

# L97000001210

## ★ NATIONAL INCOME REALTY TRUST

October 29, 1997

**VIA AIRBORNE EXPRESS**

Department of State  
Division of Corporations  
409 East Gaines Street  
Tallahassee, Florida 32399

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-10/30/97--01065--002  
\*\*\*\*\*285.00 \*\*\*\*\*285.00

**RE: Regent Circle, L.L.C.**

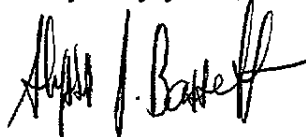
Dear Sir/Madam:

Enclosed for filing with your office is one original and one copy of the Limited Liability Company Agreement for the above referenced entity. Also enclosed is a check for the required fee of \$285.00 made payable to the Department of State.

Once filed, please return to the undersigned, a filed stamped copy of the Agreement in the Federal Express envelope provided for your convenience.

Thank you for your cooperation in this matter.

Very truly yours,



Alyssa J. Bassett

FILED  
97 OCT 30 PM 2:00  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

Name	Availability
Document	Examiner Enclosures <sup>DCC</sup>
Updater	DCC
Verifier	VC
Acknowledgement	DCC
P. Verifier	DCC

L97000001210

**LIMITED LIABILITY COMPANY AGREEMENT**  
**OF**  
**REGENT CIRCLE, L.L.C.**

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Desert Winds  
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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

This Limited Liability Company Agreement (this "Limited Liability Company Agreement" or this "Agreement") of **REGENT CIRCLE, L.L.C.** (the "Company"), whose address is 280 Park Avenue, East Building, 20th Floor, New York, NY 10017, entered into between **REGENCY GREEN NATIONAL CORP.**, a Nevada corporation ("Regency"), whose address is 280 Park Avenue, East Building, 20th Floor, New York, NY 10017, and **NATIONAL INCOME REALTY TRUST**, a California business trust ("NIRT"), whose address is 280 Park Avenue, East Building, 20th Floor, New York, NY 10017 (collectively, the "Members").

The Company is formed by its members as a limited liability company pursuant to, and in accordance with, the Florida law and statutes governing limited liability company's as such law and statutes may be amended from time to time (the "Act"), pursuant to this Limited Liability Company Agreement and, in connection therewith, the Members hereby agree as follows:

1. **Name.** The name of the limited liability company shall be Regent Circle, L.L.C. (the "Company").

2. **Purpose.** The Company has been formed for the object and purpose of, and the nature of the business to be conducted and promoted by the Company is, to engage in any lawful act or activity for which limited liability companies may be formed under the Act and engage in any and all activities necessary or incidental to the foregoing, including, without limitation, to own, operate, finance, maintain, renovate, lease, mortgage, encumber, manage, sell, exchange and otherwise deal with or dispose of real property and personal property, including, without limitation, the Real Property (as hereinafter defined), and, subject to the terms of this Agreement, to engage in any other activities as may be necessary or desirable from time to time in the Managing Member's judgment in furtherance of, or in connection with, the foregoing. The "Real Property" is currently commonly known as Desert Winds Apartments, Jacksonville, Florida, and more particularly described on **Exhibit 1** attached hereto.

3. **Duration.** The period of duration for the Company shall be perpetual.

4. **Registered Office.** The address of the registered office of the Company in the State of New York is Tarragon Realty Advisors, Inc., 280 Park Avenue, East Building, 20th Floor, New York, NY 10017.

5. **Registered Agent.** The name and address of the registered agent of the Company for service of process on the Company in the State of Florida is CT Corporation System, 1200 South Pine Island Road, Plantation, Florida 33324.

6. **Members.** The names of the Members are Regency Green National Corp. and National Income Realty Trust.

Each Member shall have a limited liability company interest (each, a "Membership Interest") in the Company.

7. **Powers.**

(a) The Members shall have management authority and rights over the Company. Except as otherwise provided herein, the Members shall have the power to do any and all acts necessary or convenient to or for the furtherance of the purposes described herein, including all powers, statutory or otherwise, possessed by members under the laws of the State of Florida. Regency (or such other person as may from time to time be designated by the Members for such purpose) is hereby designated as an authorized person, within the meaning of the Act (the "Authorized Person"), to execute, deliver and cause to be filed the certificate of formation of the Company (and any amendments and/or restatements thereof), any other certificates (and any amendments and/or restatements thereof) necessary for the Company to qualify to do business in a jurisdiction in which the Company may wish to conduct business and the notice in connection with the Members' initial Capital Contributions as set forth in Section 8 hereof.

(b) The business and affairs of the Company shall be managed by Regency as the managing Member (the "Managing Member"), subject to and in accordance with this Agreement. Except as otherwise provided herein, only the act of the Managing Member shall be binding on the Company and on any third party dealing with the Company. Notwithstanding the foregoing, the Managing Member shall have the duty and obligation to manage the Company and the assets of the Company, including, but not limited to, the Real Property, in accordance with the terms of this Agreement, and the Managing Member covenants and agrees to manage the Company and the assets of the Company, including, but not limited to, the Real Property, in accordance with the terms of this Agreement. The Managing Member, without the consent of any other Members, shall, have the following specific power and authority in the Managing Member's judgment to make decisions, and to take action under this Agreement.

(i) To lease any assets or property of the Company.

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(ii) To enter into any contract or agreement and to execute any and all instruments and documents in furtherance of or incidental to the business, purpose, and powers of the Company.

(iii) To arbitrate, compromise, settle, sue on or defend any claim of or against the Company.

(iv) To designate depositories for the funds of the Company and to make deposits and withdrawals therefrom.

