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AGREEMENT AND CERTIFICATE OF LIMITED PARTNERSHIP

OF

WEATHERSTONE LIMITED PARTNERSHIP

MAR 16 3 12 PM '90

SECRETARY OF STATE

This Agreement and Certificate of Limited Partnership, is entered into the 1ST day of March, 1990 by and between DBSI Housing Inc., an Idaho corporation, and DBSI Realty Partners, an Idaho general partnership, as general partners, and DBSI PACIFIC INCOME & GROWTH FUND - II A Real Estate Limited Partnership, an Idaho limited partnership, as limited partner.

ARTICLE I

ORGANIZATIONAL

1.01 Formation of Limited Partnership, Partners. The undersigned enter into this Agreement this 1st day of March, 1990, to form a limited partnership under the Uniform Limited Partnership Act of the State of Idaho, and the rights and liabilities of the Partners shall be as provided in that Act except as herein otherwise expressly provided.

1.02 Name. The business of the Partnership shall be conducted under the name of "Weatherstone Limited Partnership".

1.03 Principal Place of Business and Registered Agent. The Registered Agent shall be DBSI Housing Inc. The address of the Registered Agent and the principal place of business of the Partnership shall be 1070 N. Curtis Road, Suite 270, Boise, Idaho 83706. The General Partners may from time to time change the principal place of business, and in such event the General Partners shall notify the Limited Partners in writing within 20 days of the effective date of such change. The General Partners may, in their discretion, establish additional places of business of the Partnership.

1.04 Purpose. The principal purpose and character of the business of the Partnership is to find, acquire, construct, hold, sell, dispose of and otherwise own and operate the Weatherstone apartment project "the Project") on the real property detailed in Schedule B, attached hereto and incorporated herein by reference, and to engage in other activities necessary or appropriate to the foregoing in order to (i) preserve and protect the Partnership's capital, (ii) provide tax sheltered cash distributions from the rental operations of the Project; (iii) provide long term capital appreciation through increases in the value of the Partnership's investment; and (iv) provide cash distributions from sale or refinancing of the Partnership's investment.

In order to carry out its purposes, the Partnership is authorized in furtherance of the Partnership business and subject to the other provisions of this Agreement to:

- (a) borrow money and issue evidence of indebtedness in furtherance of any or all of the objects of its business;
- (b) lend money in furtherance of the Partnership purposes;
- (c) acquire, construct, hold, own, maintain, sell, transfer, convey, assign, exchange or otherwise dispose of its interest in the Project and in other Partnership assets;
- (d) make interim investments in government obligations, certificates of deposit and banker's acceptances;
- (e) enter into, execute and carry out contracts and agreements and all other documents and instruments; and actions at law or at equity;
- (f) bring and defend actions at law or at equity;
- (g) purchase, cancel or otherwise retire or dispose of the Interest of any Partner, pursuant to the express provisions of this Agreement;

- (h) do any and all other acts and things necessary or proper in furtherance of the Partnership business.

1.05 **Term.** The term of the Partnership shall be from the date hereof to December 31, 2037, unless sooner terminated as hereinafter provided.

1.06 **Fillings.** On the execution of this Agreement, or on a subsequent change in this Partnership's membership, the General Partners, or either of them individually if allowed by applicable law, shall sign, and have notarized a Certificate of Limited Partnership and a Certificate of Assumed Name pursuant to the provisions of the Idaho Code and make such other filings as may be required to conduct the business of the Partnership. The General Partners, or either of them individually if allowed by applicable law, shall thereafter and prior to commencing any business by the Partnership or in any subsequent change of membership, cause the Certificates and any other filings to be filed for record as required by law.

ARTICLE II

DEFINED TERMS

2.01 **Defined Terms.** The defined terms used in this Agreement shall, unless the context otherwise requires, have the meanings specified in this Article II. The singular shall include the plural and the masculine gender shall include the feminine and neuter, and vice versa, as the context requires.

"Affiliate" means, when used with reference to a specified Person, (i) any Person that directly or indirectly controls or is controlled by or is under common control with the specified Person, (ii) any Person that is an officer of, partner in or trustee of, or serves in a similar capacity with respect to, the specified Person or of which the specified Person is an officer, partner or trustee, or with respect to which the specified Person serves in a similar capacity, and (iii) any Person that, directly or indirectly, is the beneficial owner of 10% or more of any class of equity securities of the specified Person or of which the specified Person is directly or indirectly the owner of 10% or more of any class of equity securities. An Affiliate of the Partnership or of a General Partner does not include a Person who is a partner in a partnership or joint venture with the Partnership or any other Affiliate of the Partnership if such Person is not otherwise an Affiliate of the Partnership or a General Partner.

"Agreement" means this Agreement and Certificate of Limited Partnership as originally executed and as amended from time to time.

"Bankruptcy" or "Bankrupt" as to any Person means the filing of a petition for relief as to any such Person as debtor or bankrupt under the Bankruptcy Act of 1898 or the Bankruptcy Code of 1978 or like provision of law (except if such petition is contested by such Person and has been dismissed within 60 days); insolvency of such Person as finally determined by a court proceeding; filing by such Person of a petition or application to accomplish the same or for the appointment of a receiver or a trustee for such Person or a substantial part of his assets; or commencement of any proceedings relating to such Person or a substantial part of his assets; or commencement of any proceedings relating to such Person under any other reorganization, arrangement, insolvency, adjustment of debt or liquidation law of any jurisdiction, whether now in existence or hereinafter in effect, either by such Person or by another, provided that if such proceeding is commenced by another, such Person indicates his approval of such proceeding, consents thereby or acquiesces therein, or such proceeding is contested by such Person and has not been finally dismissed within 60 days.

"Capital Account" means, with respect to any Partner, (i) the Capital Contribution of such Partner plus (ii) the amount of profits allocated to such Partner less (iii) the amount of losses allocated to such Partner less (iv) the amount of all cash distributed to such Partner less (v) the net fair market value of any property distributed less (vi) such Partner's share of any other expenditures which are not deductible by the Partnership for Federal income tax purposes or which are not allowable as additions to the basis of Partnership property. The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations 1.704-1(b), and shall be interpreted and applied in a manner consistent with such Regulations.

"Capital Contribution" means the total amount of money contributed to the Partnership (prior to the deduction of any selling commissions or expenses) by all the Partners or any class of Partners, or by any one Partner, as the context may require (or the predecessor holders of the Interests of such Partners or Partner), reduced by any return of funds to the Limited Partners pursuant to Section 4.05 or a distribution of Sale or Refinancing Proceeds pursuant to Section 4.04(a).

"Cash Flow" means the excess, if any, of Cash Receipts over Cash Expenditures. Cash Flow shall be determined separately for each fiscal year or portion thereof for all purposes of this Agreement, except as otherwise provided.

"Cash Receipts" means all cash receipts received by the Partnership (other than tenant deposits, proceeds from a sale, or disposition of the Project, Partnership borrowings, or other special transaction) including cash receipts from Partnership operations.

"Cash Expenditures" means all disbursements of cash during the year (excluding distributions to Partners), including payment of operating expenses, payments of principal and interest on Partnership debt and the payment of fees, if any to the General Partners, their Affiliates and any other Persons.

"Certificate" means a Certificate of Limited Partnership and/or a Certificate of Assumed Name and/or any other corresponding filings required to be made by applicable law.

"Certificate of Cancellation of the Partnership" means that document (certificate) that will be filed at the termination of the Partnership to serve as a notice of said termination.

"Certificate of Assumed Name" means that document (certificate) required to be filed by the State of Idaho or any other jurisdiction to identify the true names of the Persons that are Partners.

"Certificate of Limited Partnership" means that document (certificate) required to be filed by the State of Idaho or any other jurisdiction to cause the Partnership to legally be recognized as a limited partnership.

"Consent" means either the consent given by vote at a meeting called and held in accordance with the provisions of this Agreement or the prior written consent, as the case may be, of a Person to do the act or thing for which the consent is solicited, or the act of granting such consent, as the context may require.

"DBSI" means DBSI Housing Inc., an Idaho corporation.

"DBSI Realty" means DBSI Realty Partners, an Idaho general partnership.

"Excess Reserves" means those Partnership Reserves at any time prior to termination and dissolution of the Partnership that exceed the amount deemed necessary under the circumstances by the General Partners in their sole discretion.

"General Partners" means DBSI and DBSI Realty or any Person or Persons who, at the time of reference thereto, has been admitted as a successor to the Interest of any of them or as an additional General Partner, in each such Person's capacity as a General Partner.

"Hereof, hereunder and words of similar import" means the terms and conditions of this entire Agreement.

"Initial Registered Agent" means DBSI Housing Inc. whose business address is 1070 North Curtis Road, Suite 270, Boise, Idaho 83706.

"Limited Partner" means DBSI PACIFIC INCOME & GROWTH FUND - II A Real Estate Limited Partnership.

