

LIMITED PARTNERSHIP AGREEMENT

This Agreement of Limited Partnership, by and between BENA Capital, LLC (hereinafter referred to as "General Partner"), and the persons listed on Exhibit A (hereinafter individually referred to as "Limited Partner" and collectively referred to as "Limited Partners").

IT IS HEREBY AGREED:

ARTICLE I

THE PARTNERSHIP

1.1 Name of Partnership. The name of the Partnership shall be BENA Capital Mosaic Fund LP. The business of the Partnership shall be conducted under that name.

1.2 Purpose of Partnership. The purpose of the Partnership is to acquire, improve, hold, lease, own, operate, and sell or otherwise dispose of real estate and such activities as are related or incidental thereto.

1.3 Principal Place of Business. The principal executive office of the Partnership shall be at 231 Market Place, Suite 515, San Ramon, CA 94583, or at such other place as may be determined from time to time by the General Partner. If the General Partner changes the executive office of the Partnership, he shall give written notice of the change of address to each Limited Partner.

1.4 Term of Partnership. The Fund will terminate on the fourth anniversary of the Offering Termination Date, though such term, unless the Fund is sooner dissolved, may be extended by the Manager in its sole and absolute discretion for up to two additional years.

1.5 Certificate of Limited Partnership. The General Partner shall immediately execute a Certificate of Limited Partnership and cause that Certificate to be filed in the office of the Secretary of State of California. Thereafter, the General Partner shall execute and cause to be filed certificates of amendment of the Certificate of Limited Partnership whenever required by the California Revised Limited Partnership Act or this Agreement.

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



1.7 Glossary of Terms. Except as otherwise stated in this Agreement or as the context of this Agreement requires, the terms defined in this Section shall, for the purposes of this Agreement, have the meanings herein specified.

A. "Agreement" shall mean this Limited Partnership Agreement, as amended from time to time.

B. "Assignee" shall mean a person who has acquired beneficial interest in the limited partnership interest of a Limited Partner but who is not a "Substituted Limited Partner."

C. "Assigning Partner" shall mean a Partner who has assigned a beneficial interest in that Partner's partnership interest, the Assignee of which has not become a "Substituted Limited Partner."

D. "Limited Partner" shall refer to any person who is admitted to the Partnership, either as an Original Limited Partner or as a Substituted Limited Partner.

E. "Net income" and "net loss" shall mean the net income or net loss of the Partnership as determined for the purpose of computing federal income taxes pursuant to the Internal Revenue Code.

F. "Partners" or "the Partners" shall refer collectively to the General Partner and the Limited Partners. Reference to "Partner" shall be a reference to each of the Partners.

G. "Partnership" shall refer to the Limited Partnership created under this Agreement and the Certificate of Limited Partnership to be filed with the Office of the Secretary of State pursuant to the California Revised Limited Partnership Act.

ARTICLE II

MEMBERS OF PARTNERSHIP

2.1 Original General Partners. The name of the General Partner is BENA Capital, LLC.

2.2 Original Limited Partners. The names of each original Limited Partner are as listed in Exhibit A.

2.3 Admission of Additional General Partners. Subject to any other provision of this Agreement, and the Acquisition and Finance Documents, a person may be admitted as a General Partner after the Certificate of Limited Partnership is filed only with the written consent of each General Partner and the vote or written consent of one hundred percent (100%) of all Partners.



2.4 Admission of Additional Limited Partners. Subject to the provisions of Article IX of this Agreement, governing transfers of Partnership interests, a person may acquire an interest in the Partnership directly from the Partnership and be admitted as an Additional Limited Partner only with the written approval of the General Partner. Each Partner's interest will be proportionally reduced to admit the new Limited Partner.

2.5 Admission of Substituted Limited Partner. The assignee of a limited partnership interest may be admitted as a Substituted Limited Partner only with the written consent of the General Partner.

2.6 Additional Partners Bound by Agreement. Before any person is admitted to the Partnership as a General or Limited Partner, that person shall agree in writing to be bound by all of the provisions of this Agreement.

ARTICLE III

CAPITAL/PARTNERSHIP CONTRIBUTIONS

3.1 Capitalization. The Partnership shall have a minimum initial capitalization of one-hundred thousand dollars (\$100,000) and a maximum capitalization of one hundred million dollars (\$100,000,000). Each Partner shall contribute the sum of one dollar (\$1) for each interest in the Partnership. The General Partner and Limited Partners shall initially contribute the amounts set forth opposite their respective names on Exhibit A. If a Partner fails to make the initial capital contribution within ten (10) days, an amount equal to ten percent (10%) of the defaulting Partner's initial capital contribution will be paid to the General Partner as liquidated damages. To avoid interest as such, the General Partner shall only be entitled to retain such liquidated damages amount as is equal to its losses and actual costs (not to include opportunity costs) incurred due to such failure by a Partner, and shall pay the balance on behalf of that Partner, as soon as fully and finally received, to such charitable foundations as may be selected by the General Partner.