(v) To borrow money for Company purposes on a commercially reasonable basis and give Company property and assets as security for repayment.

(vi) To execute, by itself, on behalf of each of the Members and on behalf of the Company any and all documents pertaining to the acquisition of the Real Property, containing such terms and provisions as the Managing Member shall reasonably deem appropriate or desirable.

(c) Any and all powers not specifically otherwise granted to the Managing Member shall be determined by a majority vote of the stock of the Company. The Members may, from time-to-time, by majority vote of their stock, delegate certain of these powers to the Managing Member. Furthermore, the Members by a majority vote of their stock may elect to remove the Managing Member from the position of Managing Member and replace her with another Member.

(d) Subject to compliance with the foregoing paragraphs of this Section 6, the Members may (i) authorize by written action of all of the Members any person to enter into and perform any agreement on behalf of the Company and (ii) appoint any persons, with such titles as they may select, as employees and/or officers of the Company to act on behalf of the Company, with such power and authority as the Members may delegate from time to time to any such persons.

(e) Any person or entity dealing with the Company or the Managing Member may rely upon a certificate signed by the Managing Member as to the identity of any officer and as to such officer's authorization to execute and deliver any instrument or document on behalf of the Company.

8. **Dissolution and Distributions.** The Company shall dissolve upon the first to occur of the following: (a) the written consent of all the Members; (b) the entry of a decree of judicial dissolution under the Act; (c) the occurrence of any event under the Act which would mandate dissolution; or (d) the twentieth (20th) anniversary of the date hereof. Following dissolution, all the business and affairs of the Company will be liquidated and wound up. The proceeds of any distribution (a "Distribution") including, without limitation, a liquidating distribution will be distributed and applied in the following order of priority:

- (a) To the payment of any debts and liabilities of the Company;
- (b) To the establishment of any reserve which Regency deems reasonably necessary to provide for any future, contingent or unforeseen liabilities or obligations of the Company, not to exceed \$10,000.
- (c) To return the capital accounts of any Members having positive capital accounts at the time of the Distribution.
- (d) If, at the time of such Distribution, one or more Members have negative capital accounts and one or more other Partners have zero capital accounts, to and among the Partners with the zero capital accounts in a manner that will bring such capital accounts into balance with the Proportionate Interests of the Partners at the time of the Distribution.
- (e) The balance, if any, shall be distributed 1% to Regency and 99% to NIRT.

Notwithstanding the foregoing, the Company shall pay promptly all cash expenditures incurred incident to the normal operation of the Company's business, (i) the payment of all debt service on all outstanding duly authorized loans to the Company and (ii) to fund such reserves as the Managing Member deems reasonably necessary for the operation of the Company, not to exceed \$10,000. The Company shall terminate when all its assets, after payment of, or due provision for, all debts, liabilities and obligations of the Company shall have been distributed to the Members in the manner provided for in this Section 7, and the certificate of formation of the Company, as amended or restated from time to time, shall have been cancelled in the manner required by the Act.

#### 9. Capital Contributions.

(a) Each Member shall, from time to time, be obligated to make capital contributions ("Capital Contributions") to the Company as provided herein. With respect to any Member, its "Capital Contribution Percentage" at any date shall equal the ratio of such Member's aggregate Capital Contributions to the Company as of such date divided by the aggregate Capital Contributions made to the Company by all Members by such date.

(b) The Members' initial Capital Contributions to the Company shall be as follows:

Regency	\$ 1.00
NIRT	\$99.00

(c) Such Capital Contributions under this Section 8 and under Section 9 below shall be made by wire transfer of immediately available funds to the bank account of the Company as set forth in such notice by the date set forth in the notice.

(d) No interest shall be paid by the Company on Capital Contributions or on balances in Members' Capital Accounts.

(e) No Member shall be entitled to withdraw any part of its Capital Contribution or its Capital Account or to receive any distribution from the Company, except as provided in Section 7 above and in Section 12 below.

10. **Additional Contributions.** Each Member may be required to make additional pro rata Capital Contributions to the Company at such times and in such amounts as determined by a majority vote of the Members. Capital Contributions after the initial Capital Contributions of the Members shall be designated as either "General Capital Contributions" or "Deficit Capital Contributions". "General Capital Contributions" are all Capital Contributions other than Deficit Capital Contributions. "Deficit Capital Contributions" are Capital Contributions the proceeds of which will be used to cure operating or other cash flow deficits which otherwise would put the Company's ownership of its assets at risk or otherwise expose the Company to unnecessary costs. The Company shall give each Member notice (a "Capital Call Notice") in writing at least three (3) Business Days prior to the date upon which any such additional Capital Contribution shall be required to be made, the amount of additional Capital Contributions required to be made by the respective Members and whether such Capital Contribution is to be a General Capital Contribution or a Deficit Capital Contribution. The total additional Capital Contributions required to be made pursuant to any Capital Call Notice shall be made by the Members in proportion to their respective Capital Contribution Percentages immediately prior to such Capital Call Notice.