"Liquidator" means the General Partners or, if there is no General Partner, such Person legally appointed to liquidate the assets of the Partnership.

"Notice" means a writing, containing the information required by this Agreement to be communicated to any Person, personally delivered to such Person or sent by certified mail, postage prepaid, to such Person at

the last known address of such Person. The date of personal delivery or the date of mailing thereof, as the case may be, shall be deemed the date of receipt of Notice.

"Partner" means any General Partner or any Limited Partner, where no distinction is required by the context in which the term is used in this Agreement.

"Partnership" means the limited partnership formed by this Agreement under the Uniform Limited Partnership Act of the State of Idaho and known as Weatherstone Limited Partnership, as said limited partnership may from time to time be constituted, and the Partnership continuing the business of this Partnership in the event of dissolution as provided for in Section 6.05.

"Person" means any individual, partnership, corporation, trust or other entity.

"Reserves" means amounts allocated to cash reserves maintained for working capital of the Partnership, repurchase of Partnership Interests and contingencies related to the ownership of the Project as further defined in Section 9.12.

"Sale or Refinancing" means any Partnership transaction not in the ordinary course of its business, including, without limitation, sales, exchanges or other dispositions of the real or personal property of the Partnership, condemnations, recoveries of damage awards and insurance proceeds (other than business or rental interruption insurance proceeds), or any borrowing or refinancing; provided, however, that (i) the payment of Capital Contributions by the Partners, or (ii) any refunds of capital contributions or cash portions of the purchase price or cash deposits on the purchase price paid by the Partnership for the Project shall not be deemed a Sale or Refinancing.

"Sale or Refinancing Proceeds" means all cash receipts of the Partnership arising from a Sale or Refinancing less the following:

- (a) the amount of cash paid or to be paid in connection with or as an expense of such Sale or Refinancing, and, with regard to damage recoveries or insurance or condemnation proceeds, cash paid or to be paid for repairs, replacements or renewals resulting from damage to or partial condemnation of the Project;
- (b) the amount necessary for the payment of all debts and obligations of the Partnership arising from or otherwise related to the particular Sale or Refinancing; and
- (c) any amount set aside by the General Partners for Reserves.

"Schedule A" means the schedule, as amended from time to time, of Partners' names, addresses, and Capital Contributions which schedule, in its initial form, is attached hereto and made a part hereof.

"Special Durable Power of Attorney" means that right or power given to the General Partners in Section 11.01 to perform certain acts on behalf of the Limited Partners.

"Substitute Limited Partner" means any Person admitted to the Partnership as a Limited Partner pursuant to the provisions of Section 7.06.

ARTICLE III

PARTNERS AND CAPITAL

3.01 General Partners. The General Partners are DBSI and DBSI Realty. The names, and addresses of the General Partners are as set forth in Schedule A. The General Partners shall not, as General Partners, make any contribution to the capital of the Partnership. In the event that a General Partner shall purchase any Interest, such General Partner shall in all respects be treated as a Limited Partner to the extent of the Interest purchased.

3.02 Limited Partner. The Limited Partner is DBSI PACIFIC INCOME & GROWTH FUND - II A Real Estate Limited Partnership. The name, address and Capital Contribution of the Limited Partner is as set forth in Schedule A.

ARTICLE IV

DISTRIBUTIONS OF CASH; ALLOCATIONS OF PROFIT AND LOSSES;

CAPITAL ACCOUNTS

4.01 Profits and Losses. All profits and losses shall be determined and allocated with respect to each fiscal year of the Partnership, as follows:

- (a) Profits and losses (exclusive of losses from the sale or disposition of the Project shall be allocated one percent (1%) to the General Partners and ninety-nine percent (99%) to the Limited Partner.
- (b) profits from the sale or disposition of the Project shall be allocated as follows:
 - (1) first, prior to giving effect to any distributions of Sale or Refinancing Proceeds from the transaction, to all Partners with negative balances in their Capital Accounts, pro rata in proportion to such respective negative balances, to the extent of the total amount of such negative balances;
 - (2) second, to the General Partners in an amount necessary to make the positive balance in their Capital Accounts equal to the amount of Sale or Refinancing Proceeds to be distributed to the General Partners with respect to the sale or disposition of such property; and
 - (3) third, the balance, if any, to the Limited Partner.
- (c) Losses from the sale or disposition of the Project shall be allocated as follows:
 - (1) first, after giving effect to any distributions of Sale or Refinancing Proceeds from the transaction to all Partners with positive balances in their Capital Accounts, pro rata in proportion to such respective positive balances, to the extent of the total amount of such positive balances; and
 - (2) second, the balance, if any, one percent (1%) to the General Partners and ninety-nine percent (99%) to the Limited Partner.
- (d) Notwithstanding anything herein to the contrary that may be expressed or implied in this Agreement, there shall be allocated to the General Partners not less than one percent (1%) of

all items of Partnership income, gain, loss, deduction and credit during the existence of the Partnership.

- (e) The terms "*profits*" and "*losses*" used in this Agreement shall mean taxable income and losses, and each item of income, gain, loss, deduction or credit entering into the computation thereof, as determined in accordance with the accounting methods followed by the Partnership for Federal income tax purposes.
- (f) To the extent (i) the Limited Partner unexpectedly receives any adjustments, allocations or distributions described in clauses (4) through (6) of Regulations Section 1.704-1(b)(2)(ii)(d) increasing such Limited Partner's deficit Capital Account, or (ii) the Limited Partner has a deficit Capital Account at the end of any year that is in excess of the amount such Limited Partner is deemed to be obligated to restore pursuant to the penultimate sentence of Regulations Section 1.704-1(b)(4)(iv)(f), each such Limited Partner shall be specially allocated items of income or gain in the amount needed to eliminate such deficit or excess as quickly as possible. Additionally, if there is a net decrease in Partnership minimum gain as defined in Regulations Section 1.704-1(b)(4)(iv)(c) during a year, pursuant to Regulations Section 1.704-1(b)(4)(iv)(e) all partners with a deficit Capital Account balance at the end of such year will be allocated, before any other allocation is made under section 704(b) of partnership items for such year, items of income and gain in the amount needed to eliminate such deficit as quickly as possible.
- (g) Notwithstanding anything to the contrary herein, it is the intention of the Partnership to conform to the requirements of any regulations (including Regs. Section 1.704-1) issued by the Internal Revenue Service with respect to the allocation of Partnership items, in a manner maximizing the benefits to the Limited Partners, particularly with regard to any special provisions with respect to non-recourse indebtedness. The General Partners are specifically authorized, upon the advice of the Partnership accountants or tax counsel, to amend this Section 4.01 to comply with any such regulations, provided, however, that such amendment shall become effective only with the Consent of the Limited Partner and if it would require a Limited Partner to restore any deficit Capital Account balance or otherwise make a Limited Partner subject to assessment, then only with the Consent of the Limited Partner to be adversely affected by any such amendment.

4.02 Allocation to Limited Partner.

- (a) That portion of profits and losses (except profits and losses from the sale or disposition of the Project) allocated to the Limited Partner shall be apportioned to the Limited Partner.
- (b) That portion of profits and losses from the sale or disposition of the Project allocated to the Limited Partner shall be apportioned to the Limited Partner.

4.03 Distributions of Cash Flow. Following the Commencement of Operations, the Partnership shall make quarterly cash distributions of Cash Flow (less any Reserve payments made pursuant to Section 9.12) within 60 days after the last day of each fiscal quarter, with respect to such fiscal quarter, as follows:

- (1) 99% to the Limited Partner; and
- (2) 1% to the General Partners;
- (3) provided, however, that after the Limited Partner has received distributions equal to a 7% annual simple interest return on its Capital Contributions (on a cumulative basis) the General Partners shall receive distributions from Cash Flow equal to 5% of the total distributions of Cash Flow (on a cumulative basis) as a Partnership Management Fee.

The Limited Partner's right to participate in distributions of Cash Flow shall accrue from the date of the Commencement of Operations.

4.04 Distributions of Sale or Refinancing Proceeds. Whenever there is a Sale or Refinancing of a Partnership Property, the Sale or Refinancing Proceeds shall be distributed as follows:

- (a) First, cash available from Sale or Refinancing Proceeds will be distributed to the Limited Partner until it has received cumulative distributions of Sale or Refinancing Proceeds in an amount equal to 100% of its Capital Contributions.
- (b) Thereafter, distributions of Sale or Refinancing Proceeds will be made
 - (1) 99% to the Limited Partner; and
 - (2) 1% to the General Partners; provided, however, that no distribution of the General Partners' share of Sale or Refinancing Proceeds shall be made until the Limited Partner has received Sale or Refinancing Proceeds pursuant to this Section 4.04 in an amount equal to (i) 100% of the Limited Partner's Capital Contributions, pursuant to subparagraph (a) above, plus (ii) an amount (pursuant to either this sub-paragraph (b) or by way of Cash Flow which has been previously distributed to the Limited Partner) equal to a cumulative return of 10% per annum simple interest on its Capital Contributions from the date upon which its investment in the Partnership was made.

