

**A98000000746****Florida Department of State**

Division of Corporations

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**LIMITED PARTNERSHIP AMENDMENT****FLAMINGO COMMERCE CENTER, LTD.**

Certificate of Status	1
Certified Copy	1
Page Count	06
Estimated Charge	\$113.75

CERTIFICATE OF AMENDMENT TO  
CERTIFICATE OF LIMITED PARTNERSHIP OF  
FLAMINGO COMMERCE CENTER, LTD.  
A FLORIDA LIMITED PARTNERSHIP

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In accordance with the applicable provisions of the Florida Statutes the undersigned, desiring to amend the Certificate of Limited Partnership (the "Certificate") and the Agreement of Limited Partnership for the above-named Florida limited partnership (the "Partnership"), hereby certify as follows:

1. NAME. The name of the Partnership is FLAMINGO COMMERCE CENTER, LTD.
2. FILING OF CERTIFICATE. The Certificate was filed with the Florida Secretary of State on March 23, 1998 under Document Number A98000000746.
3. AMENDMENT. The Certificate is hereby amended to add the following Articles:

ARTICLE XVI  
PURPOSE

A. SECTION 16.1 Purpose.

"The nature of the business and of the purposes to be conducted and promoted by the limited partnership (the "Company"), is to engage solely in the following activities:

1. To own, hold, sell, assign, transfer, operate, lease, mortgage, pledge and otherwise deal with the Property (defined as buildings 1, 2 and 4 of Flamingo Park of Commerce Center).
2. To exercise all powers enumerated in the Statutes of the State of Florida necessary or convenient to the conduct, promotion or attainment of the business or purposes otherwise set forth herein."

B. SECTION 16.2 Certain Prohibited Activities

"The Company shall only incur indebtedness in an amount necessary to acquire, operate and maintain the Property. For so long as any mortgage lien in favor of Deutsche Banc Mortgage Capital, L.L.C., its successors or assigns (the "First Mortgage") exists on any portion of the Property, the Company shall not incur, assume, or guaranty any other indebtedness. For so long as the First Mortgage exists on any portion of the Property, the Company shall not dissolve or liquidate. For so long as any mortgage lien exists on any portion of the Property, the Company shall not consolidate or merge with or into any other entity or convey or transfer its

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properties and assets substantially as an entirety to any entity unless (i) the entity (if other than the Company) formed or surviving such consolidation or merger or that acquires by conveyance or transfer the properties and assets of the Company substantially as an entirety (a) shall be organized and existing under the laws of the United States of America or any State or the District of Columbia, (b) shall include in its organizational documents the same limitations set forth in this Article XV, Section 16.7 and (c) shall expressly assume the due and punctual performance of the Company's obligations; and (ii) immediately after giving effect to such transaction, no default or event of default under any agreement to which it is a party shall have been committed by this Company and be continuing. For so long as the First Mortgage exists on any portion of the Property, the Company will not voluntarily commence a case with respect to itself, as debtor, under the Federal Bankruptcy Code or any similar federal or state statute without the unanimous consent of all of the partners of the Company. For so long as the First Mortgage exists on any portion of the Property, no material amendment to this limited partnership certificate or the limited partnership agreement may be made without first obtaining approval of the mortgagee holding the First Mortgage on any portion of the Property, or, after the securitization of the Loan, only if the Company receives (i) confirmation from each of the applicable rating agencies that such amendment would not result in the qualification, withdrawal or downgrade of any securities rating and (ii) approval of such amendment by the mortgagee holding the First Mortgage."

"No transfer of any direct or indirect ownership interest in the Company may be made such that the transferee owns, in the aggregate with the ownership interests of its affiliates and family members in the Company, more than a 49% interest in the Company, unless such transfer is conditioned upon the delivery of an acceptable non-consolidation opinion to the holder of the First Mortgage and to any applicable rating agency concerning, as applicable, the Company, the new transferee and/or their respective owners."