11. **Defaulting Members.** In the event that a Member (a "Payment Defaulting Member") fails to make any Capital Contribution or payment which such Member is required to make pursuant to this Agreement (a "Payment Default"), and such (x) failure continues for fifteen (15) days after written notice by any Member who has already paid its share of such Capital Contribution or other payment (a "Complying Member") or (y) in the case of a Capital Call Notice which is described in such notice as for "Emergency Capital", and such Member sending such Capital Call Notice reasonably believes that an emergency situation exists or is anticipated to occur immediately (an "Emergency Capital Call"), and such failure continues for two (2) Business Days after written notice by the Member sending out such Capital Call Notice or a Complying Member, then a Complying Member may, but shall not be required to, elect any one of the following options:

(a) make such payment or Capital Contribution or the unpaid portion thereof on behalf of the Payment Defaulting Member. Any such payment or Capital Contribution shall be deemed a demand loan by the Complying Member to the Payment Defaulting Member (the "Demand Loan") and a simultaneous advance of capital by the Payment Defaulting Member to the Company; and, from and after the date of such Complying Member's payment or Capital Contribution to the Company, all future distributions (in whatever form) from the Company which would, in the absence of this Section, have been distributed to the Payment Defaulting Member shall, instead, be distributed directly by the Company to the Complying Member until

the entire amount of the Demand Loan so made by the Complying Member to the Payment Defaulting Member, together with interest thereon calculated as of the end of each month at an annual compounded rate of fifteen percent (15%), has been repaid to the Complying Member; provided, however, if such Demand Loan was made in connection with an Emergency Capital Call an additional two percent (2%) fee (based on the amount of such loan) shall be added to the Demand Loan to be paid to the Complying Member. Amounts so distributed to the Complying Member shall be accounted for hereunder as distributed to the Payment Defaulting Member and then paid by the Defaulting Member to the Complying Member in repayment of the Demand Loan and all accrued interest. **The making of such a Demand Loan shall not excuse the Payment Default by the Payment Defaulting Member, who shall remain a Payment Defaulting Member until such Member has repaid the Demand Loan, together with all interest accrued thereon.**

(b) make such payment or Capital Contribution or the unpaid portion thereof on behalf of the Payment Defaulting Member (the "Replacement Payment") in which case, as to the Payment Defaulting Member, there shall then automatically occur a reduction in all future amounts payable to the Payment Defaulting Member pursuant to Subsections 12(a), 12(b), 12(c) and 12(d) of this Agreement (other than the Promote Payments (as hereinafter defined), if any, which are dealt with separately below), by an amount equal to the product of (A) the Default Fraction (as hereinafter defined) times (B) the amount, if any, payable to the Payment Defaulting Member pursuant to Subsections 12(a), 12(b), 12(c) (other than the Promote Payments). For purposes hereof, the "Default Fraction" is a fraction, the numerator of which is the amount of the Replacement Payment and the denominator of which is the aggregate amount of all Capital Contributions made by the Payment Defaulting Member to the date of such Payment Default.

12. **Allocation of Profits and Losses.** The Company shall establish and maintain a Capital Account for each Member as more fully described herein and set forth in **Annex A** hereto. The Company's items of income, gain, loss and deduction (computed in accordance with **Annex A** hereto) shall be allocated among the Members in each taxable year (or portion thereof) as provided in **Annex A** hereto.

13. **INTENTIONALLY OMITTED.**

14. **Transfers and Assignments.** Except in connection with the Buy/Sell Process, a Member may not transfer or assign in whole or in part its limited liability company interest in the Company without the consent of all the Members (which consent may be granted or withheld in each Member's sole discretion), and any such purported assignment in violation of the foregoing shall be null and void.

15. **Resignation.** No Member shall have the right to resign or withdraw as a Member. However, the Managing member shall have the right to resign as the Managing Member only and not as a Member. Upon such resignation, (a) the Member so resigning as Managing Member (the "Resigning Member") shall have no further obligation as Managing Member except for transferring all Property information and documentation to the new

Managing Member and (b) the Member with the then highest Capital Contribution Percentage (other than the Resigning Member) shall then automatically become the Managing Member. Such right to resign shall be exercised by delivery of a written notice (the "Resignation Notice") to the other Members and the Company. The delivery of a Resignation Notice by a Resigning Member shall automatically and without further action effect the resignation of such Resigning Member as the Managing Member.

16. **Admission of Additional Members.** Except in the case of a transfer or assignment of all or a portion of an existing Member's Membership Interest in the Company, one or more additional members may be admitted to the Company on such terms as provided by, and with, the unanimous consent of the then existing Members. The books and records of the Company, the Capital Contribution Percentages of the Members and this Agreement shall be amended to reflect the admission of additional Members to the Company pursuant hereto.

17. **INTENTIONALLY OMITTED.**

18. **Liability of Members.** The Members (in their capacity as such) shall not have any personal liability for the debts, obligations or liabilities of the Company except to the extent provided in the Act.

19. **Exculpation.**

(a) To the extent permitted by the Act, no Member, nor any partner therein or affiliate or trustee thereof, nor the Authorized Person (each, a "Covered Person"), shall be liable to the Company or any other Covered Person for any loss, liability, damage or claim incurred by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the Company. Whenever in this Agreement a Member is permitted or required to make decisions in good faith, the Member shall act under such standard and shall not be subject to any other or different standard imposed by this Agreement or any relevant provisions of law or in equity or otherwise.

(b) To the extent permitted by the Act, a Covered Person shall be fully protected in relying in good faith upon the records of the Company and upon such information, opinions, reports or statements presented to the Company by any person or entity as to matters the Covered Person reasonably believes are within such person's or entity's professional or expert competence.

20. **INTENTIONALLY OMITTED.**

21. **Indemnification.** To the fullest extent permitted by applicable law, a Covered Person shall be entitled to indemnification from the Company for any loss, liability, damage or claim incurred by such Covered Person (including, but not limited to reasonable attorneys fees) by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the Company; provided that any indemnity under this Section 20 shall be provided



out of and to the extent of the Company's assets only, and no Covered Person shall have any personal liability on account thereof.

