale, or lease of substantially all of the Property of the Partnership and certify the fairness of the terms thereof;

(h) Borrow money from banks, and other lenders for any Limited Partnership purpose, and, in connection therewith, issue notes, debentures, and other debt securities and to hypothecate, pledge, mortgage, and grant security interests in any or all of the assets of the Limited Partnership to secure repayment of the borrowed sums; and no bank, or other lender to which application is made for a loan by the General Partners shall be required to inquire as to the purposes for which such loan is sought; and as between this Limited Partnership and such bank, other lending institution or other lender, it shall be conclusively presumed that the proceeds of such loan are to be and will be used for the purposes authorized under this Agreement;

(i) Place or invest Limited Partnership assets in bank savings and checking accounts, savings and loan associations, commercial paper, government securities, certificates of deposit, bankers' acceptances, and other short-term interest-bearing obligations; provided, however, that the General Partners, may, but shall be required to, cause uninvested cash reserves of the Partnership to be placed in interest-bearing accounts or instruments;



(j) Obtain replacements of any mortgage or mortgages related in any way to the Property owned by the Limited Partnership and to repay, in whole or in part, refinance, recast, modify, consolidate or extend any mortgages affecting such Property;

(k) Enter into agreements and contracts and to give receipts, releases and discharges with respect to all of the foregoing and any matters incident thereto as the General Partners may deem advisable or appropriate;

(l) Maintain, at the expense of the Limited Partnership, adequate records and accounts of all operations and expenditures and furnish the Limited Partners with annual statements of accounts as of the end of each Partnership year, together with tax reporting information;

(m) Purchase, at the expense of the Limited Partnership, liability and other insurance to protect the Limited Partnership's properties and business, and contract for the operation of specific properties;

(n) Place record title to any property in the name of the Partnership, or in the name of a nominee or trustee, for the purpose of mortgage financing or any other convenience or benefit of the Partnership;

(o) Perform any and all other acts or activities customary or incident to the acquisition, ownership, management, improvement, leasing, and disposition of the property envisioned by the Memorandum; and

(p) Make, or refrain from making, such elections under the tax laws of the United States, the several states, and other relevant jurisdictions, as to the treatment of items of Limited Partnership income, gain, loss, deduction, and credit, and as to all other relevant matters they believe necessary or desirable in their sole and absolute discretion. The General Partners will not be responsible for expenses in defending an I.R.S. audit. The General Partners, in their sole discretion, may settle or compromise any issues or items involved

with any I.R.S. audit, whether or not such items materially and adversely affect the Limited Partners' tax liabilities.

**9.2 Restrictions on Actions of General Partners:** The General Partners shall not, without the prior written consent of one hundred percent (100%) of the Limited Partners:

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- (ii) Do any act in contravention of this Agreement;
  - (iii) Perform any act that would impair or make impossible the conduct of the Partnership's business;
  - (iii) Confess a judgment against the Partnership;
  - (iv) File or consent to the filing of a petition under any federal or state bankruptcy, insolvency, or reorganization act with respect to the Partnership;
  - (v) Possess Partnership property or assign rights in Partnership property for other than a Partnership purpose;
  - (vi) Admit any additional General Partner in the Partnership except that the General Partners, either individually or collectively, may transfer up to an aggregate of a ten percent (10%) interest in the entirety of the General Partners' interest to one (1) other person or entity provided such other person or entity qualifies as a General Partner pursuant all applicable provisions of the Memorandum, this Agreement, and Florida Law, and provided further that no such transfer will result in the inability of Nicholas Bonfrere and James R. Chandler, III, acting in tandem, to control the affairs of the Partnership as is hereinafter specified.
  - (vii) Except as set forth herein, increase or decrease the interest of any Partner in the assets, profits, losses, or distributions of the Partnership.
- Furthermore, the General Partners shall not, without the prior written consent of the Limited Partners holding at least eighty-five percent (85%) of the Units:
- (viii) Amend this Agreement; provided, however, that such amendment shall not allow one of the events above specified in this Paragraph 9.2 to occur and provided that this item (viii) of this Paragraph 9.2 shall not be amended except by unanimous consent of the Limited Partners;
  - (ix) Change or reorganize the Partnership into any other legal form; or,
  - (x) Except as provided in Article XII hereof with respect to substituted Partners, admit any additional Limited Partner into the Partnership or establish any additional classes of Limited Partners.

9.3 Liability of General Partners to Limited Partners and Partnership and Indemnification of General Partners by the Partnership: The General Partners and their agents shall not be liable to the Partnership or any other Partner for any loss or liability incurred in connection with any act performed or omitted in accordance with the terms of this Agreement, nor for negligence or any other matter, except for any loss or liability incurred in connection with the fraud, willful misconduct, gross negligence, or bad faith of such Partner. The Partnership shall, to the fullest extent permitted by law, defend, indemnify, and save harmless the General Partners from and against any and all liability, loss, cost, expense, or damage incurred or sustained by reason of any act or omission in the conduct of the business of the Partnership, regardless of whether acting pursuant to this discretionary or explicit authority hereunder, except the Partnership shall not indemnify the General Partners or hold them harmless with respect to any of the foregoing incurred in connection with any General Partner's fraud, willful misconduct, bad faith, or gross negligence. In particular, and without limitation of the foregoing, the General Partners shall be entitled to indemnification by the Partnership against the reasonable expenses, including attorney's fees, actually and necessarily incurred by the General Partners in connection with the defense of any suit or action to which the General Partners are made party by reason of their position as General Partners herein, to the fullest extent permitted under the provisions of the Limited partnership Act of the State of Florida or any other applicable statute. Any expenses or other amounts incurred or to be incurred by the General Partners and/or their agents in connection with a proceeding as to which indemnification is, or may be, applicable under this article shall be paid by the Partnership in advance of the final disposition of the preceding upon receipt of an undertaking to repay said expenses mounts in the event it is finally adjudicated that such indemnification is or was not proper.

Except as otherwise specifically set forth within this Agreement, the General Partners shall not be liable to the Limited Partners because any taxing authorities disallow or adjust income tax deductions or credits in the Partnership income tax returns in connection with any settlement of a Partnership audit or otherwise.

9.4 General Partners' Liability for Management and Supervision of the Partnership Business: The General Partners shall devote only such time to the Limited Partnership business as they, in their sole discretion, shall deem to be necessary to manage and supervise the Partnership's business and affairs. Furthermore, the General Partners may retain the services of an individual or management company (which may be a corporation in which the General

Partners are an owner, officer, or principal) which shall be responsible for the day-to-day operations of the property of the Partnership. The General Partners may have business interests other than the Limited Partnership. Neither the Partnership nor any Limited Partner shall have any right to the income or proceeds derived by any General Partner from such other business interest, even if they are competitive with the business of the Limited Partnership, and such business interests shall not be deemed wrongful or improper, nor shall any General Partner be required to present the Partnership with any business or investment opportunities.