Provided, however, that Sale or Refinancing Proceeds may be retained by the Partnership rather than distributed if, in the opinion of the General Partners, such retention is necessary to (i) protect remaining Partnership assets, (ii) purchase land relating to the Partnership's Project or to purchase or finance improvements, repairs or additions to the Partnership's Project (iii) buy out the interest of any co-venturer or partner in a Property which is jointly owned, or (iv) establish Reserves for Partnership costs or expenses; provided, however, that proceeds may not be retained as described above, except to pay any indebtedness of the Partnership or for Reserves deemed reasonably necessary, unless the distribution of such Sale or Refinancing Proceeds to the Limited Partners would at least equal the federal and state income tax payable by the Limited Partners by reason of their investment in the Partnership for the year in which such Sale or Refinancing occurs (assuming taxation rates for an investor having \$30,000 of net income).

Each distribution of Sale or Refinancing Proceeds to all Limited Partners shall be allocated among all Persons who were Limited Partners on the date that the Partnership received such Sale or Refinancing Proceeds pro rata according to the number of Interests owned by each on such date.

4.05 Consent to Allocations. The methods set forth in this Article IV by which profits and losses and Cash Flow and Sale or Refinancing Proceeds are allocated are hereby expressly consented to by each Partner as an express condition to becoming a Partner.

ARTICLE V

POWERS, RIGHTS AND DUTIES OF THE GENERAL PARTNERS

5.01 Management of the Partnership. The General Partners shall have exclusive authority to manage the operations and affairs of the Partnership and to make all decisions regarding the business of the Partnership. The General Partners shall have all the rights and powers of a general partner as provided in the Idaho Uniform Limited Partnership Act and as otherwise provided by law, and any action taken by the General Partners shall constitute the act of and serve to bind the Partnership. In dealing with General Partners no person shall be required to inquire into the authority of such General Partners or any one of them to bind the Partnership. Persons dealing with the Partnership are entitled to rely conclusively upon the power and authority of the General Partners as set forth in this Agreement.

5.02 Authority of General Partners.

- (a) Subject to the restrictions herein, the General Partners are hereby granted the right, power and authority to do on behalf of the Partnership all things which, in their sole judgment are necessary, proper or desirable to carry out their duties and responsibilities, including, but not limited to, the right, power and authority:
- (1) to find, acquire, hold, encumber, sell, dispose of and otherwise deal with real and personal property, at such price and upon such terms as they deem to be in the best interest of the Partnership and the Limited Partners;
 - (2) to borrow money and issue evidences of indebtedness, and to secure the same by mortgage, deed of trust, pledge or other lien on the Project, on the Interests of all Partners, or the assets of the Partnership, provided, however, that no mortgage shall be given on the Project for an amount in excess of 80% of the appraised value of the Project;
 - (3) to employ agents, employees, managers, accountants, attorneys, consultants and other Persons necessary or appropriate to carry out the business and operations of the Partnership, and to pay fees, expenses, salaries, wages and other compensation to such Persons. Provided, however, that any contract with any Affiliated Person for any type of service shall be terminable without penalty upon 60 days notice. Provided further that no business arrangements or contracts made by the General Partners or Affiliates with any Persons on behalf of the Partnership shall provide for rebates, kickbacks or give ups to the General Partners or Affiliates nor shall the General Partners or Affiliates participate in any reciprocal business arrangements or contracts which circumvent this restriction;
 - (4) to pay, extend, renew, modify, adjust, submit to arbitration, prosecute, defend or compromise, upon such terms as they may determine and upon such evidence as they may deem sufficient, any obligation, suit, liability, cause of action or claim, including taxes, either in favor of or against the Partnership;
 - (5) to determine the appropriate accounting method or methods to be used by the Partnership (the Partnership intends initially to utilize the accrual method of accounting in maintaining its books and records);
 - (6) to cause the Partnership to make or revoke any of the elections referred to in Sections 195, 709, 754, 1017, or other Sections of the Internal Revenue Code of 1954, as amended, or any similar provisions enacted in lieu thereof;
 - (7) to establish and maintain Reserves for such purposes and in such amounts as they deem appropriate from time to time;
 - (8) to amend this Agreement to reflect the addition or substitution of Limited Partners or the reduction of Capital Accounts upon the return of capital to Partners;
 - (9) to invest all funds not immediately needed in the operation of the business in United States government securities, including Treasury Bills, other United States government guaranteed obligations, certificates of deposit or bank time deposits, and tax exempt notes or bonds with maturities not exceeding one year;
 - (10) to deal with, or otherwise engage in business with, or provide services to and receive compensation therefore from, any Person who has provided or may in the future provide any services to, lend money to, sell property to, or purchase property from the General Partners or any of their Affiliates;

- (11) to engage in any kind of activity and to perform and carry out contracts of any kind necessary to, or in connection with, or incidental to the accomplishment of the purposes of the Partnership;
 - (12) The Partners from time to time may loan money to the Partners to defray negative Cash Flow. Any such loans shall be evidenced by notes and the interest rate on said notes shall not exceed the amount which would be charged by unrelated lending institutions on comparable loans for the same purpose, in the same locality of the Project. No repayment charge or penalty will be required by a General Partner or Affiliate on the repayment of any loans made to the Partnership by that party.
 - (13) To sign any and all documents as attorney in fact for the limited partners as more particularly provided in Article XI.
- (b) With respect to all of their obligations, powers and responsibilities under this Agreement, the General Partners are authorized to execute and deliver, for and on behalf of the Partnership, such notes and other evidences of indebtedness, contracts, agreements, assignments, deeds, leases, loan agreements, mortgages and other security instruments and agreements as they deem proper, all on such terms and conditions as they deem proper.
 - (c) The foregoing list of powers and authorities granted to the General Partners is illustrative only, and is not intended to be exclusive and is not intended to in any way limit the powers and authorities of the General Partners and may in each instance be effected by any one of the General Partners acting on behalf of the Partnership.

5.03 Authority of General Partners and Their Affiliates to Deal with Partnership.

- (a) Affiliates of the General Partners may, and shall have the right to, act as management agent of the Project.
- (b) The Partnership may not purchase property from the General Partners or Affiliates unless (i) the property was acquired and title temporarily held by such General Partner(s) or Affiliate(s) for the purpose of facilitating its acquisition by the Partnership, facilitating the borrowing of money or the obtaining of financing for the Partnership or the completion of construction of the property or any other purpose related to the business of the Partnership, (ii) the property is purchased by the Partnership for a price no greater than the cost of the property to such General Partner(s) or Affiliate(s), (iii) there is no difference in the interest rates of the loans secured by the property at the time acquired by the General Partner(s) or Affiliate(s) and at the time acquired by the Partnership and (iv) there is no other benefit arising out of such transaction to the General Partner(s).
- (c) The Partnership may contract with Affiliates of the General Partners to serve as real estate brokers in connection with the investment of the proceeds of the Offering. Acquisition Fees shall be paid only for services actually rendered and may be paid for negotiation and evaluation of properties which are not ultimately acquired by the Partnership (for which no other fees or compensation to the General Partners or Affiliates shall be payable). The total of all Acquisition Fees paid in connection with the acquisition of the Project (regardless of by whom paid and including any commission payable to any Affiliates of the General Partners) shall not exceed the lesser of (i) the compensation customarily charged in arm's-length transactions by others rendering similar services as an ongoing public activity in the same geographic location and for comparable property; or (ii) 6% of the cost of the Project. Provided, further, that the total of all Acquisition Fees paid in connection with all Partnership Properties, including properties not purchased by the Partnership, may not exceed 9% of the Gross Proceeds of the Offering.
- (d) The Partnership may contract with Affiliates of the General Partners or with unrelated parties to serve as real estate brokers in connection with the sale of the Project by the Partnership. The total of all real estate brokerage commissions or similar fees to all Persons in connection with the sale of the Project shall not exceed the lesser of the compensation

customarily charged in arm's-length transactions by Persons rendering similar services as an ongoing public activity in the same geographic location and for a comparable property or 6% of the sales price of the Project.