22. **Expenses.** To the fullest extent permitted by applicable law, expenses (including legal fees) incurred by a Covered Person in defending any claim, demand, action, suit or proceeding shall, from time to time, be advanced by the Company prior to the final disposition of such claim, demand, action, suit or proceeding, subject to recapture by the Company following a later determination that such Covered Person was not entitled to be indemnified hereunder.

23. **Books and Records.**

(a) The Managing Member, on behalf of the Company, shall keep or cause to be kept, books of account for the Company. Such books of account shall be maintained at the principal office of the Company, or at any office of a property manager under a management contract which has been approved by the Managing Member; and each Member may, at any time on one (1) Business Days' prior notice during reasonable business hours, at its own expense, inspect, examine and make photocopies of the books and records of the Company, or cause them to be examined by its representative, or by an attorney and/or a certified public accountant designated by such Member or permitted assignee. (Books and records maintained by the property manager under a management contract shall be available for inspection and copying in accordance with the provisions of the respective management contract.) The Managing Member, on behalf of the Company, shall also keep a copy of this Agreement and the certificate of formation of the Company, as amended or restated from time to time, at the principal place of business of the Company. The Managing Member, on behalf of the Company, shall also maintain a register of all the Members of the Company.

(b) The Managing Member shall cause to be delivered to the Members and at the expense of the Company, with reasonable promptness after the end of each month and calendar quarter, monthly and quarterly reports of the Company, including a month-end and quarter-end balance sheet and current month and quarter profit and loss statement, and related statements of sources and applications of cash funds and statements of each Member's capital (deficiency), prepared in such form and substance as the Managing Member shall deem appropriate in its reasonable judgment. All such financial statements included in such reports shall be prepared in accordance with generally accepted accounting principles consistently applied.

(c) The Managing Member shall cause to be delivered to the Members and at the expense of the Company, with reasonable promptness after the expiration of each fiscal year of the Company, annual reports of the Company, including an audited annual balance sheet and profit and loss statement, and related statements of sources and applications of cash funds and statements of each Member's capital (deficiency), prepared in such form and substance as the Managing Member shall deem appropriate in its judgment. All such financial statements

included in such reports shall be prepared in accordance with generally accepted accounting principles consistently applied.

24. (a) On or before October 15 of each year the Managing Member shall prepare or cause to be prepared and submit to the Members for their approval a preliminary estimated operating budget for the Real Property (the "Operating Budget") for the following fiscal year. On or before December 1st prior to such fiscal year, the Managing Member shall prepare and submit to the Members for their consideration and approval a final Operating Budget for such fiscal year. Each such Operating Budget shall set forth the anticipated receipts and expenditures (capital, operating and other) of the Company for such year and may include approval of specific transactions and/or obligations described therein.

(b) After any Operating Budget has been approved by the Members, the Managing Member shall in good faith use its best efforts to implement such Operating Budget. The Members may, in writing executed by both Members, amend, modify, or replace an Operating Budget from time to time.

(c) If the Members fail to approve an Operating Budget or any fiscal year, after the 1997 fiscal year, the approved Operating Budget for the prior fiscal year shall apply to the new fiscal year.

25. **Tax Returns.** The Managing Member shall cause all income tax and information returns for the Company (including K-1 reports for the Members, if necessary) to be prepared by the Company's certified public accountants (the "Accountants") at the expense of the Company and shall cause such tax and information returns to be timely filed with the appropriate authorities and copies thereof delivered to the Members. All such tax and information returns shall be subject to Regency's approval before the filing thereof.

26. **Governing Law.** This Agreement shall be governed by, and construed under, the laws of the State of California (without regard to conflicts of laws principles), all rights and remedies being governed by said laws.

27. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

28. **Notices.** All notices provided for in this Agreement shall be in writing, duly signed by the party giving such notice, and shall be personally delivered, telecopied (with confirmation requested), delivered by overnight courier service, or mailed by certified mail, return receipt requested, postage prepaid, to any party at the addresses and contact details specified in Exhibit 2 hereto, as such Exhibit 2 may be amended from time to time, or such other address or contact details as any such party may specify from time to time to the other parties hereunder. Any notice required by this Agreement to be given or received or made within a specified period time, or on or before a date certain, shall be deemed given and

received or made if delivered by hand or by overnight delivery or courier service (e.g., Federal Express), delivery charges and fees prepaid. (Delivery "by Hand" shall include delivery by courier service.) A notice sent by overnight delivery or courier service shall be deemed given and received one (1) Business Day after delivery to such service. A notice sent by certified mail shall be deemed given and received three (3) Business Days after delivery to the United States Postal Service. All other notices shall be deemed given and received when actually received. A notice may be given by a party or by a party's attorney.

29. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of all the parties hereto and their successors and permitted assigns.

30. **Severability.** The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision was omitted.

31. **Integration.** This Agreement constitutes the entire agreement among the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings pertaining thereto.

32. **Partition.** Each Member waives any and all rights that such Member may have to maintain an action for partition of the Company's property.

33. **Modification.** This Agreement may be modified or amended only by written agreement executed by all of the Members.

34. **Annexes, Exhibits and Schedules.** The Annexes, Exhibits and Schedules attached hereto are (and shall be deemed) parts of and incorporated into this Agreement to form one and the same Agreement.

35. **Headings.** The headings of this Agreement are for purposes of reference only and shall not limit or otherwise affect the meaning hereof.

36. **Usage.** Wherever the context shall so require, all words herein in the male gender shall be deemed to include the female or neuter gender, all singular words shall include the plural, and all plural words shall include the singular.

37. **No Third Party Beneficiary.** Nothing in this Agreement is intended to confer on any person other than the Members (or their duly authorized representatives as specifically identified herein or appointed hereunder) any rights or claims against the Company or any Member.