**9.5 General Partners' Services as Real Estate Broker:** The General Partners and/or their affiliates may serve as real estate brokers in connection with real estate transactions entered in by the Limited Partnership. The General Partners and such affiliates may be engaged on a contractual basis to sell Limited Partnership Property and shall be entitled to receive as real estate commissions for such services a percentage of the total sale price (total cash paid and debts incurred, assumed, or to which the property is subject) which percentage shall not exceed the maximum fee which would be paid to an independent third party broker in the community for comparable services. Such commissions may be payable entirely in cash regardless of whether the sale proceeds are so payable.

**9.6 Permitted Activities on Behalf of Partnership by General Partners and/or Affiliates of General Partners:** The General Partners and affiliates of the General Partners may be engaged to perform other services for the Partnership including, but not limited to, the following: real estate management, insurance, financing, title abstracting, title insurance, printing, accounting, legal, record keeping, data processing, and other administrative activities. It is the intention of the General Partners to cause the Partnership to utilize the services of affiliates, including those designated at a later time by the General Partners, to the extent possible.

The validity of any transaction, agreement, or payment involving the Partnership and any affiliate of any General Partner otherwise permitted by the terms of this Agreement shall not be affected by reason of the relationship

between any General Partner and such affiliate or the approval of said transaction, agreement or payment by the General Partners.

Furthermore, nothing contained in this Agreement of Limited Partnership shall be construed as creating restrictions on transactions, relations, or dealings

between the Limited Partnership and any General Partner and affiliates of any General Partner greater in degree or scope than those set forth herein.

**9.7 Liability of General Partners for Return of Capital Contributions of Limited Partners:** Except as provided herein, the General Partners shall not be liable for the return of the Capital Contributions of any of the Partners, or any portion thereof; it being expressly understood that any such returns shall be made solely from the assets of the Partnership. The General Partners shall not be required to pay to the Partnership or any other Partner any deficit in any Partner's Capital Account, upon dissolution or otherwise.

**9.8 Indemnification by General Partners:** The General Partners shall indemnify and hold harmless the Partnership and the Limited Partners from and against any claim, loss, expense, liability, action or damage including without limitation reasonable costs and expenses of litigation and appeal including reasonable fees and expenses of attorneys engaged by the Limited Partners and the Partnership due to or arising out of such General Partner's fraud, bad faith, or intentional misconduct.

**ARTICLE X**  
**MANAGEMENT AND GENERAL PARTNERS' COMPENSATION**  
**AND EXPENSES**

**10.1 Management:** The General Partners shall be responsible for the management of the operations of the Partnership, which will, in accordance with the Memorandum and the management agreement included as an Exhibit to such Memorandum, include their retention of an entity or company for the actual management of the day-to-day operations of the restaurant to be operated by the Partnership. The management of the day-to-day operations of the restaurant are not the obligation of the General Partners in their capacity as General Partners.

**10.2 General Partners' Fees:** The General Partners shall not be paid any initial or subsequent management fee from the Partnership relative to their duties enumerated herein supervising and managing the affairs of the Partnership preceding the date on which the restaurant referred to in paragraph 4.1 hereof opens for business. However, the General Partners shall be entitled to be separately employed by the management company envisioned by the Memorandum. Moreover, the management company shall be entitled to a pre-opening fee as is specified in the Memorandum. A true copy of the management contract specifying the duties and obligations of, as well as the

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remuneration to be paid to the management company responsible for the management and supervision of the day-to-day operations of the restaurant attached as an exhibit to the Memorandum.

**10.3 Expenses:** Except as otherwise provided herein, the Partnership shall pay all the expenses of the General Partners which may be billed either directly to the Partnership or reimbursed to the General Partners and their affiliates and which may include, but are not limited to: (i) due diligence costs in connection with the offering of Units, including salaries, plus an allocable portion of overhead, billed on an hourly basis, and travel and communication expenses of staff engaged in the investigation and financial analysis of the business; (ii) all costs of personnel employed by or on behalf of the Partnership, the General Partners, or their affiliates, and involved in the business of performing services for the Partnership, including fees for management of the business; (iii) all costs of borrowed money, taxes and assessments on the business and other taxes applicable to the Partnership; (iv) all costs for goods and materials, whether purchased by the Partnership directly or by the General Partners or their affiliates on behalf of the Partnership; (v) legal, audit, accounting, brokerage, and other fees; (vi) printing, engraving, and other expenses and taxes incurred in connection with the issuance, distribution, transfer, registration and recording of documents evidencing ownership of a Limited Partnership Interest or in connection with the business of the Partnership; (vii) expenses of organizing, amending, converting, or terminating the Partnership; (viii) expenses in connection with distributions made by the Partnership and communications and bookkeeping and clerical work necessary in maintaining relations with Limited Partners, including the cost of printing and mailing reports of meetings of the Partnership, and of preparation of statements and solicitation of proxies in connection therewith; (ix) expenses in connection with preparing and mailing reports required to be furnished to Limited Partners for investor, tax reporting or other purposes, or reports the General Partners deem the furnishing of which to Limited Partners to be in the best interests of the Partnership, including salaries (plus an allocable portion of overhead billed on an hourly basis) of staff engaged in such activities; (x) costs of any accounting, statistical, or bookkeeping equipment necessary for the maintenance of books and records of the Partnership; (xi) the costs of preparation and dissemination of the informational material and documentation relating to the Partnership; (xii) costs incurred in connection with any litigation in which the Partnership is involved, as well as in examination, investigation, or other proceedings conducted against the Partnership by any regulatory agency, including legal and accounting fees incurred in connection therewith; (xiii) costs of any computer services or equipment or personnel service used for or by the Partnership; and (xiv)

supervision, fees, and client disbursement expenses or professionals employed by the Partnership, including attorneys, accountants, and appraisers, in connection with any of the foregoing.

**10.4 Voting Rights of General Partners:** The General Partners will vote in accordance with their percentage interests in the Partnership's income as General Partners. By virtue of James R. Chandler, III's ownership of fifty percent (50%) of the General Partners' interest in the Partnership income, Mr. Chandler has effective "deadlock control" of the General Partners' position.

To the extent of any deadlock in the "General Partners' position", the General Partners agree to submit the issue to a majority vote of the Limited Partners, each Limited Partner to have one (1) vote (or a fractional percentage thereof) for each Unit (or fractional portion thereof) owned. Such matter shall be submitted to the Limited Partners only in accordance with the provisions of paragraph 11.2 below.

In the event that the Limited Partners are not capable of voting on such issue, then, in that event, the General Partners agree to submit the matter to Arbitration.

#### **ARTICLE XI LIMITED PARTNERS**

**11.1 Limitation on Limited Partners' Liabilities:** A Limited Partner shall not be bound or be personally liable for the expenses, liabilities or obligations of the Partnership or the General Partners, and the liability of each Limited Partner shall be limited solely to the amount of his contribution to the capital of the Partnership required under the provisions of Article VII hereof. No person dealing with the Partnership shall consider a person as a General Partner unless such person has been named as such in the Certificate or an amendment thereto.