- (e) The Partnership may enter into contracts with Affiliates of the General Partners to perform property management and leasing services for the Partnership (it being understood and agreed that the provision of such services does not constitute a part of the duties or obligations of the General Partners as general partners of the Partnership); provided that compensation to the General Partners and Affiliates and all other parties for property management services with respect to residential real property investments may not exceed the lesser of compensation customarily charged in arm's-length transactions by persons rendering similar services as an on-going public activity in the same geographic location and for a comparable property or 5% of the gross receipts from the Project being managed, and that compensation to the General Partners and Affiliates and all other parties for property management services with respect to commercial and industrial real property investments may not exceed the lesser of the compensation customarily charged in arm's-length transactions by persons rendering similar services as an on-going public activity in the same geographic area and for a comparable property or 6% of the gross receipts from the Project being managed where the General Partners or Affiliates provide leasing, re-leasing, and leasing related services. Provided, however, that if the General Partners or Affiliates do not provide leasing, re-leasing, and leasing related services, the maximum fee shall be 3% of the gross receipts from the Property being managed and, in that event, the Partnership may pay an unaffiliated party for leasing services an amount not to exceed the compensation customarily charged in arm's-length transactions by persons rendering similar services as an on-going public entity in the same geographic location and for a comparable property. Provided further, that in the event the Partnership leases commercial or industrial properties on a long-term net basis (10 years or more), the maximum property management fee from such leases shall be 1% of the gross revenues from such Properties, except that the Partnership may also pay the General Partners or Affiliates a one time initial leasing fee of 3% of the gross revenues on such lease payable over the first five full years of the original term of lease. Property management services include the leasing or re-leasing of Partnership Properties and bookkeeping services for such Properties for which no separate fees will be paid to Affiliates but do not include the supervision of construction of capital improvements thereon or capital additions thereto, for which separate fees may be paid, nor the salaries of on-site personnel such as building managers, janitorial and maintenance personnel, who may be employees of the Partnership or independent contractors, or whose salaries may be reimbursed to the property manager. Affiliates may also be engaged to provide non-real estate related services such as legal, accounting, reporting and computer services. Services of Affiliates shall be on terms which are fair, reasonable and no less favorable to the Partnership than reasonably could be obtained from unaffiliated Persons. The validity of any transaction, agreement, or payment involving the Partnership and any Affiliate otherwise permitted by the terms of the Agreement shall not be affected by reason of the relationship between a General Partner(s) and such Affiliates. Property management services include the leasing or re-leasing of Partnership Properties and bookkeeping services for such Properties for which no separate fees will be paid to Affiliates but do not include the salaries of on-site personnel such as building managers, janitorial and maintenance personnel, who may be employees of the Partnership or independent contractors, or whose salaries may be reimbursed to the property manager.
- (f) The Partnership shall reimburse the General Partners or Affiliates for (i) all expenses incurred in the offering and sale of Interests to the public, including but not limited to sales commissions, printing costs, legal and accounting fees, registration fees, "blue sky" qualification expenses, travel, salaries of officers and employees of the General Partners while directly engaged in marketing, distributing, processing and establishing records of the Interests and establishing records and paying underwriters' commissions, and for any other Offering and Organizational Expenses incurred in the creation of the Partnership, and (ii) the actual cost to the General Partners or Affiliates of goods or materials used for or by the Partnership and obtained from entities unaffiliated with the General Partners.

- (g) The Partnership shall not make any loans to the General Partners or any Affiliate.
- (h) The validity of any transaction, agreement or payment involving the Partnership and the General Partners or any Affiliate thereof otherwise permitted by the terms of this Agreement shall not be affected by reason of the relationship between the Partnership or the General Partners and such Affiliate or the approval of said transaction, agreement or payment by the General Partners if the criteria for self-dealing are satisfied as specified in Section V.E.2 of the Statement of Policy for Real Estate Programs of the North American Securities Administrators Association, Inc. Provided, however, that the Partnership shall not pay, directly or indirectly, a commission or fee (except as permitted under Section IV of the Statement of Policy for Real Estate Programs of the North American Securities Administrators Association, Inc.) to a General Partner in connection with the reinvestment or distribution of the proceeds of resale, exchange, or refinancing of the Project. Furthermore, this Section 5.03(h) shall not be construed to permit any transactions, agreements or payments involving the Partnership and the General Partners or any Affiliate thereof except those expressly allowed under this Agreement.

5.04 General Restrictions on Authority of General Partners.

- (a) In exercising management and control of the Partnership, the General Partners, on behalf of the Partnership and in furtherance of the business of the Partnership, shall have the authority to perform all acts which the Partnership is authorized to perform. The General Partners shall not have any authority to:
 - (1) perform any act in violation of this Agreement or any applicable law or regulation thereunder;
 - (2) do any act required to be approved or ratified in writing by all Limited Partners under the Uniform Limited Partnership Act of the State of Idaho unless the right to do so is expressly otherwise given in this Agreement;
 - (3) sell or otherwise dispose of all or substantially all of the assets of the Partnership at any one time without the Consent of a majority in Interest of the Limited Partners except as provided herein. Provided, further, that the Limited Partners by affirmative vote of a majority in Interest of the Limited Partners may, without the Consent of the General Partners, sell or otherwise dispose of all or substantially all of the assets of the Partnership at any one time;
 - (4) borrow from the Partnership;
 - (5) elect to dissolve the Partnership without the Consent of a majority in Interest of the Limited Partners;
 - (6) do any act which would make it impossible to carry on the ordinary business of the Partnership;
 - (7) confess a judgment against the Partnership;
 - (8) possess Partnership property, or assign its rights in the Project, for other than a Partnership purpose;
 - (9) admit a Person as a General Partner, except as provided in this Agreement;
 - (10) knowingly perform any act that would subject any Limited Partner to liability as a general partner in any jurisdiction;
 - (11) invest in junior trust deeds or similar obligations, except that the Partnership may advance a portion of the purchase price of the Project to the seller in the form of a

loan, and except that junior trust deeds or similar obligations may be taken back from purchasers of the Project in connection with the sale thereof by the Partnership;

- (12) The Partnership shall not give the General Partners or Affiliates the exclusive right to sell property for the Partnership;
 - (13) The Partnership funds shall not be commingled with the funds of any other natural person, partnership, corporation, association or other legal entity except as necessary to the operation of any joint venture permitted hereunder; and
 - (14) Except as provided in Section 5.03(b), the Partnership shall not purchase, lease, or acquire any Property from the General Partners or Affiliates and the Partnership shall not lease or sell Property to any General Partner or any Affiliate.
- (b) The General Partners, in their capacity as general partners in any partnership or joint venture which may hold title to any Property, shall not do any act which would not be permitted under this Agreement to be done by them as General Partners unless the failure to so act would be a breach or default under any such partnership or joint venture where the General Partners as general partners have no control over such matters.

5.05 Management Obligations. In conducting the business of the Partnership, the General Partners shall be bound by and shall observe the following policies:

- (a) The Partnership shall obtain a written appraisal report signed by an independent appraiser prior to the purchase of any real property by the Partnership and shall not purchase any such real property if the cost of property (including a pro rata portion of Acquisition Fees which shall be attributable to such Property) exceeds the appraised value set forth in such report. All such appraisals, whether or not the real property which is the subject of such appraisal is purchased by the Partnership, shall be at the Partnership's expense or at the expense of the seller, shall be retained for five years and shall be available for inspection by Limited Partners;
- (b) The Partnership may invest in general partnerships or joint ventures with non-Affiliated Persons to acquire, own, construct or operate a particular Property. In each case, unless such restriction is waived under applicable state laws governing real estate syndications, the Partnership will acquire a controlling interest in any such joint venture or general partnership. The Partnership may also invest in partnerships or joint ventures with a partnership or program sponsored by the General Partners or Affiliates but only if (i) the Partnership or such Affiliated program or both of them together have a controlling interest in such other ventures or partnerships, (ii) there are no duplicate property management or other fees, (iii) such investment does not result in the impairment, abrogation or circumvention of any of the terms of this Agreement, and (iv) the investments are not in public or private limited partnerships or other real estate investment entities in which the Partnership is a passive investor and provided further that such investment or joint venture by the Partnership in or with such Affiliated program will be permitted only where the Partnership and such program or programs have identical investment objectives; share a common general partner whose compensation from such program and the Partnership are substantially identical; where investment by the Partnership and such programs are made on substantially the same terms; and where the General Partners on behalf of the Partnership, have a right of first refusal to purchase such Affiliated program's interest in such partnership, joint venture or similar investment if the Affiliated program proposes to sell such interest. Any investments of the Partnership with affiliated programs must be in conjunction with publicly registered affiliates in general partnership or joint ventures.

5.06 Delegation of Authority. The General Partners shall devote such time to the Partnership business as they, in their sole discretion, shall deem to be necessary to manage and supervise the Partnership business and affairs in an efficient manner and the General Partners may delegate all or any of their powers, rights and obligations hereunder. Nothing in this Agreement shall preclude the employment, at the expense of the

Partnership, of any agent or third party to manage or provide other services in respect of the Partnership subject to the control of the General Partners, including without limitation, Affiliates of the General Partners.

5.07 Other Activities. The General Partners shall not be required to manage the Partnership as their sole and exclusive function, and may have other business interests and may engage in other activities in addition to those relating to the Partnership, including the tendering of advice or services of any kind to other investors and the making or management of other investments, including the representation of other investors whose investments may be competitive with Partnership investments. Neither the Partnership nor any Partner shall have any right by virtue of this Agreement or the partnership relationship created hereby in or to such other ventures or activities; and the ventures, even if competitive with the business of the Partnership, shall not be deemed wrongful or improper.