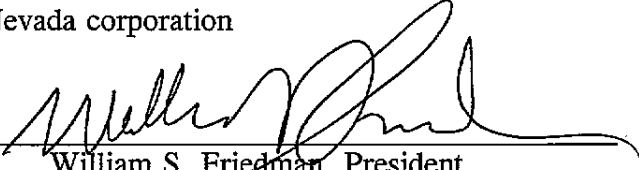
38. **Business Day.** As used in this Agreement, the term "Business Day" means any day other than Saturday, Sunday, a United States Federal or New York banking holiday.

IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, have duly executed this Limited Liability Company Agreement as of the 28th day of October, 1997.

REGENCY:

REGENCY GREEN NATIONAL CORP.,  
a Nevada corporation

By:

  
William S. Friedman, President

NIRT:

NATIONAL INCOME REALTY TRUST,  
a California business trust

By:

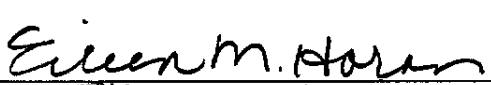
  
William S. Friedman, President

The mailing address is the same as the principal address.

Having been named as registered agent and to accept service of process for the above stated limited company at the address designated in this Certificate, pursuant to the provisions of Section 608.415, Florida Statutes, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

CT CORPORATION SYSTEM

By:

  
Name: Eileen M. Horan  
Title: Assistant Secretary

10/29/97

Date

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97 OCT 30 PM 2:00  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**Exhibit 1**

**DESCRIPTION OF REAL PROPERTY**

A part of Tract E as shown on map of John B. Uebelhoer's Subdivision of part of the Francis Richard Grant, Section 52, Township 2 South, Range 27 East, recorded in Plat Book 7, page 10, of the current public records of Duval County, Florida, and being more particularly described as follows:

Commencing at the Southwest corner of Lot 13 as shown on map of Southside Estates Annex as recorded in Plat Book 18, pages 60 and 60A of the said current public records; thence South 85 degrees, 03 minutes, 38 seconds West, 90.0 feet; thence South 04 degrees, 56 minutes 22 seconds East, 303.87 feet to the point of a curve to the right, said curve being concave to the Northwest and having a radius of 20.0 feet; thence Southwesterly along and around said curve an arc distance of 31.42 feet to the point of tangency of said curve; thence South 85 degrees, 03 minutes 38 seconds West, 161.67 feet; thence South 04 degrees, 56 minutes, 22 seconds East, 60.0 feet to the POINT OF BEGINNING, said point of beginning being the point of a curve, said curve being concave to the Southeast and having a radius of 270.0 feet; thence Southwesterly along and around said curve an arc distance of 333.81 feet to the point of a compound curve to the left, said compound curve being concave to the East and having a radius of 1470.0 feet; thence Southerly along and around said compound curve an arc distance of 500.30 feet to the point of a compound curve to the left, said compound curve being concave to the North and having a radius of 220.0 feet; thence Southeasterly and Northeasterly along and around said compound curve an arc distance of 625.88 feet to the point of a reverse curve to the right, said reverse curve being concave to the Southeast and having a radius of 1260.0 feet; thence Northeasterly along and around said reverse curve an arc distance of 600.18 feet to the point of a reverse curve to the left, said reverse curve being concave to the Southwest and having a radius of 20.0 feet; thence Northwesterly along and around said reverse curve an arc distance of 30.63 feet to the point of tangency of said reverse curve; thence North 48 degrees, 44 minutes, 46 seconds West, 267.94 feet; thence South 85 degrees, 03 minutes, 38 seconds West, 208.88 feet to the POINT OF BEGINNING.

The said parcel of land is all the land fronting on and surrounded by Caravan Circle, a public road.

## **Exhibit 2**

Address and contact details for purposes of Section 27:

If to Regency:

REGENCY GREEN NATIONAL CORP.  
280 Park Avenue  
East Building, 20th Floor  
New York, NY 10017  
Attn: William S. Friedman  
Phone: (212) 949-5000  
Fax: (212) 949-8001

If to NIRT:

NATIONAL INCOME REALTY TRUST  
280 Park Avenue  
East Building, 20th Floor  
New York, New York 10017  
Attn: William S. Friedman  
Phone: (212) 949-5000  
Fax: (212) 949-8001

## **Annex A**

### **TAX PROVISIONS**

#### **A.1 Introduction.**

This **Annex A** sets forth principles under which items of income, gain, loss, deduction and credit shall be allocated among the Members. This **Annex A** also provides for the determination and maintenance of Capital Accounts, generally in accordance with Treasury Regulations (as defined below) promulgated under Section 704(b) of the Code (as defined below), for purposes of determining such allocations.

#### **A.2 Definitions.**

For purposes of this **Annex A**, the following terms have the meanings set forth below. If a capitalized term is used herein but not defined in this Section A.2, it shall have the meaning ascribed thereto in other parts of this Agreement, unless the context shall otherwise indicate.

"**Adjusted Capital Account Deficit**" means, with respect to any Member, the deficit balance, if any, in such Member's Capital Account as of the end of the relevant fiscal year, after giving effect to the following adjustments:

(a) Credit to such Capital Account any amounts which such Member is obligated to restore pursuant to any provision of this Agreement or is deemed to be obligated to restore pursuant to the penultimate sentences of Treasury Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5); and

(b) Debit to such Capital Account the items described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), and 1.704-1(b)(2)(ii)(d)(6).

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

"**Book Value**" shall mean such value computed for purposes of maintaining Capital Accounts hereunder. References to "book purposes" shall be similarly interpreted.