3.2 Additional Capital Contributions.

A. The General Partner may determine the amount of additional capital required by the Partnership and may require each Partner, General and Limited, to contribute a proportionate share of additional capital to the Partnership. The General Partner's determination will be binding on all Partners, unless one hundred percent (100%) of all Partners vote otherwise. Each Partner's proportionate share of additional capital shall be defined as the product of the total amount of additional capital required by the



Partnership multiplied by that Partner's "percentage interest in profits and losses" as set forth in Exhibit A. Additional capital contributions shall be made in cash by each Partner to the Partnership within ten (10) days after written notice of the amount of additional capital contributions has been delivered to each Partner (said notice hereinafter referred to as "Call Notice").

B. In the event that any Partner fails to contribute any additional capital contribution required hereunder within ten (10) days after the Call Notice, then that Partner shall be in default under this Agreement. Any Partner who is in default under this Agreement for failing to contribute the additional capital contributions required hereunder shall have ninety (90) days from the date of delivery the Call Notice in which to cure that default by contributing his share of the required additional capital contributions and by paying to the General Partner, an amount equal to ten percent (10%) of the defaulting Partner's additional capital contribution, as liquidated damages.

Each Partner specifically agrees to pay any such liquidated damages which may become due as a result of his default hereunder. To avoid interest as such, the General Partner shall only be entitled to retain such liquidated damages amount as is equal to its losses and actual costs (not to include opportunity costs) incurred due to such failure by a Partner, and shall pay the balance on behalf of that Partner, as soon as fully and finally received, to such charitable foundations as may be selected by the General Partner.

So long as a Partner is in default hereunder, he shall have no voting rights but shall receive notice of any meetings.

C. If any Partner is in default under Subsection 3.2B hereunder and fails to cure the default within ninety (90) days of the Call Notice by contributing the additional required capital and by paying the liquidated damages as above provided, then such Partner shall be in breach of this Agreement.

D. If any Partner is in breach of this Agreement pursuant to Subsection 3.2(c), then at the option of the Partnership, his interest in the Partnership shall be terminated and he shall become an unsecured creditor for an amount equal to his original capital contribution decreased by the sum of the liquidated damages accruing to the General Partner under Subsection 3.2(b).

E. If any Partner is in breach of this Agreement pursuant to Subsection 3.2(c), and if he has a deficit balance in his capital account, then, at the option of the Partnership, his interest in the Partnership shall be terminated and he shall pay an amount equal to the deficit balance in his capital account (computed without regard to depreciation) to the Partnership within thirty (30) days after date of the breach.

If any former Partner fails to pay the amount due to the Partnership pursuant to this Subsection 3.2(e), the Partnership or any individual Partner may proceed with action for collection.

F. As an alternative to terminating the Partner's interest as provided in Subsections 3.2(d) or 3.2(e), the Partnership may elect to sue for breach of this Partnership Agreement. The Partners acknowledge and agree that the terms and provisions of Subsections 3.2(d) and 3.2(e) are fair and reasonable and agree to be bound by the terms thereof. Each Partner hereby waives the requirement that a dissolution and accounting must occur before an action may be maintained by a Partner or the Partnership against a Partner.

3.3 Interest in Contributions. No interest shall be paid on a Partner's capital contributions. The Partners recognize and agree that, to the extent of the law or by statute would impose, any obligation to pay interest, the Partners hereby irrevocably and unconditionally expressly waive and reject any entitlement to recover interest from each other.

3.4 Withdrawal and Return of Capital.

A. No Partner may withdraw any portion of the capital of the Partnership and no Partner shall be entitled to the return of that Partner's contribution to the capital of the Partnership except upon dissolution of the Partnership.

B. No Partner shall be entitled to demand the distribution of Partnership property other than cash as part of the return of that Partner's capital account on dissolution.

C. No Partner shall have a priority over any other Partner as to the return of his capital account upon the dissolution of the Partnership.

ARTICLE IV

ALLOCATION AND DISTRIBUTION OF PROFITS AND LOSSES

4.1 Allocation of Profits and Losses. The net income of the Partnership shall be allocated to, and any net losses suffered by the Partnership shall be borne by, the Partners in the proportions set forth in Exhibit A attached hereto and incorporated herein by this reference.

4.2 Distribution of Cash Available for Distribution. The General Partner shall determine the amount of any distribution to the Partners and the timing of all such distributions. The General Partner's determination shall be binding upon all Partners.



4.3 Priorities Among Partners. No Partner shall be entitled to any priority or preference over any other Partner as to any distribution from the Partnership.