5.08 Fiduciary Duty; Limitation on Liability of General Partners; Indemnification.

- (a) The General Partners shall have a fiduciary responsibility to the Limited Partners and the Partnership for the safekeeping and use of all funds and assets of the Partnership, whether or not in their immediate possession or control, and the General Partners shall not employ or permit another to employ such funds or assets in any manner except for the exclusive benefit of the Partnership. The General Partners shall not be permitted to contract away the fiduciary duty owed by them to the Limited Partners under the common law.
- (b) The General Partners and Affiliates shall have no liability to the Partnership or to any Partner for any loss suffered by the Partnership which arises out of any action or inaction of the General Partners or Affiliates if the General Partners or Affiliates, in good faith, determined that such course of conduct was in the best interest of the Partnership and such course of conduct did not constitute negligence or misconduct of the General Partners or Affiliates.
- (c) The General Partners and Affiliates shall not be indemnified by the Partnership against any losses, judgments, liabilities, expenses and amounts paid in settlement of any claims sustained by them in connection with the Partnership, unless (i) the General Partners determined in good faith that the course of conduct which caused the loss or liability was in the best interest of the Partnership, (ii) that such liability or loss was not the result of negligence or misconduct by the General Partners and (iii) such indemnification is recoverable only through the assets of the Partnership. Provided, further, that Affiliates of the General Partners shall not be indemnified by the Partnership against any losses, judgments, liabilities, expenses and amounts paid in settlement of any claims sustained by them in connection with the Partnership unless they were acting within the scope of the General Partners' authority as provided under this Agreement.
- (d) The Partnership shall not incur the cost of that portion of any insurance, other than public liability insurance, which insures any party against any liability the indemnification of which is herein prohibited.

5.09 Compensation of General Partners. The General Partners shall not in their capacity as General Partners receive any salary, fees, profits or distributions except profits, distributions and allocations to which they may be entitled under Article IV.

5.10 Tax Status of Partnership. The General Partners shall use their best efforts to meet such requirements of the Internal Revenue Code of 1954, as interpreted from time to time by the Internal Revenue Service, any other agency of the federal government, or the courts, necessary to assure that the Partnership will be classified as a partnership for federal income tax purposes.

ARTICLE VI

RIGHTS AMONG AND CHANGES IN GENERAL PARTNERS

6.01 Voting of General Partner. The General Partners shall have equal vote and authority in managing the Partnership and exercising the powers of the General Partners under this Agreement. The General Partners agree to use good faith in resolving any differences of opinion. Any irreconcilable differences shall be submitted to arbitration under the laws of the State of Idaho. It is further agreed that if the ownership of one of the General Partners, but not the other, changes by more than 50% from the ownership existing on the execution date of this Agreement, the General Partner whose ownership has not changed by 50% may, at its sole option, be named the managing General Partner and shall be exclusively entitled to all of the vote and authority conferred upon the General Partners by this Agreement; provided, however, that the rights of the General Partners to distributions, compensation, and allocation of income and loss shall not change.

6.02 Removal of General Partner.

- (a) Upon the affirmative vote of Limited Partners holding a two-thirds of the then outstanding Interests, any General Partner may be removed; provided, however, that this Section shall not become effective prior to the completion of the private placement of Interests. Before any written consent or affirmative vote for the removal of a General Partner may be taken written notice of the intent to take such action must first be given to such General Partner. That General Partner shall have fifteen (15) days from receipt of the written notice concerning such action to prepare whatever information that such General Partner wishes to be submitted to the Limited Partners. The request for written consent or affirmative vote, and the information prepared by the General Partner against whom the action is taken shall then be mailed to the Limited Partners, return receipt requested. The Limited Partners shall then have thirty (30) days from receipt to give their written consent or affirmative vote. A new General Partner may be elected by the written consent or affirmative vote of Limited Partners holding a majority of the then outstanding Interests within 60 days following the effective date of the occurrence of an event causing there to be no General Partner. The removal of a General Partner shall in no way derogate from any rights of such General Partner attributable to the period prior to the date of such removal. Notwithstanding the foregoing and any other provisions of this Agreement, the rights of the Limited Partners to remove a General Partner and to elect a new General Partner shall be subject to the provisions of Section 10.03.
- (b) In the event of the removal of any General Partner, its Interest as General Partner in the Partnership shall be appraised by the two independent appraisers, one selected by the removed General Partner and one by the Limited Partners. For the purposes of this Section 6.02(b) in appraising the Interest, the appraiser shall take into account the then present fair market value of the General Partner's Interest in cash distribution and allocations of profits and losses. In the event that such two appraisers are unable to agree on the value of the removed General Partner's Interest, they shall jointly appoint a third independent appraiser. Then, the determination of any two of the three, who agree on a value, shall be binding. In the event two cannot agree on a value, the three appraisals shall be averaged and the resulting value shall be binding. The Partnership shall pay the removed General Partner for the value of its Interest as so determined by delivery of an unsecured promissory note bearing interest at the rate of 10% per annum, with interest payable annually and principal payable if at all, from any cash distribution to which the removed General Partner otherwise would have been entitled to receive pursuant to this Agreement. Any such amount so received shall constitute full payment for all amounts owing to the removed General Partner on account of its Interest in the Partnership, but any fees or expenses accrued and owing and any loans due to such General Partner by the Partnership shall not be affected. The same method of value determination and payment as provided in this Section 6.02(b) for involuntary removal of a General Partner shall be used for the voluntary termination of a General Partner except that the promissory note shall be non-interest bearing. The cost of appraisal shall be borne equally by the terminated General Partner and the Partnership.

6.03 Admission of a Successor or Additional General Partner. A Person shall be admitted as a General Partner of the Partnership only if the following terms and conditions are satisfied:

- (a) the admission of such Person shall have been Consented to, or ratified, by such number of Limited Partners as are then required under the Uniform Limited Partnership Act of the State of Idaho to Consent to, or ratify, the admission of a general partner, but in any event, subject to Section 10.03, such admission shall have been Consented to by not less than a majority in Interest of the Limited Partners;
- (b) such Person shall have accepted and agreed to be bound by the terms and provisions of this Agreement, by executing a counterpart hereof, and such other documents or instruments as may be required or appropriate in order to effect the admission of such Person as a General Partner shall have been filed for recording, and all other actions required by law in connection with such admission shall have been performed;
- (c) if such Person is a corporation, it shall have provided the Partnership with evidence satisfactory to counsel for the Partnership of its authority to become a General Partner and to be bound by the terms and provisions of this Agreement; and
- (d) counsel for the Partnership or the Limited Partners, as the case may be, shall have rendered an opinion to the Partnership that the admission of such Person is in conformity with the Uniform Limited Partnership Act of the State of Idaho and that none of the actions taken in connection with the admission of such Person are in violation of such Uniform Limited Partnership Act, will impair the limited liability of the Limited Partners, will cause the termination or dissolution of the Partnership or will cause the Partnership to be classified other than as a partnership for Federal income tax purposes.

6.04 Consent of Limited Partners to Admission of Successor or Additional General Partner. Each of the Limited Partners by the execution of this Agreement Consents to the admission of any Person as a successor or additional General Partner to which at the time there has been given the express Consent of a majority in Interest of the Limited Partners. Upon receipt of such Consent of a majority in Interest of the Limited Partners, such admission shall, without any further Consent or approval of the Limited Partners, be the act of all the Limited Partners.

6.05 Effect of Dissolution, Bankruptcy, or Withdrawal of a General Partner.

- (a) The dissolution, Bankruptcy or withdrawal from the Partnership of a General Partner shall dissolve the Partnership unless within 60 days thereafter the remaining General Partner(s) shall elect to continue the Partnership business or if the remaining General Partner(s) do not so elect a majority in Interest of the Limited Partners may vote to continue the Partnership business. In the event of such election, the Partnership shall not be dissolved, but shall continue with the remaining General Partner(s) as with all rights, power and authority vested by this Agreement in the General Partners. In the event of the Bankruptcy, dissolution or withdrawal of a General Partner at any time during the life of the Partnership, the remaining General Partner(s) shall promptly give the Limited Partners Notice of the occurrence of an event constituting such Bankruptcy, dissolution or withdrawal and shall prepare such amendments of this Agreement and execute and file for recording such amendments or documents or other instruments necessary to reflect the assignment, transfer, termination or conversion (as the case may be) of the Interest of the Bankrupt, dissolved or withdrawn General Partner.
- (b) This is an Agreement under which applicable law excuses each Partner from accepting performance of management rights and duties from any other Partner which is a debtor in a case under the Bankruptcy Code, 11 U.S.C. Section 101 et seq., from a trustee of any such debtor and from the assignee of any such debtor or trustee. The Limited Partners have entered into this Partnership with the General Partners in reliance upon their expertise, unique experience and prior performance in similar ventures and the Limited Partners shall not be required to accept management performance from any Persons other than the General Partners, including without limitation, from any trustee of a General Partner appointed under the Bankruptcy Code, 11 U.S.C. Section 101 et seq., and any assignee of any such trustees.