"**Capital Account**" shall have the meaning set forth in Section A.3 hereof.



"Code" shall mean the Internal Revenue Code of 1986, as amended and in effect from time to time, as interpreted by the applicable Treasury Regulations thereunder. Any reference herein to a specific section or sections of the Code shall be deemed to include a reference to any corresponding provisions of future law.

"Net Profits" and "Net Loss" means, for each Fiscal Year or other period, an amount equal to the Company's taxable income or loss for such year or period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(i) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Net Profits or Net Loss shall be added to such taxable income or loss;

(ii) Any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Net Profits or Net Loss, shall be subtracted from such taxable income or loss;

(iii) Gain or loss resulting from any disposition of Company property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Book Value of the property disposed of (unreduced by any liabilities attributable thereto), notwithstanding that the adjusted tax basis of such property differs from its Book Value;

(iv) In lieu of the depreciation, amortization and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account depreciation for such fiscal year or other period as computed for book purposes; provided that if the Book Value of a Company asset (unreduced by any liabilities attributable thereto) differs from its adjusted basis for federal income tax purposes at the beginning of such fiscal year or period, depreciation, amortization or other cost recovery deduction for such fiscal year for purposes of this definition shall be an amount which bears the same ratio to such beginning Book Value as the federal income tax depreciation, amortization or other cost recovery deduction for such fiscal year or other period bears to such beginning adjusted tax basis;

(v) Notwithstanding any other provisions of this definition, any items which are specially allocated pursuant to Sections A.4.2, A.4.3, and A.4.4 hereof shall not be taken into account in computing Net Profits or Net Loss; and

(vi) The amounts of the items of Company income, gain, loss or deduction available to be specially allocated pursuant to Sections A.4.2 and A.4.3 hereof shall be determined by applying rules analogous to those set forth above.

**"Nonrecourse Deductions"** has the meaning set forth in Treasury Regulations Section 1.704-2(b)(1) and shall be determined according to the provisions of Treasury Regulations Section 1.704-2(c).

**"Nonrecourse Liability"** has the meaning set forth in Treasury Regulations Section 1.704-2(b)(3).

**"Partially Adjusted Capital Account"** means, with respect to any Member and any Company fiscal year, the Capital Account of such Member at the beginning of such fiscal year, adjusted for all Capital Contributions and distributions during such year and all special allocations pursuant to Sections A.4.2, A.4.3 and A.4.4 hereof with respect to such fiscal year, but before giving effect to any allocations of Net Profits or Net Loss for such fiscal year pursuant to Section A.4.1(a) or Section A.4.1(b) hereof.

**"Partner Nonrecourse Debt"** has the meaning set forth in Treasury Regulations Section 1.704-2(b)(4).

**"Partner Nonrecourse Debt Minimum Gain"** has the meaning set forth in Treasury Regulations Section 1.704-2(i)(2) and shall be determined in accordance with Treasury Regulations Section 1.704-2(i)(3).

**"Partner Nonrecourse Deductions"** has the meaning set forth in Treasury Regulations Section 1.704-2(i)(1) and shall be determined in accordance with Treasury Regulations Section 1.704-2(i)(2).

**"Partnership Minimum Gain"** has the meaning set forth in Treasury Regulations Section 1.704-2(b)(2) and shall be determined in accordance with Treasury Regulations Section 1.704-2(d).

**"Target Capital Account"** means, with respect to any Member and any Company fiscal year, an amount (which may be either a positive or a deficit balance) equal to the hypothetical Distribution such Member would receive pursuant to the following sentence *minus* the Member's share of Partnership Minimum Gain determined pursuant to Treasury Regulations Section 1.704-2(g), and *minus* the Member's share of Partner Nonrecourse Debt Minimum Gain determined in accordance with Treasury Regulations Section 1.704-2(i)(5), all computed immediately prior to the hypothetical sale described in the following sentence. The hypothetical distribution to a Member is equal to the amount that would be received by such Member if all Company assets were sold for cash equal to their then Book Values, all Company liabilities were satisfied to the extent required by their terms (limited, with respect to each Company Nonrecourse Liability or Partner Nonrecourse Debt, to the then Book Value of the assets securing each such liability), and the net assets of the Company were distributed in full to the Members pursuant to Section 12 of this Agreement, all as of the last day of such year.

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

### **A.3 Capital Accounts.**

A.3.1 The Company shall determine and maintain Capital Accounts. "Capital Account" shall mean an account of each Member determined and maintained throughout the full term of the Company generally in accordance with the capital accounting rules of Treasury Regulations Section 1.704-1(b)(2)(iv). Without limiting the generality of the foregoing, the following rules shall apply:

(a) The Capital Account of each Member shall be credited with (i) an amount equal to such Member's Capital Contributions, including the agreed fair market value of property contributed to the Company by such Member (net of liabilities that the Company is considered to assume or to which it is considered to take subject to Code Section 752) and (ii) such Member's share of the Company's Net Profits (or items thereof, including gross income), together with items of income or gain specially allocated to such Member pursuant to Sections A.4.2, A.4.3 and A.4.4.

(b) The Capital Account of each Member shall be debited by (i) the amount of cash and the agreed fair market value of property distributed to such Member (net of liabilities assumed by such Member and liabilities to which such distributed property is subject) and (ii) such Member's share of the Company's Net Loss (or items thereof), together with items of loss or deduction specially allocated to such Member pursuant to Sections A.4.2, A.4.3 and A.4.4.

(c) As permitted by such capital accounting rules (pursuant to an agreement among all of the Members), or as may be required by such rules, the Capital Accounts of the Members shall be increased or decreased to reflect any revaluation of property of the Company on the Company's books.