ARTICLE V

MANAGEMENT OF PARTNERSHIP AFFAIRS AND VOTING RIGHTS

5.1 Control and Management. Except as otherwise set forth in this Agreement, the General Partner shall have sole and exclusive control of the Limited Partnership. The General Partner shall have the power and authority to take such action from time to time as he may deem to be necessary, appropriate, or convenient in connection with the management and conduct of the business and affairs of the Partnership, including without limitation the power to:

A. Acquire property, including real or personal property, for the use of the Partnership upon such terms and conditions as the General Partner may, from time to time, determine to be advantageous to the Partnership;

B. Finance the Partnership's activities by borrowing money from third parties on such terms and under such conditions as the General Partner deems appropriate, but such terms may not include the payment of interest. When money is borrowed for Partnership purposes, the General Partner shall be, and hereby is, authorized to pledge, mortgage, encumber, or grant a security interest in Partnership properties as security for the repayment of such loans.

C. Sell property, including real or personal property, for the use of the Partnership upon such terms and conditions as the General Partner may, from time to time, determine to be advantageous to the Partnership;

D. Employ, retain, or otherwise secure the services of such personnel or firms deemed necessary by the General Partner for or to facilitate the conduct of Partnership business affairs, all on such terms and for such consideration as the General Partner deems advisable, including engaging the services of an advisor to ensure compliance; and

E. Take any and all other action which is permitted by law and which is customary in or reasonably related to the conduct of the Partnership business or affairs.

5.2 Voting Rights of Limited Partners.



A. Except as provided in Subsection 5.2(b), the Limited Partners shall not have either the obligation or the right to take part, directly or indirectly, in the active management or control of the business of the Partnership.

B. The following Partnership actions may only be taken after approval by vote of the Partners:

1. Veto of a call for additional capital as set forth in Section 3.2;
2. Admission of an additional General Partner under Section 2.3;
3. Amendment of the Partnership Agreement as provided in Subsection 13.2;
4. Consent to dissolution under Section 12.2; and
5. Election of a new general partner under Section 12.3.

C. Except where otherwise expressly set forth in this Agreement, all of the acts listed in Section 5.2(b)(1) through 5.2(b)(6) shall be approved by fifty-one percent (51%) vote of the interests of the Partners, each Partner having one vote for each one percent (1%) interest in profits and losses owned by that Partner with the General Partner having the same voting rights as a Limited Partner.

5.3 Standard Care of General Partner. The General Partner shall exercise ordinary business judgment in managing the affairs of the Partnership. Unless fraud, deceit, or a wrongful taking is involved, the General Partner shall not be liable or obligated to the Limited Partners for any mistake of fact or judgment made by the General Partner in operating the business of the Partnership that results in any loss to the Partnership or its Partners. The General Partner does not, in any way, guarantee the return of the Limited Partners' capital or a profit from the operations of the Partnership. The General Partner shall not be responsible to any Limited Partner because of a loss of that Partner's investment or a loss in operations, unless it has been occasioned by fraud, deceit, or a wrongful taking by the General Partner.

5.4 Removal of General Partner. The General Partner may not be removed by the Limited Partners.

ARTICLE VI

BOOKS, RECORDS, AND ACCOUNTS

6.1 Partnership Accounting Practices.



A. The Partnership books shall be closed and balanced at the end of each fiscal year of the Partnership.

B. The fiscal year-end of the Partnership shall be December 31.

6.2 Maintenance of Records and Accounts. At all times, the General Partner shall maintain or cause to be maintained true and proper books, records, reports, and accounts in which shall be entered fully and accurately all transactions of the Partnership.

6.3 Required Records. The General Partner shall maintain at the principal executive office of the Partnership within California all of the following records:

A. A current list of the full name and last known business or residence address of each Partner, together with the contribution and share in profits and losses of each Partner.

B. A copy of the Certificate of Limited Partnership and all Certificates of Amendment thereto, together with executed copies of any powers of attorney pursuant to which any such Certificate has been executed.

C. Copies of the Limited Partnership's federal, state, and local income tax or information returns and reports, if any, for the six (6) most recent taxable years.

D. Copies of this Agreement and all duly adopted amendments thereto.

E. Financial statements of the Partnership for the six (6) most recent fiscal years.

F. The Partnership's books and records for at least the current and past three (3) fiscal years.

6.4 Delivery of Records to Limited Partners. Upon the request of any Limited Partner, the General Partner shall promptly deliver to that Partner, at the expense of the Partnership, a copy of:

A. The current list of each Partner's name, address, contribution, and share in profits and losses.

B. The Certificate of Limited Partnership, as amended, and any powers of attorney pursuant to which any such Certificate was executed.

C. This Agreement, as amended.

6.5 Access to Records by Limited Partners. Each Limited Partner and/or each Limited Partner's duly authorized representative, attorney, or attorney-in-fact shall have the right, upon reasonable request, to:

A. Inspect and copy, during normal business hours, any Partnership records the Partnership is required to maintain, pursuant to Sections 6.2 and 6.3 of this Agreement.