ARTICLE VII

LIMITED PARTNERS RIGHTS; STATUS; TRANSFERABILITY OF INTERESTS

7.01 No Management or Control. The Limited Partners shall not participate in the management or control of the Partnership's business nor shall they transact any business for the Partnership in a manner that could be interpreted as taking part in "control" of the Partnership business in accordance with the Uniform Limited Partnership Act of the State of Idaho; nor shall they have the power to act for or bind the Partnership, said powers being vested solely and exclusively in the General Partners.

7.02 No Personal Liability. No Limited Partner shall have any personal liability whatever, whether to the Partnership, to any of the Partners or to the creditors of the Partnership, for the debts of the Partnership or any of its losses beyond the amount committed by him to the capital of the Partnership as set forth opposite his name in Schedule A, provided, however, that under applicable law a Limited Partner may be liable to the Partnership to the extent of previous distributions made to him, with interest, if the Partnership does not have sufficient assets to discharge its liabilities. No Limited Partner shall be required to lend any funds to the Partnership or, after his Capital Contribution has been fully paid, to make any further capital contribution to the Partnership. It is the intent of the Partners that no distribution of Cash Flow (or any part of any distribution) made to any Limited Partner hereunder shall be deemed a return or withdrawal of capital regardless of the treatment of such distribution for tax or accounting purposes, and that no Limited Partner shall be obligated to pay any such amount to or for the account of the Partnership or any creditor of the Partnership. If any court of competent jurisdiction holds, however, that, notwithstanding the provisions of this Agreement, any Limited Partner is obligated to make any such payment, such obligation shall be the obligation of such Limited Partner and not of the General Partners.

7.03 Effect of Death or Incapacity. The death or legal incapacity of a Limited Partner shall not cause a dissolution of the Partnership, but the rights of such Limited Partner to share in the profits and losses of the Partnership, to receive distributions of Partnership funds and to assign a Partnership Interest hereunder shall, on the happening of such an event, devolve upon his personal representative, or in the event of the death of one whose Limited Partnership Interest is held in joint tenancy, shall pass to the surviving joint tenant subject to the terms and conditions of this Agreement, and the Partnership shall continue as a limited partnership. The estate of the deceased Limited Partner or such surviving joint tenant, as the case may be, shall be liable for all the obligations of the deceased Limited Partner. However, in no event shall such personal representative or surviving joint tenant become a Substitute Limited Partner, except with the consent of the General Partners in accordance with the provisions hereof.

7.04 Restrictions on Transfer.

- (a) No Limited Partner may sell, transfer or assign in whole or in part his Interest if such sale, transfer or assignment would cause the termination of the Partnership for Federal income tax purposes.
- (b) Interests are transferable only on the books of the Partnership. A Limited Partner may transfer any or all of his Interests (not fractional Interests), by submitting to the General Partners an executed written instrument of transfer, in form and substance reasonably satisfactory to the General Partners and to the Partnership's counsel, the terms of which are not inconsistent with or contrary to any provisions of this Agreement. The General Partners may charge the actual costs of such transfer, not exceeding \$50.00, to defray the costs of effecting the transfer.
- (c) There shall be no restrictions on the assignment of Interests except as provided in this Article VII.

7.05 Recognition by Partnership of Transfers. In the event a Limited Partner transfers his Interests, such transfer shall be recognized by the Partnership for the purposes of distributing Cash Flow, Sale or Refinancing Proceeds and returns of capital and allocating profits and losses as of the day the General Partners receive the executed written instrument of transfer in form and substance satisfactory to the General Partners as specified in Section 7.04(b).

7.06 Admission of Substitute Limited Partners. Any transferee of Interests shall become a Substituted Limited Partner in place of his transferor and each admitted Partner by his execution of this Agreement does hereby Consent to such substitution when all of the following conditions are satisfied.

- (a) the fully executed written instrument of transfer has been submitted to the General Partners as provided in Section 7.04(b);
- (b) the transferor and the transferee have executed such other instruments as the General Partners deem necessary or desirable to effect such admission, including (1) an acceptance and adoption by the transferee of the provisions of this Agreement and (2) a power-of-attorney, the form and content of which shall be provided by the General Partners;
- (c) any transfer fee, referred to in Section 7.04(b) which has been charged has been paid in full; and
- (d) the Certificate of Limited Partnership has been amended to reflect the substitution of a Limited Partner. The General Partners shall be required to amend such Certificate to reflect the substitution of Limited Partners only quarterly.

7.07 Holders of Interests Who Are Not Limited Partners. A Person who is the holder of Interests but who has not been admitted as a Substituted Limited Partner as provided in Section 7.06 shall be entitled to the rights of a Limited Partner with respect to (a) allocations of profits and losses as provided in Sections 4.01 and 4.02, (b) distributions of Cash Flow and Sale or Refinancing Proceeds as provided in Sections 4.03 and 4.04, (c) repurchase of his Interests by the Partnership as provided in Section 7.09 and (d) transfer of his Interests as provided in Section 7.04(b). However, such holder of Interests shall not have any other rights of a Limited Partner under this Agreement other than the right to receive the reports specified by Article IX.

7.08 Right to Vote of Assignor Limited Partner. In the event a vote of the Limited Partners shall be taken pursuant to any provision of this Agreement or of the Uniform Limited Partnership Act, a Limited Partner, solely for the purpose of determining the number of votes to be cast by him, shall be deemed to be the holder of any Interests transferred by him to a transferee which has not become a Substituted Limited Partner.

ARTICLE VIII

DISSOLUTION AND LIQUIDATION

8.01 Events Causing Dissolution.

- (a) The happening of any one of the following events shall work immediate dissolution of the Partnership:
 - (1) the Bankruptcy, dissolution or withdrawal of the last General Partner unless, the Limited Partners elect to continue the business of the Partnership and elect a new General Partner hereunder;
 - (2) the sale of the Project (which shall include purchase money security interest);
 - (3) the agreement in writing to dissolve the Partnership by Limited Partners holding a majority of all the then outstanding Interests;
 - (4) the termination of the term of the Partnership hereunder;
 - (5) any other event causing the dissolution of the Partnership under the laws of the State of Idaho.

- (b) Dissolution of the Partnership shall be effective on the day on which the event occurs giving rise to the dissolution, but the Partnership shall not terminate until a Certificate of Cancellation of the Partnership shall be filed with the Secretary of State, State of Idaho, and the assets of the Partnership shall have been distributed as herein provided. Notwithstanding the dissolution of the Partnership, prior to the termination of the Partnership the business of the Partnership and the affairs of the Partners shall continue to be governed by this Agreement.

8.02 Liquidation.

- (a) In the event of the dissolution of the Partnership for any reason, the Liquidator shall commence to wind up the affairs of the Partnership and to liquidate its investments. The Limited Partners shall continue to share profits and losses during the period of liquidation in the same proportion as before the dissolution. The Liquidator shall have full right and unlimited discretion to determine the time, manner and terms of any sale or sales of Partnership property pursuant to such liquidation having due regard to the activity and condition of the relevant market and general financial and economic conditions.
- (b) Following the payment of all debts and liabilities of the Partnership, including loans made to the Partnership by any Partner, and all expenses of liquidation and subject to the right of the Liquidator to set up such cash Reserves as it may deem reasonably necessary for any contingent or unforeseen liabilities or obligations of the Partnership, the proceeds of the liquidation and any other funds of the Partnership shall be distributed (as Cash Flow or Sale or Financing Proceeds as the case may be) as herein provided.
- (c) Within a reasonable time following the completion of the liquidation of the Partnership's assets, the Liquidator shall supply to each of the Partners a statement which shall set forth the assets and the liabilities of the Partnership as of the date of complete liquidation, each Interest holder's pro rata portion of distributions and the amount paid to the General Partners.
- (d) Each Limited Partner shall look solely to the assets of the Partnership for all distributions with respect to the Partnership and his Capital Contribution thereto and share of profits or losses thereof and shall have no recourse therefor (upon dissolution or otherwise) against any General Partner or any Limited Partner.
- (e) Upon the completion of the liquidation of the Partnership and the distribution of all Partnership funds, the Partnership shall terminate and the Liquidator shall have the authority to execute and record a Certificate of Cancellation of the Partnership as well as any and all other documents required to effectuate the dissolution and termination of the Partnership.

ARTICLE IX

BOOKS OF ACCOUNT, RECORDS AND REPORTS

9.01 **Accounting Records.** Proper and complete records and books of account shall be kept under the direction of the General Partners in which shall be entered fully and accurately all transactions and other matters relating to the Partnership's business as are usually entered into records and books of account maintained by persons engaged in investments of a like character. The Partnership books and records shall be prepared in accordance with generally accepted accounting principles, consistently applied, and shall be kept on the accrual basis, except in circumstances where the General Partners determine that a cash basis of accounting will be in the best interest of the Partnership. The books and records shall at all times be maintained at the principal office of the General Partners or their duly authorized representatives and each Limited Partner shall have access to such books and records at any reasonable time for inspection and duplication. The Partnership shall furnish a list of names and addresses of and Interests held by all Partners to any Partner who requests such a list in writing, such cost to be borne by the requesting Partner.