**11.2 No Control of Business or Right to Act For Partnership:** A Limited Partner shall take no part in the management, conduct or control of the business of the Partnership and shall have no right or authority to act for or to bind the Partnership. No action shall be taken by the limited Partners pursuant to any power or rights granted to them by this Agreement to: (i) amend this Agreement; (ii) to remove the General Partners; (iii) to vote on a matter upon which the General Partners are deadlocked unless, prior to the taking of any such action, either (a) a court of competent jurisdiction shall determine, in an action for declaratory judgment or similar relief brought by or on behalf of the

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limited Partners (but not by the General Partners) at their own expense, that neither the grant nor the exercise of the right to take such action will be deemed taking part in the control of the business of the Partnership or will result in the loss of any Limited Partner's limited liability; or (b) the Limited Partner shall receive an opinion of counsel to such effect, which counsel shall be reasonably satisfactory to and selected by Limited Partners owning fifty percent (50%) or more of all of the Limited Partnership Interests.

**11.3 No priority of Interest:** Except as otherwise specifically set forth hereon, no Limited Partner shall have the right to demand or receive property other than cash in return of his capital contribution or as a distribution of income. No Limited Partner shall have priority over any other Limited Partner either as to the return of his original contribution to the capital of the Partnership or as to distributions. No Limited Partner shall have the right to demand a return of his Capital Contribution or to receive interest on his Capital Account Balance.

## **ARTICLE XII**

### **TRANSFER OF LIMITED PARTNERSHIP INTERESTS**

**12.1 Requirements for Transfer:** Subject to any restrictions on transferability by law or contained in this Agreement, each Limited Partner shall have the right to transfer (but not to substitute the assignee as a substitute Limited Partner in his place, except in accordance with paragraph 12.3 hereof), by a written instrument, to a person approved by the General Partners, the whole or any part of his Limited Partnership Interest, provided that: (i) the transferee is a citizen of the United States and resident of the State of Florida; (ii) the transferor, at the discretion of the General Partners, delivers to the General Partners, an unqualified opinion of counsel, in form and substance satisfactory to counsel designated by the General Partners that neither the transfer nor any offering in connection therewith violates any provision of any Federal or State securities law; and (iii) the transferee has received a copy of the Memorandum and executes a statement that he is acquiring such Limited Partnership Interest or such part thereof for his own account for investment and not with a view to distribution, fractionalization, or resale thereof. The General Partners' consent to such transfer, the granting or denial of which shall be in their sole discretion, shall be withheld if, in the opinion of counsel designated by the General Partners, such transfer would (a) result in the termination of the Partnership, within the meaning of Section 708(b) of the Code; (b) result in termination of the Partnership's status as a Partnership under the Code; (c) cause adverse consequences to the Partnership or any non-withdrawing Partner under any applicable federal, state or local income tax law, or (d) violate or cause the Partnership to violate any applicable law or government rule or regulation. The term "transfer" when used in this Agreement with respect to a Limited



Partnership Interest includes a sale, assignment, gift, or any other disposition, whether voluntary or by operation of law.

**12.2 Effectiveness of Assignment:** The transfer by a Limited Partner of all or part of his Limited Partnership Interest shall become effective on the first day of the month following satisfaction of the requirements set forth in Paragraph 12.1 hereof and receipt by the General Partners of: (i) evidence of such transfer in form and substance reasonably satisfactory to the General Partner; and (ii) payment by the Transferrer Limited Partner of a transfer fee sufficient to cover all reasonable expenses of the Partnership relating to such transfer.

**12.3 Requirements for Substitution:** No transferee of the whole or a portion of a Limited Partnership Interest shall have the right to become a substituted Limited Partner in place of his transferrer unless and until all of the following conditions are satisfied:

(i) A duly executed and acknowledged written instrument of transfer approved by the General Partners has been filed with the Partnership setting forth the intention of the transferrer that the transferee become a substituted Limited Partner in his place;

(ii) The transferrer and transferee execute and acknowledge, and cause such other persons to execute as deemed necessary or desirable to effect such substitution, including without limitation (A) the written acceptance and adoption by the transferee of the provisions of this Agreement, and the execution, acknowledgment, and delivery by the transferee, of a power of attorney containing the powers provided for in Article XXI hereof; and, (B) the transferee's completing a purchaser questionnaire which will enable counsel for the Partnership and the General Partners to determine whether such proposed substitution is consistent with the requirements of the private placement exemption from registration under the Act;

(iii) The written consent of the General Partners to such substitution shall be obtained; the granting or denial of such written consent shall be within the sole and absolute discretion of the General Partners;

(iv) A reasonable transfer fee has been paid to the Partnership to cover all expenses in connection with the transfer and substitution.

(v) The transferee consents in writing, in form and substance satisfactory to the General Partners to become a substituted Limited Partner and to be bound by the terms of this Agreement in the place of the transferrer; and

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(vi) An appropriate amendment of the Certificate has been duly filed required by Florida Law and recorded The General Partners agree to file such amendment and cause it to be recorded promptly after the conditions specified above have been satisfied

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**12.4 Distributions and Allocations Subsequent to Transfer** A transferee of or substitute Limited Partner for, a Limited Partnership Interest shall be entitled to receive distributions from the Partnership with respect to such Limited Partnership Interest only after the effective date of such assignment.

**12.5 Consent to Substitutions; Vote of Limited Partners**: The Limited Partners hereby consent to any substitution made in accordance with the provisions of Paragraph 12.3 hereof. In any case where a vote of the Limited Partners is required hereunder, Limited Partners and substituted Limited Partners, but not their transferees who are not substituted Limited Partners, shall be entitled to vote.

**12.6 Continuing Obligations**: Nothing in this Article XII shall be construed to relieve any Partner or his successors, assigns, heirs, or legal representatives from the satisfaction of such Partner's obligations herein, and all such obligations shall survive any occurrence which results in such Partner ceasing to be a Partner.

**12.7 Notices** Any Partner who, in accordance with this Article XII, shall acquire or succeed in interest to the interest of any other Partner, shall promptly notify the General Partners of his name and mailing address, and the date of acquisition or transfer of the applicable Partnership Interest.

**12.8 Optional Adjustment to Basis of Partnership Property**: In the event of the transfer of the interest of a Partner in the Partnership during the life of the Partner or upon the death of the Partner, the General Partners may, in the General Partners' sole discretion, make an election on behalf of the Partnership as is provided under the terms of this Agreement and under Section 754 of the Code, if such an election is not already in effect for the Partnership, and cause the Partnership to make the adjustments to the basis of the property of the Partnership, with regard to the transferee Partner only, as provided in Section 754 of the Code.

### **ARTICLE XIII DURATION OF BUSINESS AND DISSOLUTION**

**13.1 Continuance of Business**: The Limited Partnership shall continue: (a) until all of the interests in properties acquired by it, and other investments made by

it, have expired, have been sold or disposed of, or have been abandoned, or (b) until dissolved and terminated under Section 13.4.

**13.2 Death or Incapacity of Limited Partner or General Partners:** The Limited Partnership shall not be terminated by the death, insanity, bankruptcy, withdrawal, or expulsion of any Limited Partner; by the assignment by any Limited Partner of his Interest; or by the admission of a new Limited Partner; nor shall it be terminated by the death, retirement, insanity, withdrawal, or expulsion of a General Partner or General Partners provided such General Partner(s) do(es) not have a majority in interest of the General Partners' income interest provided for herein or, in the event, that a majority in interest of the General Partners do die, retire, become insane, withdraw, or be expelled, if a majority in interest and number of the Limited Partner(s) elect to continue the Limited Partnership in accordance with the provisions of paragraph 13.4(g) hereof.