B. Obtain from the General Partner, promptly after becoming available, a copy of the Limited Partnership's federal, state, and local income tax or information returns for each year.

6.6 Income Tax Data. The General Partner shall send to each Partner, within ninety (90) days after the end of each taxable year, a copy of the Partnership's federal, state, and local income tax or information returns for such taxable year, together with such additional information as is necessary for them to complete their federal and state income tax or information returns for that year.

6.7 Capital Accounts. An individual capital account shall be maintained for each Partner. A capital account shall consist of a Partner's contribution to the initial capital of the Partnership, any additional contributions to the Partnership capital made by a Partner pursuant to this Agreement, and any amounts transferred thereto from that Partner's income account pursuant to this Agreement.

6.8 Income Accounts. An individual income account shall be maintained for each Partner. At the close of each Partnership taxable year, or at more frequent intervals, each Partner's share of the net profits or net losses of the Partnership shall be credited or debited to, and that Partner's distributions received during each fiscal year shall be deducted from, that Partner's income account and any resulting balance or deficit shall be transferred to or charged against that Partner's capital account.

6.9 Banking. The General Partner shall open and thereafter maintain a separate bank account in the name of the Partnership in which there shall be deposited all the funds of the Partnership. No other funds shall be deposited in the account. The funds in that account shall be used solely for the business of the Partnership, and all withdrawals therefrom are to be made only on checks signed by the General Partner.

ARTICLE VII

RIGHTS, DUTIES AND RESTRICTIONS OF PARTNERS

7.1 Devotion of Time by General Partner. The General Partner shall devote such care, attention, and business capacity to the affairs of the Partnership as may be reasonably necessary. In this connection, the Partners hereby acknowledge that any General Partner may be the Manager or General Partner of other partnerships and may continue to manage other partnerships, and may continue to engage in other related business, whether or not competitive with the business of the Partnership.



7.2 Additional Compensation to General Partner.

A. The General Partner will receive an annual management fee of zero percent (0%) of the fund's aggregate capital contributions, which shall be calculated by the General Partner, and pro-rated and paid at the end of each quarter.

B. As a performance incentive, the General Partner shall receive the excess of the Net Cash From Operations (i.e., funds from operations after payment of fees and expenses and after funding reserves), calculated pro-rata on a quarterly basis, above (i) a simple five and three tenths percent (5.3%) annual return for Members who have contributed capital of \$100,000 or more, or (ii) a simple four and nine tenths percent (4.9%) annual return for Members who have contributed capital of \$50,000 to \$99,999. Additionally, the General Partner shall receive the following percentages of the remaining Net Cash From Capital Transactions (i.e., funds from a sale of a Fund investment after payment of fees and expenses and after funding reserves), payable at the termination of the Fund, after all Member capital contributions have been returned: (i) forty percent (40%) for Members who have contributed capital of \$100,000 or more, or (ii) fifty percent (50%) for Members who have contributed capital of \$50,000 to \$99,999.

C. This compensation is for services rendered as General Partner, and does not require a capital contribution from the General Partner.

D. The Manager's "Carried Interest" collectively refers to all distributions pursuant to the performance incentive distribution of net cash from operations above, and all distributions pursuant to the performance incentive of net cash from capital transactions above.

7.3 Transaction of Business with Partnership. Except as otherwise provided in this Agreement, a Partner may transact other business with the Partnership. If any Partner transacts business with the Partnership, that Partner shall have the same rights and obligations with respect thereto as a person who is not a Partner. If any Partner loans money to the partnership, it must be a non-interest-bearing loan.

7.4 Partners Engaging in Other Business. Any of the Partners may engage in or possess an interest in other business ventures of every nature and description independently or with others, and neither the Partnership nor the Partners shall have any right by virtue of this Agreement in and to any such independent ventures or to the income or profits derived therefrom.

7.5 Investment Guidelines. On behalf of the partnership, the General Partner may not engage in the paying or receiving of interest. The General Partner is also restricted from leasing property to

commercial tenants involved in interest-based financial activities, conventional insurance, gambling, illicit drugs, adult entertainment, prostitution, or the sale of alcohol or other activities as advised by the Adviser of the General Partner. Should a property be acquired with tenants engaged in any of the aforementioned activities, the General Partner will undertake to eliminate such activities and donate all profits earned from such activities to charity until the activities cease to take place.

ARTICLE VIII

PARTNERSHIP MEETINGS

8.1 Call and Place of Meetings. Meetings of the Partners may be called pursuant to the written request of any Partner.

8.2 Notice of Meeting. Immediately upon receipt of a written request stating that the Partner or Partners request a meeting on a specific date (which date shall not be less than ten (10) nor more than sixty (60) days after the receipt of the request by the General Partner), the General Partner shall immediately give notice to all Partners. Valid notice may not be given less than ten (10) nor more than sixty (60) days prior to the date of the meeting, and shall state the place, date, and hour of the meeting and the general nature of the business to be transacted. No business other than the business stated in the notice of the meeting may be transacted at the meeting. Notice shall be given by mail, addressed to each Partner entitled to vote at the meeting at the address appearing in the books of the Partnership for the Partner.