9.02 **Fiscal Year.** The fiscal year of the Partnership shall end on the thirty-first day of December in each year.

9.03 **Partnership Funds: Bank Accounts.** The funds of the Partnership shall be deposited in such bank account or accounts, or invested in such interest-bearing or non-interest bearing investments, as shall be designated by the General Partners. Such funds shall not be commingled with funds of any other real estate limited partnership or other entity managed or advised by the General Partners or Affiliates. All withdrawals from any of such bank accounts shall be made by the duly authorized agent or agents of the General Partners.

ARTICLE X

AMENDMENT OF LIMITED PARTNERSHIP AGREEMENT: MEETINGS OF LIMITED PARTNERS

10.01 **Amendments by Limited Partners.** The General Partners may and, at the request of Limited Partners holding more than 10% of the Interests then outstanding, shall, submit to the Limited Partners, in writing by first class mail, the text of any proposed amendment to this Agreement and a statement by the proposer of the purpose of any such amendment. The General Partners shall include in any submission their views as to the proposed amendment. Any such amendment shall be adopted if, with 90 days after the mailing of such amendment to all Partners, the General Partners shall have received written approval (including a telegraph or telex message) thereof from Limited Partners holding more than 50% of the Interests then outstanding, provided, however, that if a meeting has been called under provision 10.04 hereof such vote shall be held at the meeting. A written approval may not be withdrawn or voided once it is filed with the General Partners. A Limited Partner filing a written objection may thereafter file a valid written approval. The date of adoption of an amendment pursuant to this Article X shall be the date on which the General Partners shall have received the requisite written approvals. Any proposed amendment which is not adopted may be resubmitted. In the event any proposed amendment is not adopted, any written approval received with respect thereto shall be void and shall not be effective with respect to any resubmission of the proposed amendment.

10.02 **Meetings.** Upon the written request of Limited Partners holding 30% or more of the then outstanding Interests, the General Partners shall call a meeting of the Limited Partners. Notice of such meeting shall be given within 10 days after, and the meeting shall be held within 60 days after, receipt of such request.

10.03 **Conditions to Actions and Votes of Limited Partners.** Notwithstanding the foregoing and any other provisions of this Agreement, the rights of the Limited Partners to remove a General Partner and to elect a new General Partner, dissolve the Partnership, amend the Partnership Agreement, to approve the substitution of another Project(s) for the one(s) specifically identified by this Agreement, and to approve the sale of all or substantially all of the Partnership's assets shall be null and void and of no effect or existence and shall not be exercisable until and unless prior to such exercise an opinion of counsel who is satisfactory to a majority in Interest of the Limited Partners has been obtained to the effect that the existence of such right or rights and their exercise will not adversely affect the status of the Limited Partners as limited partners of the Partnership or change the Partnership's status for Federal income tax purposes. For the purposes hereof, counsel will be deemed satisfactory to the Limited Partners if proposed by the General Partners and affirmatively approved within 45 days by a majority in Interest of the Limited Partners; provided, that if the holder of 20% or more of the outstanding Interests propose counsel for this purpose, such proposed counsel, and not counsel proposed by the General Partners shall be submitted for approval by the Limited Partners and will be deemed approved by the Limited Partners unless objected to in writing by a majority in Interest of Limited Partners within 45 days.

ARTICLE XI
GENERAL PROVISIONS

11.01 Power of Attorney.

- (a) The Limited Partners, by their execution hereof, jointly and severally hereby irrevocably constitute and appoint the General Partners and each of them individually with full power of substitution, their true and lawful attorney-in-fact, in their name, place and stead to make, execute, sign, acknowledge, record and file, on behalf of them and on behalf of the Partnership, the following:
- (1) A Certificate of Limited Partnership, a Certificate of Fictitious Name, and any other Certificates or instruments which may be required to be filed by the Partnership or the Partners under the laws of the State of Idaho and any other jurisdiction whose laws may be applicable;
 - (2) A Certificate of Cancellation of the Partnership and such other instruments or documents as may be deemed necessary or desirable by the General Partners upon the termination of the Partnership business;
 - (3) Any and all amendments of the instruments described in subsection 11.01(a)(1) and 11.01(a)(2) above, provided such amendments are either required by law to be filed, or are consistent with this Agreement (including, without limitation, any amendments admitting or substituting assignees of Interests as Limited Partners or admitting or substituting an additional or successor General Partner) or have been authorized by the particular Limited Partner or Partners;
 - (4) any and all such other instruments as may be deemed necessary or desirable by the General Partners to carry out fully the provisions of this Agreement in accordance with its terms.
- (b) The foregoing grant of authority:
- (1) is a Special Durable Power of Attorney coupled with an interest as provided under and governed by the laws of the State of Idaho, the state of organization and operation of the Partnership, is irrevocable and shall survive the death or subsequent disability or incapacity of the Limited Partner granting the power;
 - (2) may be exercised by the General Partners or any one of them on behalf of each Limited Partner by listing all of the Limited Partners executing any instrument with a single signature as attorney-in-fact for all of them; and
 - (3) shall survive the delivery of an assignment by a Limited Partner of the whole or any portion of his Interest.

11.02 Notices. All Notices and demands required or permitted under this Agreement shall be in writing and may (except in the event of a mail strike) be sent by certified mail, postage prepaid, to the Partners at their addresses as shown from time to time on the records of the Partnership. Any Partner may specify a different address by notifying the General Partners in writing of such different address.

11.03 Entire Agreement. This Agreement constitutes the entire agreement among the parties. It supersedes any prior agreement or understandings among them, and it may not be modified or amended in any manner other than as set forth herein.

11.04 Applicable Law. This Agreement and the rights, duties and obligations of the parties hereunder shall be governed by and interpreted in accordance with the laws of the State of Idaho and each party hereto

specifically agrees to the application of such laws to such party and its rights, duties, obligations and agreements, hereunder or arising out of the subject matter hereof.

11.05 Binding Provisions. Except as herein otherwise specifically provided, this Agreement shall be binding upon and inure to the benefit of the parties and their legal representatives, heirs, administrators, executors, successors and assigns.

11.06 Construction, Captions. Wherever from the context it appears appropriate, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in either the masculine, the feminine or the neuter gender shall include the masculine, feminine or neuter. Captions contained in this Agreement are inserted only as a matter of convenience and in no way define, limit or extend the scope or intent of this Agreement or any provision hereof.

11.07 Separability of Provisions. If any provision of this Agreement or the application of such provision to any Person or circumstance, shall be held invalid, the remainder of this Agreement or the application of such provision to Persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

11.08 Counterpart Execution. This Agreement may be executed in several counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. In addition, this Agreement may contain more than one counterpart of the signature page and this Agreement may be executed by the affixing of the signatures of each of the Partners to one of such counterpart signature pages; all of such counterpart signature pages shall be read as though one and they shall have the same force and effect as though all of the signers had signed a single signature page.

11.09 Consent to Jurisdiction. As a material inducement to allowing a Limited Partner to purchase the Limited Partnership Interest and become a Limited Partner, each Limited Partner further consents that: (a) all actions or proceedings arising directly, indirectly or otherwise in connection with, out of, or related to this Agreement shall, at the Partnership's discretion, be litigated only in courts located in the State of Idaho, and (b) each Limited Partner (i) consents and submits to the in personam jurisdiction of any State or Federal Court located within said State; (ii) waives any right to transfer or change the venue of litigation brought against or by a Limited Partner; and (iii) agrees to service of process, to the extent permitted by law, by mail.


IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the 1st day of March, 1990.

GENERAL PARTNERS:

DBSI Housing Inc., an Idaho Corporation

By: 
Douglas L. Swenson, President

DBSI Realty Partners,
an Idaho general partnership

By: 
Mark A. Ellison, a general partner

INITIAL LIMITED PARTNER:

DBSI PACIFIC INCOME & GROWTH FUND - II
A Real Estate Limited Partnership

By: DBSI Housing Inc., a general partner


By:


Douglas L. Swenson, President

STATE OF IDAHO, County of Ada, ss.

On this 16 day of March, 1994, before me, a Notary Public in and for said State, personally appeared DOUGLAS L. SWENSON, known to me to be the President of the above named corporation, and that he, as such officer, being authorized so to do, executed the foregoing instrument.

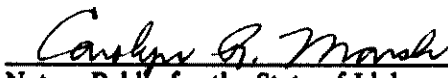
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.


Notary Public for the State of Idaho
Residence: Boise, Idaho
My commission expires Feb. 1, 1994

STATE OF IDAHO, County of Ada, ss.