(d) Upon the transfer by a Member of all or part of an interest in the Company after the date hereof, the Capital Account of the transferor that is attributable to the transferred interest shall carry over to the transferee and the Capital Accounts of the Members shall be adjusted to the extent provided in Treasury Regulation Section 1.704-1(b)(2)(iv)(m).

(e) In the event that the Company distributes property (other than money) to the Members, the Capital Account balances of the Members shall be adjusted, in accordance with Treasury Regulation Section 1.704-1(b)(2)(iv)(e), to reflect the manner in which any unrealized income, gain, loss and deduction inherent in such property (that has not been reflected in the Capital Accounts previously) would be allocated among the Members if such property

were sold at its fair market value (which value in no event shall be less than the amount of any nonrecourse indebtedness to which such property is subject).

(f) Adjustment to such Capital Accounts in respect of Company income, gain, loss, deduction, and Code Section 705(a)(2)(B) expenditures (or items thereof) shall be made with reference to the Federal tax treatment of such items (and, in the case of book items, with reference to the Federal tax treatment of the corresponding tax items) at the Company level, without regard to any requisite or elective tax treatment of such items at the Member level.

(g) In the event the Members shall determine that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto (including, without limitation, debits or credits relating to liabilities which are secured by contributions or distributed property or which are assumed by the Company or its Members), are computed in order to comply with such Treasury Regulations, the Members may make such modification, provided that it is not likely to have a material effect on the amounts distributed to any Member pursuant to Section 7 or Section 12 of this Agreement upon the dissolution of the Company. The Members also shall (i) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Members and the amount of Company capital reflected on the Company's balance sheet, as computed for book purposes, in accordance with Treasury Regulation Section 1.704-1(b)(2)(iv)(g), and (ii) make any appropriate modifications in the event unanticipated events might otherwise cause this Annex A not to comply with Treasury Regulation Section 1.704-1(b).

#### **A.4 Allocations of Net Profits and Net Loss.**

##### **A.4.1 In General.**

(a) **Net Profits.** After giving effect to the special allocations set forth in Sections A.4.2, A.4.3 and A.4.4 hereof, Net Profits for any fiscal year shall be allocated to and among the Members so as to reduce, proportionately, the differences between their respective Target Capital Accounts and Partially Adjusted Capital Accounts for such fiscal year. No portion of the Net Profits for any fiscal year shall be allocated to a Member whose Partially Adjusted Capital Account is greater than or equal to his Target Capital Account for such fiscal year.

(b) **Net Loss.** After giving effect to the special allocations set forth in Sections A.4.2, A.4.3 and A.4.4 hereof, Net Loss for any fiscal year shall be allocated to and among the Members so as to reduce, proportionately, the differences between their respective Partially Adjusted Capital Accounts and Target Capital Accounts for such fiscal year. No portion of the Net Loss for any fiscal year shall be allocated to a Member whose Target Capital Account is greater than or equal to his Partially Adjusted Capital Account for such fiscal year.

#### **A.4.2 Special Allocations.**

The following special allocations shall be made in the following order:

(a) **Minimum Gain Chargeback.** Notwithstanding anything to the contrary in this Article A.4, if there is a net decrease in Partnership Minimum Gain during any fiscal year, then there shall be allocated to each Member items of income and gain for that year (and, if necessary, subsequent fiscal years) equal to that Member's share of the net decrease in Partnership Minimum Gain (within the meaning of Treasury Regulations Section 1.704-2(g)(2)), subject to the exceptions set forth in Treasury Regulations Section 1.704-2(f)(2), (3), and (5). The foregoing is intended to be a "minimum gain chargeback" provision as described in Treasury Regulations Section 1.704-2(f) and shall be interpreted and applied in all respects in accordance with that Treasury Regulation.

(b) **Partner Nonrecourse Debt Minimum Gain Chargeback.** Notwithstanding anything to the contrary in this Article A.4, if during a fiscal year there is a net decrease in Partner Nonrecourse Debt Minimum Gain (as determined in accordance with Treasury Regulations Section 1.704-2(i)(3)), then, in addition to the amounts, if any, allocated pursuant to Subparagraph 4.2(a), any Member with a share of that Partner Nonrecourse Debt Minimum Gain (determined in accordance with Treasury Regulations Section 1.704-2(i)(5)) as of the beginning of the fiscal year shall, subject to the exceptions set forth in Treasury Regulations Section 1.704-2(i)(4), be allocated items of income and gain for that year (and, if necessary, for subsequent fiscal years) equal to that Member's share of the net decrease in the Partner Nonrecourse Debt Minimum Gain. The foregoing is intended to be the "chargeback of partner nonrecourse debt minimum gain" required by Treasury Regulations Section 1.704-2(i)(4) and shall be interpreted and applied in all respects in accordance with that Treasury Regulation.

(c) **Nonrecourse Deductions.** Nonrecourse Deductions for any Company fiscal year or other period shall be allocated among the Members in accordance with their Capital Contribution Percentages.

(d) **Partner Nonrecourse Deductions.** Partner Nonrecourse Deductions for any Company fiscal year or other period shall be specially allocated to the Member who bears the economic risk of loss with respect to the Partner Nonrecourse Debt to which such Partner Nonrecourse Deductions are attributable in accordance with Treasury Regulations Section 1.704-2(i)(1).