8.3 Quorum. At any duly held or called meeting of Partners, Partners holding at least fifty-one percent (51%) of the voting power who are represented in person or by proxy shall constitute a quorum for all purposes other than amending this Agreement in which case one hundred percent (100%) of the interests of all Partners shall be required. The Partners present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough Partners to leave less than a quorum, if any action taken, other than adjournment, is approved by the requisite percentage of interests of Partners.

8.4 Meetings Not Duly Called, Noticed, or Held. The transaction of business at any meeting of Partners, however called and noticed, and wherever held, shall be as valid as though consummated at a meeting duly held after regular call and notice, if a quorum is present at that meeting, either in person or by proxy, and if, either before or after the meeting, each of the persons entitled to vote, not present in person

or by proxy, signs either a written waiver of notice, a consent to the holding of the meeting, or an approval of the minutes of the meeting.

8.5 Waiver of Notice. Attendance of a Partner at a meeting shall constitute waiver of notice, except when that Partner objects, at the beginning of the meeting, to the transaction of any business on the ground that the meeting was not lawfully called or convened. Attendance at a meeting is not a waiver of any right to object to the consideration of matters required to be described in the notice of the meeting and not so included, if the objection is expressly made at the meeting. Any Partner approval at a meeting shall be valid only if the general nature of the proposal is stated in any written waiver of notice.

8.6 Consent to Action Without Meeting. Any action that may be taken at any meeting of the Partners may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by Partners having not less than the minimum number of votes that would be necessary to authorize or take that action at a meeting at which all Partners entitled to vote thereon were present and voted. In the event the Partners are requested to consent to a matter without a meeting, each Partner shall be given notice of the matter to be voted upon in the manner described in Section 8.2. In the event that any Partner requests a meeting for the purpose of discussing or voting on the matter so noticed, notice of a meeting shall be given pursuant to Section 8.2 and no action shall be taken until the meeting is held.

8.7 Proxies.

A. Every Partner entitled to vote may authorize another person or persons to act by proxy with respect to that Partner's interest in the Partnership.

B. Any proxy purporting to have been executed in accordance with this Section shall be presumptively valid.

C. No proxy shall be valid after the expiration of eleven (11) months from the date thereof unless otherwise provided in the proxy. Subject to Subsections (f) and (g) of this Section, every proxy continues in full force and effect until revoked by the person executing it. The dates contained on the proxy forms presumptively determine the order of execution, regardless of the postmark dates on the envelopes in which they are mailed.

D. A proxy is not revoked by the death or incapacitation of the person executing it, unless (except as provided in Subsection (f) of this Section), before the vote is counted, written notice of the death or incapacity of the maker is received by the Partnership.



E. Revocation of a proxy is effective by a writing delivered to the Partnership stating that the proxy is revoked or by a subsequent proxy executed by the Partner who executed the proxy or, as to any meeting, by the attendance and exercise of the right to vote at that meeting by the Partner who executed the proxy.

F. A proxy that states that it is irrevocable, is irrevocable for the period specified therein when it is held by any creditor or creditors of the Partnership or the Partner who extended or continued credit to the Partnership or the Partner in consideration of the proxy if the proxy states that it was given in consideration thereof and the name of the person extending or continuing credit. In addition, a proxy may be made irrevocable (notwithstanding Subsection (d) of this Section) if it is given to secure the performance of a duty or to protect a title, either legal or equitable, until the happening of events which, by its terms, discharge the obligations secured by it.

G. Notwithstanding the period of irrevocability specified in the proxy as provided in Subsection (f) of this Section, a proxy will become revocable when the debt of the Partnership or Partner is paid.

H. A proxy may be revoked, notwithstanding a provision making it irrevocable, by the assignment of the interest in the Partnership of the Partner who executed the proxy to an Assignee without knowledge of the existence of the proxy and the admission of that Assignee to the Partnership as a Partner.

I. The General Partner may, in advance of any Partnership meeting, prescribe additional regulations concerning the manner of execution and filing of proxies and their valuation.

ARTICLE IX

ASSIGNMENT AND/OR TRANSFER OF PARTNERSHIP INTEREST

9.1 Conditions for Transfer. A Partner may sell, assign, transfer, or otherwise dispose of an interest in the Partnership only in conformity with the provisions of this Article IX.

9.2 Prohibition Against Assignment, Sale, or Other Transfer. Notwithstanding any other provision of this Agreement, during the twelve (12) month period after execution hereof, no Partner or his heirs, personal representative, successors, or assigns, shall have the right to assign, sell or otherwise transfer, for consideration or gratuitously, all or any portion of his interest in this Partnership.