On this 16 day of March, 1994, before me, a Notary Public in and for said State, personally appeared MARK A. ELLISON known to me to be a General Partner of DBSI Realty Partners, an Idaho general partnership, and that he, as such General Partner, being authorized so to do, executed the foregoing instrument in said partnership name.

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


Notary Public for the State of Idaho
Residence: Boise, Idaho
My commission expires Feb. 1, 1994

STATE OF IDAHO, County of Ada, ss.

On this 16 day of March, 1978, before me, a Notary Public in and for said State, personally appeared DOUGLAS L. SWENSON, known to me to be the President of DBSI Housing Inc., a general partner of DBSI PACIFIC INCOME & GROWTH FUND -II A Real Estate Limited Partnership, and that he, as such officer, being authorized so to do, executed the foregoing instrument.

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

Caryn B. Marsh
Notary Public for the State of Idaho
Residence: Boise, Idaho
My commission expires Feb. 1, 1994

SCHEDULE A

WEATHERSTONE LIMITED PARTNERSHIP

SCHEDULE OF PARTNERS

The names, addresses and Capital Contributions of the General Partners are as follows:

GENERAL PARTNERS

NAME	ADDRESS	CAPITAL CONTRIBUTION
DBSI Housing Inc.	1070 North Curtis Road Suite 270 Boise, Idaho 83706	None
DBSI Realty Partners	1070 North Curtis Road Suite 270 Boise, Idaho 83706	None

The name, address and Capital Contributions of the Limited Partner are as follows:

LIMITED PARTNER

NAME	ADDRESS	CAPITAL CONTRIBUTION
DBSI PACIFIC INCOME & GROWTH FUND - II A Real Estate Limited Partnership	1070 North Curtis Road Suite 270 Boise, Idaho 83706	\$1,000,000

SCHEDULE B

Legal Description

PARCEL I:

That portion of the Northwest quarter of the Northwest quarter of Section 26, Township 25 North, Range 1 East, W.M., in Kitsap County, Washington, described as follows:

Beginning at the Northwest corner of said Section 26; thence South 00 Degrees 43 Minutes 37 Seconds West along the West line of said Section, a distance of 125.02 feet; thence South 88 Degrees 17 Minutes 26 Seconds East, a distance of 30.00 feet to a point on the Easterly right of way margin of South Central Valley Road at the Southwest corner of Lot 147 of the Plat of "Parkwood East, Divisions 5 and 6", as recorded in Volume 16 of Plats, Pages 26 and 27, records Kitsap County, Washington; thence South 88 Degrees 17 Minutes 26 Seconds East along the Southerly line of said plat, a distance of 847.86 feet to a point on the Easterly right of way margin of Ryan Drive, from which the Southwest corner of Lot 130 of said Plat of "Parkwood East, Divisions 5 and 6" bears South 88 Degrees 17 Minutes 26 Seconds East, a distance of 5.00 feet and being the True Point of Beginning; thence continuing South 88 Degrees 17 Minutes 26 Seconds East along the Southerly line of said Plat, a distance of 275.99 feet to the Southeast corner of Lot 128 of said plat; thence the following courses along said plat: South 81 Degrees 00 Minutes 02 Seconds East, a distance of 65.00 feet; thence South 55 Degrees 00 Minutes 02 Seconds East, a distance of 61.00 feet; thence South 44 Degrees 43 Minutes 04 Seconds East, a distance of 71.52 feet to the Northwest corner of the Plat of "Parkwood East, Divisions 2 and 3" as recorded in Volume 15 of Plats, Pages 68 and 69, records of Kitsap County, Washington; thence South 00 Degrees 50 Minutes 11 Seconds West along the Westerly line of said Plat of "Parkwood East, Divisions 2 and 3", a distance of 165.00 feet to the Northwest corner of Lot 104 of said plat; thence North 89 Degrees 09 Minutes 52 Seconds West, a distance of 45.00 feet; thence South 00 Degrees 50 Minutes 11 Seconds West, a distance of 99.60 feet; thence North 84 Degrees 59 Minutes 55 Seconds East, a distance of 45.23 feet to the Southwest corner of Lot 104 of said Plat of "Parkwood East, Divisions 2 and 3"; thence South 00 Degrees 50 Minutes 11 Seconds West along the Westerly line of said Plat, a distance of 40.21 feet to the Northwest corner of Lot 103 of said plat; thence South 84 Degrees 59 Minutes 55 Seconds West, a distance of 45.23 feet; thence South 00 Degrees 50 Minutes 11 Seconds West parallel with and 45.00 feet Westerly of said Plat of "Parkwood East, Divisions 2 and 3", a distance of 341.55 feet to a point on the Westerly prolongation of the Southerly line of Lot 91 of said plat; thence South 89 Degrees 09 Minutes 49 Seconds East along said prolongation a distance of 45.00 feet to the Southwest corner of said Lot 91; thence South 00 Degrees 50 Minutes 11 Seconds West along the Westerly line of said plat, a distance of 40.00 feet to the Northwest corner of Lot 90 of said plat; thence North 89 Degrees 09 Minutes 49 Seconds West, a distance of 170.00 feet; thence North 60 Degrees 59 Minutes 52 Seconds West, a distance of 36.00 feet; thence South 88 Degrees 45 Minutes 08 Seconds West, a distance of 240.00 feet; thence North 31 Degrees 47 Minutes 16 Seconds West, a distance of 210.26 feet to a point on the Easterly right of way margin of Ryan Drive, said point being on a curve to the left; thence in a Northerly direction along said Easterly right of way margin along said curve to the left from which the radial point bears North 41

SCHEDULE B

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Degrees 31 Minutes 25 Seconds West, having a radius of 330.00 feet, through a central angle of 46 Degrees 46 Minutes 01 Seconds, an arc distance of 269.36 feet to a point of tangency; thence North 01 Degrees 42 Minutes 34 Seconds East, a distance of 360 feet, more or less, to the True Point of Beginning.

PARCEL II:

That portion of the Northwest quarter of the Northwest quarter of Section 26, Township 25 North, Range 1 East, W.M., in Kitsap County, Washington, described as follows:

Beginning at the Northwest corner of said Section 26; thence South 00 Degrees 43 Minutes 37 Seconds West along the West line of said Section, a distance of 125.02 feet; thence South 88 Degrees 17 Minutes 26 Seconds East, a distance of 30.00 feet to a point on the Easterly right of way margin of South Central Valley Road at the Southwest corner of Lot 147 of the Plat of "Parkwood East, Divisions 5 and 6", as recorded in Volume 16 of Plats, Pages 26 and 27, records Kitsap County, Washington; thence South 00 Degrees 43 Minutes 37 Seconds West along said Easterly right of way margin, a distance of 1169.87 feet to the intersection with the Northerly right of way margin of Fairgrounds Road; thence South 88 Degrees 20 Minutes 03 Seconds East along said Northerly right of way margin, a distance of 1287.49 feet to the Southwest corner of the Plat of "Parkwood East, Divisions 2 and 3", as recorded in Volume 15 of Plats, Pages 68 and 69, records of Kitsap County, Washington, and being the True Point of Beginning; thence North 88 Degrees 20 Minutes 03 Seconds West along the aforesaid Northerly right of way margin, a distance of 881.60 feet to a point on the Easterly right of way margin of Ryan Drive; thence North 01 Degrees 39 Minutes 47 Seconds East along said Easterly right of way margin, a distance of 196.66 feet to a point of curve; thence along a curve to the right having a radius of 290.00 feet, through a central angle of 56 Degrees 32 Minutes 47 Seconds, an arc distance of 286.21 feet to a point of tangency; thence North 58 Degrees 12 Minutes 34 Seconds East, a distance of 173.00 feet to a point of curve; thence along a curve to the left having a radius of 330.00 feet, through a central angle of 09 Degrees 43 Minutes 59 Seconds an arc distance of 56.06 feet; thence leaving said Easterly right of way margin, South 31 Degrees 47 Seconds 16 Minutes East, a distance of 210.26 feet; thence North 88 Degrees 45 Minutes 08 Seconds East, a distance of 240.00 feet; thence South 60 Degrees 59 Minutes 52 Seconds East, a distance of 36.00 feet; thence South 89 Degrees 09 Minutes 49 Seconds East, a distance of 125.00 feet; thence South 00 Degrees 50 Minutes 11 Seconds West parallel with and 45.00 feet and Westerly of said Plat of "Parkwood East, Divisions 2 and 3", a distance of 90.29 feet; thence South 89 Degrees 09 Minutes 49 Seconds East, a distance of 45.00 feet to the Southwest corner of Lot 90 of said Plat of "Parkwood East, Divisions 2 and 3"; thence South 00 Degrees 50 Minutes 11 Seconds West along the Westerly line of said plat, a distance of 301.17 feet, more or less, to the True Point of Beginning;

EXCEPT that portion conveyed by Auditor's File No. 8904260017;

EXCEPT that portion conveyed by Auditor's File No. 8904260018;

AND EXCEPT that portion conveyed by Auditor's File No. 8905260084.