**13.3 Expulsion of Limited Partner** The General Partnership may terminate the interest of a Limited Partner and expel him: (a) for interfering in the management of the Limited Partnership affairs or otherwise engaging in conduct which could result in the Limited Partnership losing its tax status as a partnership; (b) if the conduct of a Limited Partner tends to bring the Limited Partnership into disrepute or his Interest becomes subject to attachment, garnishment or similar legal proceedings; or (c) for failing to meet any commitment to the General Partners in accordance with any written undertaking. In each of the foregoing events, the termination shall not result in a forfeiture to the Limited Partnership at the time of termination, except as otherwise provided herein.

**13.4 Dissolution:** The Limited Partnership shall be dissolved only upon the occurrence of any of the following events:

(a) The retirement, death, insanity, or withdrawal of a majority in interest of the General Partners;

(b) The filing of a petition in bankruptcy against a majority in interest of the General Partners if such petition is not dismissed within sixty (60) days of the date of such filing,

(c) The expiration of the fixed term of the Partnership;

(d) The disposition of all Partnership properties;

(e) An affirmative vote of all the Limited Partners and the General Partners to terminate the Partnership; or,

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(f) Any other event that would cause a dissolution under the Florida Limited Partnership law.

(g) In the event of an occurrence specified in (a) or (b) above, if counsel (which is acceptable to a majority in interest of the Limited Partners) shall have delivered to the Partnership an opinion, in substance satisfactory to such Limited Partners, that neither the grant nor the exercise of the powers of the Limited Partners by consenting to continue the Partnership and elect a new general partner will adversely affect either the limited liability status of a Limited Partner or the tax status of the Partnership, then upon an affirmative vote of the majority in interest of Limited Partners, such business shall be continued and a new managing general partner elected, conditioned on the new managing general partner accepting all responsibilities and releasing the General Partners from all liabilities in form satisfactory to the General Partners.

In the event that such an opinion cannot be obtained then upon the affirmative vote of one hundred percent (100%) of the Limited Partners, they may elect to reform the Limited Partnership and elect a new general partner in the place of the General Partners and continue the Partnership's business; in such event, the Limited Partnership shall be dissolved and all of its assets and liabilities shall be contributed to a new Limited Partnership which shall be formed and this Agreement, as it may from time to time have been amended, shall constitute the limited partnership agreement of such new Partnership. For purposes of obtaining the required votes referred to above, Limited Partners owning ten percent or more of the then outstanding Limited Partners' Interests may cause to be sent to Limited Partners of record, as of a date not more than twenty (20) days prior to the date fixed by such Limited Partners for holding a Partnership meeting, a notice calling and setting forth the purpose of such a meeting. Expenses incurred in the reformation or attempted reformation of the Partnership shall be deemed expenses of the Limited Partnership.

**13.5 Continuance of General Partners' Services:** The General Partners will continue to serve in such capacity until they (a) are removed by vote of the Partners in accordance with the provisions of Section 16.3; (b) resign; or (c) the Partnership is dissolved.

**13.6 Duties of General Partners on Dissolution:** In the event of dissolution and final termination:

(a) The General Partners shall wind up the affairs of the Limited Partnership, shall sell all of the Limited Partnership assets as promptly as is consistent with obtaining, insofar as possible, the fair value thereof and, after paying all liabilities, including for this purpose any amounts payable pursuant to any article of this Agreement and including all costs of dissolution and, subject to the right

of the General Partners to set up cash reserves as they may deem reasonably necessary for any contingent or unforeseen liabilities or obligations of the Limited Partnership, shall distribute the remainder ratably to the Partners pursuant to the relevant provisions of Article VIII of this Agreement, provided, however, if the Limited Partnership is terminated without the approval of the General Partners, the General Partners shall have an option to purchase all assets of the Partnership at their fair market value as determined by the report of an independent appraiser retained by the Limited Partnership.

(b) Each Limited Partner shall look solely to the assets of the Limited Partnership for the return of his current capital investment, and if the Limited Partnership property remaining after the payment or discharge of the debts and liabilities of the Limited Partnership is insufficient to return the current capital investment of each Limited Partner, such Limited Partner shall have no recourse against the General Partners or any other Limited Partner, except as may be specifically provided herein. The winding up of the affairs of the Limited Partnership and the distribution of its assets shall be conducted exclusively by the General Partners, who are hereby authorized to do any and all acts and things authorized by law for such purposes.

**ARTICLE XIV  
BOOKS, RECORDS, ACCOUNTING, REPORTS  
AND CERTAIN TAX MAILERS**

14.1 Availability: At all times during the existence of the Partnership, General Partners shall keep or cause to be kept full and true books of account in the offices of the General Partners to be located within the leasehold premises from which the Partnership will conduct its business operations, which is located at 8389 South Tamiami Trail, Sarasota, Florida. However, until the Partnership has opened for business, the General Partners shall keep or cause such books of account to be kept at the Sarasota Offices of Bender, Bender & Chandler, P.A. located at 1819 Main Street, Suite 302, Sarasota City Center, Sarasota, Florida 34236 Such books of account shall be kept in accordance with the accounting method followed by the Partnership for federal income tax purposes and otherwise in accordance with generally accepted accounting principles and procedures applied in a consistent manner, which shall reflect all Partnership transactions and shall be appropriate and adequate for the Partnership's business. Such books of account, together with a copy of this Agreement and any amendments thereto, shall at all times be maintained at the aforesaid location(s) Any Partner or his duly authorized representative shall have the right at any time to inspect and copy from such books and documents during normal business hours upon reasonable notice.

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**14.2 Financial Reports:** As soon as practicable after the close of each fiscal year, the General Partners shall deliver to each Limited Partner a financial report of the Partnership for such fiscal year, including a balance sheet, a statement of cash flows, and a profit and loss statement prepared by the certified public accountant for the Partnership, and a report by the General Partners showing (i) distributions and allocations to the Partners of taxable income, gains, losses, deductions, credits, and items of tax preference, and (ii) all necessary tax reporting information required by the Limited Partners for preparation of their respective income tax returns. The report of the certified public accountants for the Partnership shall be made in accordance with generally accepted accounting principles on a consistent basis, and need not be audited.

**14.3 Accounting Decisions:** All decisions as to accounting matters, except as specifically provided to the contrary herein, shall be made by the General Partners in accordance with generally accepted accounting principles applied on a consistent basis. Such decisions must be acceptable to the accountant or firm of accountants engaged by the General Partners and the General Partners may rely upon their advice as to whether such decisions are in accordance with generally accepted accounting principles.

**14.4 Taxable Year and Accounting Method:** The Partnership's taxable and fiscal years shall be the calendar year. The Partnership shall use the accrual method of accounting. Subject to Paragraph 14.5 below, all elections required or permitted to be made by the Partnership under the Code shall be made by the General Partners in such manner as, in the opinion of the accountant or firm of accountants engaged by the General Partners, will be most advantageous to the Limited Partners.