9.3 Assignments. Subject to the provisions of Section 9.2, a Partner may assign all or part of his interest in the profits and losses of the Partnership to any other person upon such terms and conditions as he may deem fit. The Assignee shall not be admitted as a Substituted Partner without the approval of the General Partner. Any assignment made to anyone, not admitted as a Substituted Partner, shall be effective only to give the Assignee the right to receive the share of profits to which the Assigning Partner would otherwise be entitled, shall not relieve the Assigning Partner from any liability under any agreement to make additional capital contributions, shall not relieve the Assigning Partner from liability under the provisions of this Agreement, and shall not give the Assignee the right to become a Substituted Partner. Neither the General Partner nor the Partnership shall be required to determine the tax consequences to any Assignee arising from the assignment of a Partnership interest. The Partnership shall continue with the same basis and capital accounts for the Assignee as was attributable to the Assigning Partner.

9.4 Transfer on Death of a Partner.

A. Subject to the provisions of Section 9.2, if any Partner dies, then his personal representative, heirs, devisees, or successors shall have an option, exercisable within sixty (60) days after the date of death to either:

1. Elect to become Substituted Partners; or
2. Offer to sell all but not less than all of the deceased Partner's interest to the

remaining Partners.

B. If the General Partner dies, his interest shall be converted to that of a Limited Partner pursuant to Subsection 12.3(b). The personal representative, heirs, devisees or successors of a deceased Partner may elect to become a Substituted Partner by sending written notification to that effect to the Partnership within sixty (60) days after death. If the personal representative, heirs, devisees or successors of the deceased Partner elect to sell all, but not less than all, of the deceased Partner's interest, they shall send a notice of this election to the remaining Partners within sixty (60) days after the date of death. If the personal representative, heirs, devisees or successors fail to elect to become a Substituted Limited Partner or to offer to sell all, but not less than all, of the interest of the deceased Partner, they shall be deemed to have automatically elected to become Substituted Partners.

C. If the personal representative, heirs, devisees or successors of the deceased Partner offer to sell all, but not less than all, of the interest of the deceased Partner, the Project shall be valued



pursuant to Subsection 9.4(h) hereof. After the interest is so valued, the remaining Partners shall collectively have the right to purchase all, but not less than all, of the deceased Partner's interest for the Adjusted Net Fair Market Value thereof in accordance with Subsection 9.4(d).

D. Subject to the provisions of Subsection (b), the remaining Partners shall have an option to purchase their proportionate shares of all, but not less than all, of the deceased Partner's interest on the terms and conditions hereafter provided, exercisable by them at any time within fifteen (15) days after the date the Adjusted Net Fair Market Value of the deceased Partner's partnership interest is determined. If the remaining Partners fail to collectively elect to buy all, but not less than all, of the interest of the deceased Partner, then the deceased Partner's personal representative, heirs, devisees or successors shall automatically become Substituted Partners and shall have the right to assign or sell their partnership interests as provided herein.

E. On exercise of an option to purchase the interest of a deceased Partner, the remaining Partners who are under an obligation to purchase, shall pay to the person or persons legally entitled thereto the purchase price for such interest in the following manner:

1. One hundred percent (100%) within thirty (30) days after a value is placed upon the Partner's interest, whether by agreement or appraisal. If the Project is sold, the purchase price shall be paid in full at that time.

F. The phrase "Net Fair Market Value" of a Partner's interest shall, for purposes of this Agreement, be defined as the product determined by multiplying that Partner's percentage interest in profits and losses by the sum of the following:

1. All cash and prepaid items on hand as of the date the option was exercised;

2. An amount equal to the amount which would have been received had the Project been sold for its fair market value at the time of the completion, reduced by closing costs in the amount of six and one-half percent (6-1/2%) of the total sale price and further reduced by all Partnership liabilities in existence at the time of the proposed sale.

G. The Adjusted Net Fair Market Value of a Partner's interest shall be equal to the Net Fair Market Value of that Partner's interest reduced by an amount equal to twenty-five percent (25%) of the Net Fair Market Value of that Partnership interest.

H. The fair market value of the Project shall be determined by unanimous agreement of buying and selling Partners, or if they do not agree within ten (10) days, then the fair market value of the Project shall be determined by three (3) appraisers. One appraiser shall be appointed by the buying Partners, one appraiser to be appointed by the selling Partner, or his successor, and the third to be appointed by the two so appointed. If the appraisers do not agree upon a single value, then the average value of the three appraisals shall be the fair market value of the Project. If the Partners cannot select three (3) appraisers then the determination of fair market value of the Project shall be submitted to binding arbitration in accordance with the procedure set forth in accordance with the procedure set forth in CCP §1280 et seq. All appraisers shall be appointed within ten (10) days after the election to offer to sell. All appraisals shall be completed within forty-five (45) days after the appraisers are appointed. All costs of appraisal and all costs of effecting the sale (except legal and accounting costs) shall be paid fifty percent (50%) by the buying Partner and fifty percent (50%) by the selling Partner.