#### C.SECTION 16.3 Indemnification.

"Any indemnification of the Company's partners shall be fully subordinated to any obligations respecting the Property (including, without limitation, the First Mortgage) and such indemnification shall not constitute a claim against the Company in the event that cash flow necessary to pay holders of such obligations is insufficient to pay such obligations."

#### D.SECTION 16.4 Separateness Covenants.

"For so long as the First Mortgage exists on any portion of the Property, in order to preserve and ensure its separate and distinct limited partnership identity, in addition to the other provisions set forth in this partnership agreement or the certificate of partnership, the Company shall conduct its affairs in accordance with the following provisions:

1. It shall establish and maintain an office through which its business shall be conducted separate and apart from those of any affiliate(s) or, if it shares office space with any affiliate(s), it shall allocate fairly and reasonably any overhead and expense for shared office

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space.

2. It shall not own and will not own any asset or property other than (i) the Property and (ii) incidental personal property necessary for the ownership or operation of the Property.

3. It will not engage, directly or indirectly, in any business other than the ownership, management and operation of the Property and it will conduct and operate its business as presently conducted and operated.

4.

5. With Limited Partnership Borrower: It shall at all times have a special purpose corporate general partner.

6. It will not enter into any contract or agreement with any affiliate of the Company or any constituent party of the Company except upon terms and conditions that are commercially reasonable and substantially similar to those that would be available on an arms-length basis with unrelated third parties.

7. It has not incurred and will not incur any indebtedness, secured or unsecured, direct or indirect, absolute or contingent (including guaranteeing any obligation), other than (i) the indebtedness secured by the mortgage lien and (ii) trade payables or accrued expenses incurred in the ordinary course of the business of operating the property with trade creditors and in amounts as are normal and reasonable under the circumstances. No indebtedness other than the indebtedness secured by the mortgage lien may be secured (subordinate or pari passu) by the Property.

8. It has not made and will not make any loans or advances to any third party, including any affiliate of the Company or constituent party of the Company and shall not acquire obligations or securities of its affiliate(s).

9. It is and will remain solvent and will pay its debts and liabilities (including, as applicable, shared personnel and overhead expenses) from its assets as the same shall become due.

10. It has done or caused to be done and will do all things necessary to observe organizational formalities and preserve its existence, and it will not amend, modify or otherwise change the limited partnership certificate or the limited partnership agreement without the prior written consent of the mortgage lien holder or, after the securitization of the Loan, only if the Company receives (i) confirmation from each of the applicable rating agencies that such amendment would not result in the qualification, withdrawal, or downgrade of any securities rating and (ii) approval of such amendment by the mortgagee holding the First Mortgage.

11. It will maintain all of its books, records, financial statements and bank accounts separate from those of its affiliate(s) and any constituent party and the Company will file its own separate tax returns. It shall maintain its books, records, resolutions and agreements as official records.

12. It will be, and at all times will hold itself out to the public as, a legal entity separate and distinct from any other entity including any affiliate or any constituent party of the Company, shall correct any known misunderstanding regarding its status as a separate entity, shall conduct and operate its business in its own name, shall not identify itself or any of its affiliates as a division or part of the other and shall maintain and utilize a separate telephone number and separate stationery, invoices and checks.

13. It will maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations.

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14. Neither the Company nor any constituent party will seek or permit the dissolution, winding up, liquidation, consolidation or merger in whole or in part, of the Company, or acquire by purchase or otherwise all or substantially all the business or assets of, or any stock or other evidence of beneficial ownership of any other person or entity.

15. It will not commingle the funds and other assets of the Company with those of any affiliate or constituent party, or any affiliate of any constituent party, or any other person.

16. It has and will maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual asset or assets, as the case may be, from those of any affiliate or constituent party, or any affiliate of any constituent party, or any other person.

17. It shall not pledge its assets and does not and will not hold itself out to be responsible for the debts or obligations of any other person.