**14.5 Tax Elections:** The Partnership may make elections for federal income tax purposes as follows:

(i) The Partnership shall elect to deduct expenses incurred in organizing the Partnership ratably over a 60-month period as provided in Section 709 of the Code.

(ii) In case of a transfer as defined in Paragraph 12.1 hereof of all or part of any Limited Partnership Interest, the Partnership may elect in a timely manner, pursuant to Section 754 of the Code and pursuant to corresponding provisions of the applicable state and local tax laws, to adjust the basis of the assets of the Partnership pursuant to Sections 734 and 743 of the Code.

(iii) The Partnership shall elect to deduct any start-up expenditures ratably over a 6-month period as provided in Section 195 of the Code.

(iv) Other elections, including elections with respect to the useful lives and depreciation and amortization rates of the assets of the Partnership, as the General Partners shall make in their sole discretion.

Each Partner shall supply to the Partnership any necessary information to give effect to the elections described in this Paragraph 14.5

**14.6 Tax Returns:** No later than fifteen (15) days prior to the due date for the filing of any applicable income tax returns of the Partnership (e.g. for Federal income tax purposes, generally the April 1 following the closing of any fiscal year of the Partnership), the General Partners shall sign and file or cause to be filed all applicable Partnership tax returns. In the event the General Partners shall fail to perform timely their obligations described in the preceding sentence, the accountant or firm of accountants engaged by the General Partners, upon a written request received from a majority in interest of the Limited Partners, shall sign and file such tax returns as the true and lawful attorneys-in-fact of the General Partners, and the General Partners do hereby constitute and appoint the accountant or firm of accountants engaged by the General Partners to make, execute, acknowledge, and sign for and on behalf of the Partnership such tax returns in accordance with the provisions of this Article XIV. Simultaneously upon so signing and filing, such accountant(s) shall certify to the Partnership that the tax returns are, in their opinion, correctly prepared and conform to provisions of applicable tax laws.

**ARTICLE XV  
AMENDMENT OF CERTIFICATE OF LIMITED PARTNERSHIP**

15.1 The Certificate shall be amended without the prior agreement of the Limited Partners whenever required by law or when necessary to effect changes which do not adversely affect the rights or increase the obligations of the Limited Partners.

**ARTICLE XVI  
RESIGNATION OR REMOVAL OF GENERAL PARTNERS**

**16.1 Prohibited Withdrawal by the General Partners** Subject to the provisions of paragraph 16.2 below, each General Partner hereby covenants that he shall not take any action which would cause the Partnership to lose its status as a Partnership for purposes of taxation. Each General Partner agrees that subject to the foregoing, if without prior consent, he takes any such action, the Limited Partnership shall be entitled to receive from such General Partner, as a partial measure of the damages resulting from such withdrawal (without limiting the right of the Partnership or the Limited Partners to recover any other damages incurred by them) the tax cost to the Partnership and the Limited Partners of

any reclassification of the Partnership as an association taxable as a corporation for federal income tax purposes resulting therefrom, and the expense, including reasonable attorneys' fees, of defending against such an attempted reclassification of the Partnership.

**16.2 Permitted Sale Mortgage or Hypothecation of Interest in the Partnership by General Partners** The General Partners (or any General Partner) may, without the consent of the Limited Partners, sell, transfer, assign, pledge or hypothecate a maximum of forty-nine percent (49%) of his Partnership interest as such interest now exists or as such interest may subsequently exist. The sale, mortgage or hypothecation by any General Partner of greater than forty-nine percent (49%) of his interest in the Partnership, with the consent of more than fifty percent (50%) of the Limited Partnership Interests, shall further constitute a permissible sale, mortgage, or hypothecation and shall not be subject to the provisions of paragraph 16.1 above. No General Partner shall otherwise sell, assign, transfer, mortgage, charge, or otherwise dispose of his interest in the Partnership, except that a maximum of ten percent (10%) of the General Partners' interest may be transferred to no more than one other person or entity without the prior consent of a majority in interest of the Limited Partners. Any attempted or purported sale, assignment, transfer, mortgage, charge or other disposition in excess of the foregoing amounts of any General Partners' interest made without such consent shall be automatically void ab initio. No sale, assignment, transfer, mortgage, charge or other disposition made by any General Partner shall in any event release such General Partner from such General Partner's obligations under this Agreement.

**16.3 Removal of a General Partner by the Limited Partners:** Subject to the provisions of this Agreement, the Limited Partners by a vote of eighty-five percent (85%) of the then outstanding Limited Partnership Interests shall, without the necessity of concurrence by the General Partners, have the right, exercisable by written notice given to the General Partners and all other Limited Partners, to remove any General Partner, for "cause," provided, however, that no vote shall be taken on the removal of a General Partner unless first proposed by fifty percent (50%) or more of the Limited Partnership Interests. Cause for this purpose shall mean bankruptcy, fraud, bad faith, gross negligence or intentional misconduct or upon the occurrence of any event which would disqualify any General Partner from holding a State of Florida Alcohol Beverage License. In the event any General Partner should contest the validity of such removal, such removal shall not become effective unless and until a court of competent jurisdiction, including any court to which an appeal may be taken, shall have finally determined the cause for such removal as previously defined, to have been established.



If any General Partner is removed properly or he suffers a withdrawal and the Limited Partners elect to continue the business of the Partnership in accordance with Paragraph 13.4 herein, then the removed General Partner or the withdrawing General Partner, as the case may be, shall sell and the Partnership shall buy, for eighty-five percent (85%) of the fair market value, less any damages suffered by the Partnership, payable in cash, to the extent cash is available, and the balance by a note payable on demand and bearing interest at the rate of interest publicly announced by Barnett Banks of Florida from time to time as its prime rate, the entire interest in the Partnership of the removed General Partner, including without limitation the present value of the General Partner's residual interest in distributions whether of cash flow, or upon liquidation, his capital account credit balance. Payment to the withdrawing General Partner shall be made by the Partnership within forty-five (45) days after valuation of the General Partner's interest in the Partnership is received. All values with respect to the removed General Partner's interest in the Partnership shall be determined by the accountant or firm of accountants engaged by the General Partners, and the Partnership shall vote upon the allocation of the purchased interest of the removed general partner as between the Limited Partners and the successor General Partner, provided the Partnership is reconstituted in accordance with the provisions of Paragraph 11 of this Agreement.

#### ARTICLE XVII MEETINGS

17.1 Information to be provided to Limited Partners: Limited Partners shall be entitled to have mailed to them a list of the names of all Limited Partners upon payment to the Limited Partnership of such reasonable fee as the General Partners may establish for the preparation thereof. Such list shall also contain the address of and the Interest held by each Limited Partner. No Limited Partner shall have the right to sell such list to any other person or to use such list for any purposes unrelated to the operation of the Partnership, and the General Partners may

require any Limited Partner requesting such a list to provide the General Partners with a written statement as to the purposes for which such list is required

17.2 Meetings: The General Partners, or Limited Partners owning not less than twenty five percent (25%) of the total outstanding Limited Partnership Interests in the Partnership, may call a meeting of all Partners to be held at the principal office of the General Partnership upon giving ten (10) days written notice to all Partners. The General Partners will mail the request for such meeting as herein provided, including a statement as to the purpose of said meeting.