9.5 Prohibition Against Other Transfer. Except as provided in Section 9.3 and Section 9.4 above, no Partner, or his heirs, personal representatives, successors, or assigns, shall have the right, at any time, to sell or transfer, for consideration or gratuitously, all or any portion of his interest in this Partnership unless the following procedure is followed:

A. Subject to the twelve (12) month prohibition against transfer outlined in Section 9.2, such Partner shall deliver a notice in writing to the remaining Partners, stating the price, terms, and conditions of such proposed sale or transfer, and the identity of the proposed transferee. For a period of thirty (30) days after receipt of such notice, the remaining Partners shall have the first right to purchase all, but not less than all, of such interest so offered on the terms and conditions set forth in said notice or if there is no proposed transferee then for the price and on such terms and conditions as may be negotiated by the selling and buying parties.

B. If there is more than one remaining Partner electing to purchase, each such Partner shall be entitled to purchase a proportionate share of the selling Partner's interest. If one or more Partners decline to purchase their proportionate share of such Partner's interest so offered, the proportionate share of each Partner who elects to purchase shall be increased pro rata.

C. Should the remaining Partners fail to purchase all of such Partner's interest specified in the notice provided for in this Section, then after the expiration of thirty (30) days after receipt by them of

such notice, or as soon as the Partners decide not to exercise their first right of refusal, the transferor Partner may transfer his interest to anyone without regard to any restrictions on transfer contained herein on the same terms and conditions and for the same price as set forth in the notice or if there is no proposed transferee, on the terms and conditions and for the price approved by the remaining Partners and upon no more favorable terms and conditions and for no less a price; provided, however, that if said interest is not transferred within one hundred (100) days after notification, then the transfer of such interest shall again become subject to the provisions of this Section.

D. In the case of any Partner which is a corporation or Partnership, the transfer of fifty percent (50%) or more of the ownership of such corporation or partnership shall, for purposes of this Agreement, be deemed a transfer of the partnership interest owned by such Partner.

ARTICLE X

LIABILITIES OF PARTNERS

10.1 Liability of General Partner. Except as otherwise provided in this Agreement, the liability of the General Partner arising from the conduct of the business affairs or operations of the Partnership or from the debts of the Partnership is unrestricted.

10.2 Indemnity by Limited Partners. The Limited Partners hereby agree to save, defend and hold the General Partner harmless from any and all liability to the Partnership in excess of the General Partner's proportionate share thereof determined by reference to the General Partner's proportionate ownership interest in the Partnership. Each Limited Partner shall be liable pursuant to this indemnity provision only to the extent of such Limited Partner's proportionate ownership interest in the Partnership.

ARTICLE XI

PROHIBITED TRANSACTIONS

11.1 Specified Acts. During the time of the organization or continuance of this Limited Partnership, neither the General nor the Limited Partners hereof shall do, and the Partners specifically promise not to do any of the following:

A. Use the name of the Partnership (or any substantially similar name) or any trademark or trade name adopted by the Partnership, except in the ordinary course of the Partnership business.



- B. Disclose to any non-partner any of the Partnership business practices, trade secrets, or any other information not generally known to the business community.
- C. Do any other act or deed with the intention of harming the business operations of the Partnership.
- D. Do any act contrary to this Agreement, except with the prior express written approval of all Partners.
- E. Do any act that would make it impossible to carry on the intended or ordinary business of the Partnership.
- F. Confess a judgment against the Partnership.
- G. Abandon or transfer or dispose of Partnership property, real or personal.
- H. Do any act which would knowingly violate the intended nature of the Partnership, including but not limited to obtaining interest-based financing, engaging in speculation which is highly uncertain, or gambling.

11.2 Use of Partnership Assets. The General Partner shall not use, and hereby specifically promises not to use, directly or indirectly, the assets of this Partnership for any purpose other than conducting the business of the Partnership, for the full and exclusive benefit of all its Partners.

ARTICLE XII

DISSOLUTION OF THE PARTNERSHIP

12.1 Dissolution and Winding Up. The Partnership shall be dissolved, and its affairs shall be wound up upon expiration of the term provided for the existence of the Partnership; or when all of the assets of the Partnership have been sold or distributed by the Partnership; or pursuant to Section 12.2.

12.2 Dissolution Upon Consent. The Partnership shall be dissolved upon any date specified in a consent to dissolution signed by the General Partner and by fifty-one percent (51%) of the Partners.

12.3 Dissolution When General Partner Ceases as Such.

A. Except as provided in Section 12.3(c), the Partnership shall not dissolve upon the death, incompetency or withdrawal of the General Partner or any Limited Partner. All Partners specifically agree that the Partnership shall not be dissolved for any reason other than as set forth in Sections 12.1, 12.2 or 12.3(c).