(e) **Qualified Income Offset.** If any Member unexpectedly receives any adjustment, allocation or distribution described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) or (6), items of Company income and gain (consisting of a pro rata portion of each item of Company income, including gross income, and gain for such year) shall be specially allocated to such Member in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulations, the Adjusted Capital Account Deficit of such Member as quickly as possible. An allocation pursuant to the foregoing sentence shall be made

only if and to the extent that such Member would have an Adjusted Capital Account Deficit after all other allocations provided for in Article A.4 have been tentatively made as if this Section A.4.2(e) were not in this Annex A. This allocation is intended to constitute a "qualified income offset" within the meaning of Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(3) and shall be construed in accordance with the requirements thereof. An item of loss, deduction or Section 705(a)(2)(B) expenditure shall not be allocated to a Member to the extent that as of the end of any taxable year such Member would have an Adjusted Capital Account Deficit. Any amount that cannot be allocated to a Member by reason of the foregoing sentence shall be allocated to other Members (except to the extent that such allocation to any other Member would also be limited under the foregoing sentence). If allocations to all the Members would be so limited, such amount shall be allocated to the Members in accordance with their Capital Contribution Percentages. In the event any Member has an adjusted Capital Account Deficit at the end of any Company fiscal year, each such Member shall be specially allocated items of Company gross income in the amount necessary to eliminate such Adjusted Capital Account Deficit as quickly as possible, provided that an allocation pursuant to this clause shall be made only if and to the extent that such Member would have an Adjusted Capital Account Deficit after all other allocations provided for in this Article A.4 have been made as if this Section A.4.2(e) were not in this Annex A.

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

#### **A.4.3 Curative Allocations.**

(a) Subject to the other provisions of Section A.4.2, any allocations made under Section A.4.2(e) shall be taken into account in allocating other items of income, gain, loss and deduction among the Members so that, to the extent possible, the net amount of such allocations of other items and the allocations under Section A.4.2(e) to each Member shall be equal to the net amount that would have been allocated to each such Member if the allocations under Section A.4.2(e) had not occurred.

(b) Over the term of the Company, allocations under Section A.4.2(a) are intended generally to offset allocations under Section A.4.2(c), and allocations under Section A.4.2.(b) are intended generally to offset allocations under Section A.4.2(d). In the event that such offsets will not occur for any reason, the Members shall have reasonable discretion to make such additional allocations (including allocations of gross income) so that (i) the net effect of all allocations under Section A.4.2(a), Section A.4.2(c) and this Section A.4.3(b) will (as of the dissolution of the Company) be as though no allocations under any of such sections (including

this Section A.4.3(b)) were made and (ii) the net effect of all allocations under Section A.4.2(b), Section A.4.2(d) and this Section A.4.3(b) will (as of the dissolution of the Company) be as though no allocations under any of such sections (including this Section A.4.3(b)) were made.

#### **A.4.4 Other Allocation Rules.**

(a) For purposes of determining a Member's proportionate share of the "excess nonrecourse liabilities" of the Company within the meaning of Treasury Regulations Section 1.752-3(a)(3), the Members' interests in Company profits shall be deemed to be in proportion to their respective Capital Contribution Percentages.

(b) To the extent permitted by Treasury Regulations Section 1.704-2(h)(3), the Company may endeavor to treat distributions as having been made from the proceeds of a Nonrecourse Liability or a Member Nonrecourse Debt only to the extent that such distributions would otherwise cause or increase an Adjusted Capital Account Deficit for any Member.

(c) The Members are aware of the income tax consequences of the allocations made by this Article 4 and hereby agree to be bound by the provisions of this Article 4 in reporting their shares of Company income and loss for income tax purposes.

#### **A.5 Tax Allocations.**

(a) Income, gain, loss, and deduction with respect to any property contributed to the capital of the Company or revalued pursuant to Treasury Regulation Section 1.704-1(b)(2)(iv)(f), shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its Book Value in accordance with the principles of Code Section 704(c) and the Treasury Regulations thereunder and Treasury Regulations Section 1.704-1(b)(4)(i) using any reasonable method required or permitted thereunder and agreed to by all the Members.

(b) Subject to Section A.5(a), if any gain (as computed for tax purposes) on the sale or other disposition of Company property shall constitute recapture of depreciation under Section 291, 1245 or 1250 of the Code or any similar provision, such gain shall (to the extent possible) be divided among the Members in proportion to the depreciation deductions previously claimed by them giving rise to such recapture, provided that this Section A.5(b) shall not affect the amount of gain otherwise allocable to a Member.


(c) Allocations pursuant to this Article A.5 are solely for purposes of U.S. federal, state, and local taxes and shall not affect any Member's Capital Account or share of Net Profits or Net Loss.

## AFFIDAVIT OF MEMBERSHIP AND CONTRIBUTIONS

The undersigned member or authorized representative of a member of \_\_\_\_\_

REGENT CIRCLE, L.L.C. deposes and says:

- 1) the above named limited liability company has at least two members
- 2) the total amount of cash contributed by the member(s) is \$ 100.00
- 3) if any, the agreed value of property other than cash contributed by member(s) is \$ \_\_\_\_\_. A description of the property is attached and made a part hereto.
- 4) the total amount of cash or property anticipated to be contributed by member(s) is \$ 100.00. This total includes amounts from 2 and 3 above.

  
 \_\_\_\_\_  
 Signature of a member or authorized representative of a member.  
 (In accordance with section 608.402(3), Florida Statutes, the execution of this affidavit constitutes an affirmation under the penalties of perjury that the facts stated herein are true.)

Vice President of Regency Green  
 National Corp, Member

FILED  
 OCT 30 PM 2:00  
 SECRETARY OF STATE  
 TALLAHASSEE, FLORIDA

FILING FEE: \$ 250 for Articles of Organization and Affidavit

285.00