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In addition to the foregoing, the General Partners agree to convene a meeting of all Partners on a not less than annual basis in order to permit the General Partners to fully inform all Partners of the status of Partnership operations and to permit the asking of any reasonable questions presented to the General Partners by any Limited Partner which questions the General Partners shall be obligated to answer to the best of their capabilities.

#### ARTICLE XVIII AMENDMENTS

18.1 Amendments: The General Partners may, and at the request of Limited Partners having thirty percent (30%) or more of the Limited Partnership Interests shall, submit to the Limited Partners the text of any proposed amendment to this Agreement and any statement by the proposer thereon relating thereto. The General Partners may include in any submission the General Partners' views as to the proposed amendment. Subject to the provisions of Paragraphs 9.2 and Paragraph 11.2 hereof, a majority of the then outstanding Limited Partnership Interests may, without the necessity of concurrence by the General Partners, vote to amend the Limited Partnership Agreement. The effective date of an amendment pursuant to this paragraph shall be the date on which the required consents shall have been given. Any proposed amendment which is not adopted may be resubmitted, but not more often than every six (6) months.

18.2 Limitation: No amendment shall be effective which reduces the interest of the General Partners in the Partnership or the compensation payable to them or their affiliates.

18.3 Tax Status: Notwithstanding the foregoing, this Agreement shall be amended from time to time in each and every manner to comply with the then existing requirements of the Code, Treasury regulations and rulings of the Internal Revenue Service affecting the status of the Partnership as a partnership for Federal Income tax purposes, and no amendment that would directly or

indirectly affect or jeopardize the then status of the Partnership as a partnership for federal income tax purposes may be proposed or adopted.

#### ARTICLE XIX ACCEPTANCE OF OFFERS

19.1 Acceptance of Offers: The General Partners may permit persons (including persons who are not currently admitted as Limited Partners, subject to the provisions of Paragraph 9.2 of this Agreement) to make additional capital

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contributions of such items and in such amounts as the General Partners, in their sole discretion, shall determine, and to receive therefor additional interests. Contributions to the Partnership capital may be made in any of the following forms: cash, real property and chattels related thereto, and relinquishment of legal rights or reduction of Partnership obligations pursuant to notes, debentures, bonds and other kinds of debt obligations issued by the Partnership for real properties and chattels related thereto. For such contributions to the capital of the Partnership, such persons will acquire the number of additional interests determined by the General Partner in their sole discretion.

**19.2 Rejection of Offers:** The General Partners, in their sole discretion, may refuse any offers to purchase or subscriptions for additional interests by any Limited Partner without refusing same from all Limited Partners; may refuse anyone admission as an additional Limited Partner while accepting others; and, may allow the purchase of additional interests by persons other than Partners without first allowing purchases by existing Partners.

**ARTICLE XX  
LOANS TO THE PARTNERSHIP**

20.1 Notwithstanding anything in this Agreement to the contrary, the General Partners shall not negotiate from others or from any of them any loans to the Partnership, the proceeds of which loans shall be used for any other purpose than for necessary operating expenses, working capital or capital expenditures reasonably believed to be necessary by the General Partners for the business of the Partnership. In particular, no proceeds from any loan shall be used by the General Partners as or for distributions to the Limited Partners.

**ARTICLE XXI  
POWER OF ATTORNEY**

21.1 **Description:** Each Limited Partner hereby irrevocably grants to each General Partner the power of attorney contained in this paragraph and constitutes and appoints each General Partner, with full power of substitution and re-substitution, as his attorney-in-fact, with full power and authority to act in his name on his behalf with respect to the execution, acknowledgment, swearing to, and filing of the following documents, subject to all of the provisions of this Agreement:

(a) This Agreement, which is to be filed in the appropriate public offices in the State of Florida and in such form as shall be necessary under the laws of such State to give effect to the provisions hereof and to preserve the character of the Partnership as a limited partnership, and any amended Certificate, including any amendment to the Certificate to reflect the admission of the

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Limited Partners in accordance with the terms hereof or the substitution of Limited Partner or General Partners in accordance with the provisions hereof and to cause the withdrawal of any defaulting Partner as described herein.

(b) Any instrument which the General Partners deem to be in the best interests of the Partnership to file and which is not inconsistent with this Agreement.

(c) Any documents which may be required to effect any amendment to this Agreement or any continuation, dissolution, or termination of the Partnership which is in accordance with the terms hereof.

(d) Any documents which may be required in connection with borrowing by the Partnership.

(e) Any documents which may be required in connection with any filings with state securities commissions or other state authorities.

(f) All certificates and other instruments, including without limitation counterparts of this Agreement and amendments thereto which the General Partners deem appropriate to qualify or to continue as a limited partnership in the jurisdictions in which the Partnership conducts business.

(g) All instruments and amendments thereto which the General Partners deem appropriate to reflect any change or modification of the Partnership or the admission of additional or substituted partners in accordance with the terms of this Agreement.

(h) All conveyances and other instruments which the General Partners deem appropriate to evidence and reflect any sales or transfers by or the dissolution and termination of the Partnership.

(i) All consents to transfer of Partnership interests, to the admission of substituted or additional Partners or to the withdrawal or reduction of any Partner's invested capital, to the extent that such actions are authorized by the terms of this Agreement.

**21.2 Procedures in Case of Amendment to Agreement:** Each of the Limited Partners is aware that the terms hereof permit certain amendments to this Agreement to be effected and certain other actions to be taken or omitted by or with respect to the Partnership, in each case with the approval of less than all of the Limited Partners, if, as and when:

(a) An amendment to this Agreement is proposed or an action is proposed to be taken or omitted with respect to the Partnership which requires, under the terms of this Agreement, the approval of a specified percentage interest (but less than all) of the Partners;

(b) Partners holding the percentage of Partnership interests Partnership specified in this Agreement as being required for such amendment or action have approved such amendment or action in the manner contemplated by this Agreement; and

(c) A Limited Partner has failed or refused to approve such amendment or action (hereinafter referred to as a "Non-Consenting Limited Partner"): Each Non-Consenting Limited Partner agrees that the special attorney-in-fact specified above, with full power of substitution, is hereby authorized and empowered to execute, acknowledge, make, swear to, verify, deliver, record, file, and publish, for or on behalf of such Non-Consenting Limited Partner, and in his name, place and stead, any and all instruments and documents which may be necessary or appropriate to permit such amendment to be lawfully made or action lawfully taken or omitted. Each Consenting and Non-Consenting Limited Partner is fully aware that he and each other Limited Partner has executed this special power of attorney, and that each Limited Partner will rely on the effectiveness of such powers with a view to the orderly administration of the Partnership's affairs.