B. Upon the death, incompetency or withdrawal of the General Partner, the General Partner's interest shall become that of a Limited Partner with all the rights, duties and obligations of a Limited Partner hereunder. The transferee of the General Partner in the event of death or incompetency shall be admitted as a Substituted Limited Partner.

C. In the event of death, incompetency or withdrawal of the General Partner, the Limited Partners shall elect a new General Partner by a fifty-one percent (51%) vote. Each Partner's interest shall be reduced proportionately to the extent of the new General Partner interest. If a new General Partner is not selected within ninety (90) days after the date of death, incompetency or withdrawal, then the Partnership shall be wound up and dissolved.

12.4 Responsibility for Winding Up. Upon dissolution of the Partnership, the affairs of the Partnership shall be wound up by the General Partner, or if there is no General Partner, the Partnership's affairs shall be wound up by the Limited Partners.

12.5 Liquidation and Distribution. The person or persons responsible for winding up the affairs of the Partnership shall take full account of the Partnership assets and liabilities, shall liquidate the assets of the Partnership as promptly as is consistent with obtaining the fair value thereof, and shall apply and distribute the proceeds in the following order:

- A. To creditors of the Partnership, including Partners who are creditors to the extent provided by law;
- B. Then to the Partners in proportion to their capital accounts.
- C. Any Partner with a deficit in his capital account following the distribution of liquidation proceeds is required to restore the amount of such deficit to the Partnership, which amount shall be distributed to the other Partners in proportion to their positive capital account balances or paid to creditors.

12.6 Filing Certificate of Dissolution. Upon dissolution of the Partnership, the General Partner shall execute and file in the office of the Secretary of State of the State of California a Certificate of Dissolution. If dissolution occurs after a sole General Partner ceases to be a General Partner, the Limited Partners conducting the winding up of the Partnership's affairs shall file the Certificate of Dissolution.

12.7 Cancellation of Certificate of Limited Partnership. Upon completion of the winding up of the Partnership's affairs, the Partners conducting the winding up of the Partnership's affairs shall execute and





file in the office of the Secretary of State of the State of California a Certificate of Cancellation of the Certificate of Limited Partnership. If dissolution occurs after a sole General Partner ceases to be a General Partner, the Limited Partners conducting the winding up of the Partnership's affairs shall file the Certificate of Cancellation.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

13.1 Entire Agreement. This Agreement contains the entire understanding among the Partners and supersedes any prior written or oral agreements between them respecting the subject matter contained herein. There are no representations, agreements, arrangements, or understandings, oral or written, between and among the Partners relating to the subject matter of this Agreement that are not fully expressed herein.

13.2 Amendments. The provisions of this Agreement may be amended by the vote of one hundred percent (100%) of the Partners. Any amendment of this Agreement shall be in writing, dated, and executed by all Partners. If any conflict arises between the provision of any amendment and the original Agreement as previously amended, the most recent provisions shall control. No amendment shall, without the unanimous consent of all Partners, modify the Partnership interests of the Partners or the allocation of profits or losses or distributions, change the compensation provided for the General Partner, or amend this Section, except as provided in Subsections 2.3, 2.4 or 9.3.

13.3 Attorneys' Fees and Costs. If any action at law or in equity, including an action for declaratory or injunctive relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs.

13.4 Governing Law. All questions with respect to the construction of this Agreement and the rights and liabilities of the parties hereto shall be governed by the laws of the State of California.

13.5 Notices. All notices shall be in writing and sent by regular United States mail. All notices to the Partners shall be sent to them at the addresses shown for them in the records of the Partnership. All notices to the Partnership shall be sent to it at its principal executive office in California. Notices shall be deemed to have been delivered when deposited in the United States mail.



13.6 Successors. Subject to the restrictions against assignment of partnership interests contained herein, this Agreement shall inure to the benefit of and shall be binding upon the assigns, successors in interest, personal representatives, estates, heirs, and legatees of each of the parties hereto.

13.7 Severability. If any provisions of this Agreement shall be declared by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall continue in full force and effect.

13.8 No Execution by Spouses. This Agreement is executed only by the Partners. Each Partner hereby certifies that he has the full right and authority to bind the marital property of such Partner and his spouse.

13.9 Election of Adjusted Basis. In the event of a transfer of all or part of the interest of a Partner, the General Partner may elect, on behalf of the Partnership, to adjust the basis of the Partnership property pursuant to Section 754 of the Internal Revenue Code. All other elections required or permitted to be made by the Partnership; under the Internal Revenue Code shall be made by the General Partner in such manner as will, in his opinion, be most advantageous to a majority in interest of the Limited Partners.

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

13.11 Headings. The heading preceding the paragraphs of this Agreement are for convenience of reference only, are not a part of this Agreement, and shall be disregarded in the interpretation of any portion of this Agreement.

13.12 Other Instruments. The parties hereto covenant and agree that they shall execute each other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the Partnership created by this Agreement.