17. It shall pay any liabilities out of its own funds, including salaries of any employees.

18. The Company shall maintain a sufficient number of employees in light of its contemplated business operations.

19. The Company shall not guarantee or become obligated for the debts of any other entity or person.

20. It shall have a corporate general partner which shall be organized to be a single purpose, "bankruptcy remote" entity with organizational documents substantially similar to the organizational documents of the current corporate general partner of the Company.

For purpose of this Article XV, the following terms shall have the following meanings:

"affiliate" means any person controlling or controlled by or under common control with the Company, including, without limitation (i) any person who has a familial relationship, by blood, marriage or otherwise with any partner or employee of the Company, or any affiliate thereof and (ii) any person which receives compensation for administrative, legal or accounting services from the Company or any affiliate. For purposes of this definition, "control" when used with respect to any specified person, means the power to direct the management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"parent" means, with respect to a corporation, any other corporation owning or controlling, directly or indirectly, fifty percent (50%) or more of the voting stock of the corporation.

"person" means any individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated organization, or government or any agency or political subdivision thereof.

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"The Company shall not terminate or dissolve solely as a consequence of the bankruptcy or insolvency of one or more of the general partners of the Company but the Company shall continue so long as there remains a solvent general partner of the Company."

"Subject to applicable law, dissolution of the Company shall not occur so long as the Company remains owner of the Property subject to the First Mortgage."

"Upon the dissociation or withdrawal of the Special Purpose Corporate General Partner from the Company or the bankruptcy, insolvency or liquidation of the Special Purpose Corporate General Partner, the Company shall appoint a new Special Purpose Corporate General Partner and deliver an acceptable non-consolidation opinion to the holder of the First Mortgage and to any applicable rating agency concerning, as applicable, the Company, the new Special Purpose Corporate General Partner, and its owners."

"The unanimous consent of all partners (including that of the Special Purpose Corporate General Partner) shall be required for the Company to: (i) file or consent to the filing of any bankruptcy, insolvency or reorganization case or proceeding; institute any proceedings under any applicable insolvency law or otherwise seek any relief under any laws relating to the relief from debts or the protection of debtors generally, (ii) seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official for the Company or a substantial portion of its properties; (iii) make any assignment for the benefit of the Company's creditors, or (iv) take any action in furtherance of the foregoing."

To the extent there are any inconsistencies between the terms of this Article and any other provision in the Certificate of Limited Partnership or the Limited Partnership Agreement, the terms of this Article shall control.

The foregoing Certificate of Amendment was adopted by the general partner of the Partnership. This Amendment is effective upon complete execution of this Certificate of Amendment, provided it is subsequently filed for record at the office of the Secretary of State of Florida, and upon such execution, this Amendment shall be deemed complete and such Certificate of Amendment shall become a provision of the Partnership Agreement and of the Certificate of Limited Partnership.

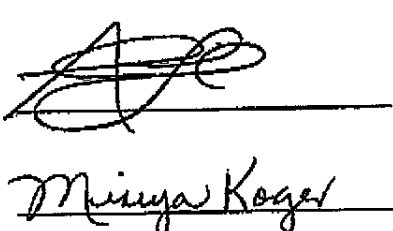
WITNESS our hands and seals as of this 14<sup>th</sup> day of December, 2001.

GENERAL PARTNER:

FLAMINGO PARK OF COMMERCE, INC.,  
a Florida corporation

By: 

DAVID M. HOWELL, President



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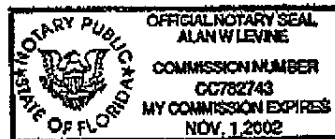
STATE OF FLORIDA ]  
COUNTY OF MIAMI-DADE ]

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of December, 2001 by David Howell, as President and on behalf of Flamingo Park of Commerce, Inc., a Florida corporation, as General Partner of Flamingo Commerce Center, Ltd., a Florida limited partnership, and he acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in him by said corporation. He is personally known to me or has produced \_\_\_\_\_ as identification.



Notary Public, State of Florida

My Commission Expires:



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