**21.3 Characteristics of Power of Attorney:** The power of attorney hereby granted by each Limited Partner to each General Partner:

(a) Is a special power of attorney coupled with an interest in favor of each General Partner and, as such, shall survive the death or insanity (or, in the case of a Limited Partner that is a corporation, association, partnership, joint venture or trust, the merger, dissolution, or other termination of existence) of the Limited Partner,

(b) May be exercised for the Limited Partner by a facsimile signature of any General Partner or by listing all of the Limited Partners, including such Limited Partner, and executing any instrument by the signature of any General Partner acting as attorney-in-fact for all of them; and

(c) Shall survive the assignment by the Limited Partner of the whole or any portion of his interest, except that where the assignee of the whole thereof has furnished a power of attorney and has been approved by the General Partners for admission to the Partnership as a substituted Limited Partner, this power of attorney shall survive such assignment for the sole purpose of enabling any

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General Partner to execute, acknowledge and file any instrument necessary to effect such substitution and shall thereafter terminate.

A similar power of attorney shall be one of the instruments which the General Partners shall require an assignee of the Limited Partner to execute as a condition of his admission as a substituted Limited Partner, and which the General Partners shall require an additional Limited Partner to execute as a condition of his admission. Such power of attorney may be set forth on checks or instruments distributed by the Partnership to holders of Units in the Partnership from time to time. The execution of such power of attorney, however, shall not be a condition to the receipt of distributions from the Partnership.

**21.4 Limitations of Power of Attorney.** No document or amendment executed by the General Partners pursuant to this article shall, in the absence of the prior consent of all of the Limited Partners, (i) reduce the obligations of the General Partners, (ii) affect the rights or restrictions regarding the assignability of a Limited Partnership Interest, (iii) modify the term of the Partnership, (iv) amend this Article, or (v) reduce the rights or interests or enlarge the obligations of the Limited Partners.

**ARTICLE XXII  
MISCELLANEOUS PROVISIONS**

**22.1 Expenses of Offering:** The Partnership shall pay the expenses in connection with the private offering of Interests in this Partnership. If such expenses or any portion thereof have been paid by the General Partners or their affiliates, the Partnership shall reimburse the General Partners or their affiliates for such expenditures.

**22.2 Notices:** Except as otherwise provided herein, any notice which shall be given in connection with the business of this Limited Partnership shall be duly given if reduced to writing and delivered personally to the person to whom it is authorized to be given or, if sent by mail, telex, or telegraph, to the last address furnished by him for such purpose.

**22.3 Validity:** If any provision(s) of this Agreement or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

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22.4 Applicable law: This Agreement, and the application or interpretation thereof, shall be governed exclusively by its terms and by the law of the State of Florida, both substantive and remedial.

22.5 Binding Agreement: Except as herein otherwise specifically provided, this Agreement shall be binding upon the parties hereto, their heirs, executors, administrators, legal representatives, devisees, successors, and assigns.

22.6 Waiver of Action for Partition: Each of the parties hereto agrees that the Limited Partnership Properties are not and will not be suitable for partition; accordingly, each of the parties hereto irrevocably waives any right that he may have to maintain any action for partition with respect to the property and other investments of the Limited Partnership.

22.7 Article Headings: All Article and Section headings in this Agreement are for convenience of reference and are not intended to qualify the meaning of any Article or Section.

22.8 Counterparts: This Agreement may be executed in several counterparts, and all so executed shall constitute one Agreement, binding on all of the parties hereto, notwithstanding that all the parties are not signatories to the original or the same counterpart.

22.9 Creditors as Such: A creditor who makes a non-recourse loan to the Partnership shall not have or acquire, at any time as a result of making such loan, any direct or indirect interest in the profits or capital property of this Partnership other than as a secured creditor.

22.10 Agent for Service of Process: The initial agent for service of process upon the Limited Partnership and/or upon any General Partner, as required by Florida Law, shall be Harry K. Bender whose address is 5915 Ponce de Leon Boulevard, 6th Floor, Coral Gables, Florida 33146.

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IN WITNESS WHEREOF, the undersigned General Partners have hereunto set their hands and seals and all other Participants have hereunto set their hands and seals by execution of the Participant Signature Page, all effective on the date hereinabove provided

WITNESSETH:

Handwritten signature  
Rosie A. Turner  
Handwritten signature  
Rosie Turner  
Handwritten signature  
Rosie A. Turner

GENERAL PARTNERS:

BY: Handwritten signature  
James R. Chandler, III

BY: Handwritten signature  
Nicholas Bonfrere

BY: Handwritten signature  
Rafael Gonzalez

Limited Partners: See execution pages for each  
Limited Partner's signature on Schedule A attached hereto.

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STATE OF FLORIDA )

COUNTY OF SARASOTA)

SWORN TO AND SUBSCRIBED before me by James R. Chandler, III, Nicholas, Bonfrere, and Rafael Gonzalez this 14<sup>th</sup> day of Sept., 1996.

Rosie A. Turner  
Notary Public, State of Florida  
My Commission Expires:



ROSIE A. TURNER  
MY COMMISSION # 0030001 EXPIRES  
March 4, 1998  
BONDED THRU TROY FARM INSURANCE, INC.



**ACCEPTANCE OF DESIGNATION OF RESIDENT AGENT  
FOR SERVICE PROCESS**

The undersigned hereby accepts the designation of agent for service of process pursuant to Florida law upon under the Limited Partnership or the General Partners.

  
HARRY K. BENDER

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SCHEDULE A

LIST OF LIMITED PARTNERS

SCHEDULE OF INITIAL  
LIMITED PARTNERS

Name and Addresses Partners	Capital Contribution To The Partnership	No. of Units Purchased	Initial % Interest In The Partnership's Capital
1) Richard Newcomer 447 E Macqueen Dr Osprey Fl 34229	\$10,000	1	3%
2) James R Chandler III as Trustee under the will of Mildred Chandler Del 1819 Main Street Sarasota Fl 34236	\$80,000	8	27%

FILED  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
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LIMITED PARTNER'S SIGNATURE PAGE  
SIGNATURE PAGE FOR  
J. RYAN'S ON THE GRILL, LTD.  
LIMITED PARTNERSHIP AGREEMENT

Executed this 9<sup>th</sup> day of September, 1996, at Orlando, Florida.

No. of Limited Partnership Units: 1

Amount of cash paid for Units: 10,000.00

WITNESSES:

LIMITED PARTNER:

Liz Ann Ahl

Richard A. Newman

Elysa Morris

This Signature Page will be attached to and become a part of the Agreement of Limited Partnership and Certificate of Limited Partnership of J. RYAN'S ON THE GRILL, LTD., to be filed by the General Partners with the Secretary of State of Florida.

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DIVISION OF CORPORATIONS  
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ACKNOWLEDGMENT

STATE OF FLORIDA )  
SS:

COUNTY OF \_\_\_\_\_ )

On this 5<sup>th</sup> day of September, the year 1996, before me, the undersigned authority, a Notary Public of said State duly commissioned and sworn, personally appeared Richard A. Newman or personally produced identification to be the person (or persons) whose name is (or whose names are) subscribed to the within instrument, and acknowledged that he (or she or they) executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this Certificate first above written.



ELYSA MORRIS  
My Commission 0028488  
Exp' on Jan. 16, 2000

Elysa Morris  
Notary Public, State of  
My Commission Expires:

**AFFIDAVIT**

**OF CAPITAL CONTRIBUTIONS**

STATE OF FLORIDA )  
COUNTY OF DADE )

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SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
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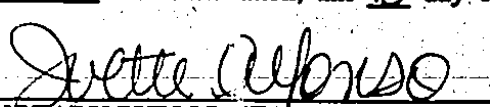
BEFORE ME the undersigned authority personally appeared JAMES R. CHANDLER, III, who has a legal address of 1819 Main Street, Suite 302, Sarasota, Florida 34236, known to me to be the person who subscribed his name below, who after having been first duly sworn by me on oath deposes and says:

1. I am one of the general partners of J. RYAN'S ON THE G-FILL, LTD., a Florida limited partnership.
2. The initial capital contributed or to be contributed to the limited partnership is \$90,000. The total amount anticipated to be contributed by the limited partners is \$300,000.
3. This affidavit is submitted to the Florida Department of State for the filing of the Limited Partnership Agreement and Certificate of Limited Partnership.

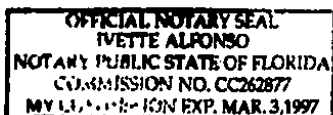
FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
JAMES R. CHANDLER, III

~~SWORN TO and SUBSCRIBED~~ to before me, JAMES R. CHANDLER, III who is personally known and/or produced \_\_\_\_\_ as identification, this 13<sup>th</sup> day of September, 1996.

  
\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

My Commission Expires:



**79600001712**

**105.00**

**CAPITAL CONNECTION, INC.**  
 417 E. ... St., ... Tallahassee, FL 32301 (904) 271-8800  
 Mailing Address: Post Office Box 10349, Tallahassee, FL 32302  
 TOLL FREE NUMBER: 1-800-342-0000  
 FAX (904) 271-1227

NAME \_\_\_\_\_  
 FIRM \_\_\_\_\_  
 ADDRESS \_\_\_\_\_

PHONE ( ) \_\_\_\_\_

Service: Top Priority \_\_\_\_\_ Regular \_\_\_\_\_  
 One Day Service Two Day Service

To us via \_\_\_\_\_ Return via \_\_\_\_\_

Mail No.: \_\_\_\_\_ Express Mail No. \_\_\_\_\_

State Fee \$ \_\_\_\_\_ Our \$ \_\_\_\_\_

*Handwritten scribbles and signatures*

*w96000019444*

*WILDE MERE WEST, L.C.*

- \_\_\_\_\_ Capital Express™
- \_\_\_\_\_ Art. of Inc. File
- \_\_\_\_\_ Corp. Record Search
- \_\_\_\_\_ Ltd. Partnership File
- \_\_\_\_\_ Foreign Corp. File
- \_\_\_\_\_ ( ) Cert. Copy(s)
- \_\_\_\_\_ Art. of Amend. File
- \_\_\_\_\_ Dissolution/Withdrawal
- \_\_\_\_\_ C U S:
- \_\_\_\_\_ Fictitious Name File
- \_\_\_\_\_ Name Reservation
- \_\_\_\_\_ Annual Report/Reinstatement
- \_\_\_\_\_ Reg. Agent Service
- \_\_\_\_\_ Document Filing
- \_\_\_\_\_ Corporate Kit
- \_\_\_\_\_ Vehicle Search
- \_\_\_\_\_ Driving Record
- \_\_\_\_\_ Document Retrieval
- \_\_\_\_\_ UCC 1 or 3 File
- \_\_\_\_\_ UCC 11 Search
- \_\_\_\_\_ UCC 11 Retrieval
- \_\_\_\_\_ File No.'s, \_\_\_\_\_ Copies
- \_\_\_\_\_ Courier Service
- \_\_\_\_\_ Shipping/Handling
- \_\_\_\_\_ Phone ( )
- \_\_\_\_\_ Top Priority
- \_\_\_\_\_ Express Mail Prep.
- \_\_\_\_\_ FAX ( ) pgs.

C.C. FEE. DISBURSED

SUBTOTALS \_\_\_\_\_

FEE.....  
 DISBURSED.....  
 SURCHARGE.....  
 TAX on corporate supplies.....  
 SUBTOTAL.....  
 PREPAID.....  
 BALANCE DUE.....

96 SEP 18 PM 3 53  
 96 SEP 16 PM 4 55  
 96 SEP 16 PM 4 55  
 96 SEP 16 PM 4 55

REQUEST	TAKEN	CONFIRMED	APPROVED
DATE			
TIME			
BY			CK No. _____

WALK-IN Will Pick Up 9/16/00

Please remit invoice number with payment  
 TERMS: NET 10 DAYS FROM INVOICE DATE  
 1 1/2% per month on Past Due Amounts  
 Past 30 Days, 18% per Annum.

THANK YOU  
 from  
 Your Capital Connection

**CERTIFICATE OF FIRST AMENDMENT TO CERTIFICATE OF LIMITED PARTNERSHIP OF J. RYAN'S ON THE GRILL, LTD., a Florida Limited Partnership**

J. RYAN'S ON THE GRILL, LTD., a Florida Limited Partnership, by and through its three existing general partners, James R. Chandler, III, Nicholas Bonfrere and Rafael Gonzalez hereby give notice of this First Amendment to the Limited Partnership Agreement and Certificate of Limited Partnership of J. Ryan's on the Grill, Ltd. as follows:

1. The name of the limited partnership is J. RYAN'S ON THE GRILL, LTD.
2. The original Partnership Agreement and Certificate of Partnership was executed immediately preceding the execution of this First Amendment thereto and this First Amendment is being filed immediately after the Limited Partnership Agreement and Certificate of Limited Partnership.
3. The Limited Partnership Agreement and Certificate of Limited Partnership is amended in Section 1.7 to reflect that Nicholas Bonfrere has transferred ten percent (10%) of his thirty percent (30%) general partner's interest to Windemere West, L.C., a Florida limited liability company. All other portions of the Limited Partnership Agreement and Certificate of Limited Partnership shall be similarly amended to reflect the admission of this additional general partner. The general partner's interest effective as of the execution hereof is now held as follows:

James R. Chandler, III	50% interest
Nicholas Bonfrere	20% interest
Rafael Gonzalez	20% interest
Windemere West, L.C., a Florida limited liability company	10% interest


4. All other section of the Limited Partnership Agreement and Certificate of Limited Partnership not requiring amendment as aforesaid remain unchanged and in full force and effect.

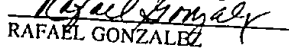
Dated as of this 14th day of September, 1996.

WIDEMERE WEST, L.C.  
4208 Windemere Place  
Sarasota, FL 34231

Original and continuing General Partners:

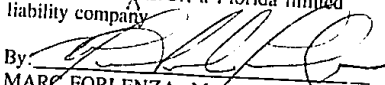
  
JAMES R. CHANDLER III

  
NICHOLAS BONFRERE

  
RAFAEL GONZALEZ

New General Partner:

West,  
WIDEMERE West, L.C., a Florida limited liability company

By   
MARC FORLENZA, Manager/President

96 SEP 15  
SEC. OF STATE  
DIVISION OF CORPORATIONS

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