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SECRETARY OF  
STATE

STATEMENT OF LIMITED PARTNERSHIP

Pursuant to the Uniform Limited Partnership Law as adopted in the State of Idaho found in Chapter 2, Title 53, Idaho Code, as amended, the undersigned does hereby sign and swear to this statement in accordance with §53-233.3 and states as follows:

1. The name of the limited partnership to which this Statement applies is National Pacific Real Estate Fund II, a California limited partnership.

2. A copy of the Certificate of Limited Partnership and all amendments thereto of National Pacific Real Estate Fund II, certified by the official with which the original is filed in the State of California which is the state in which the limited partnership is organized is attached hereto.

3. Elmore County, Idaho is the name of the county in the State of Idaho in which National Pacific Real Estate Fund II, a limited partnership, first filed a certified copy of its Certificate of Limited Partnership and such filing was on May 12, 1981.

4. The name and address of the registered agent for service of process on National Pacific Real Estate Fund II, a California limited partnership, is as follows:

Paul L. Westberg, Esq.  
733 North 7th  
Boise, Idaho 83701

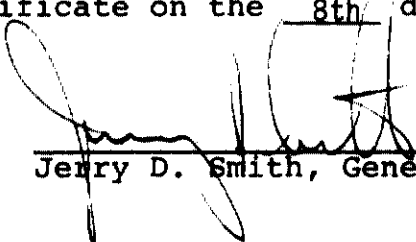
5. That the address of the office of National Pacific Real Estate Fund II in the State of California, the state of its organization, is:

National Pacific Investors Corporation  
1528 Chapala Street  
P. O. Box 3497  
Santa Barbara, California 93105

6. With regard to other pertinent information concerning the limited partnership reference is made to the Certificate of Limited Partnership dated May 8, 1981, recorded on

May 12, 1981, as instrument number 202111 official records of Elmore County, State of Idaho, together with the Supplement thereto dated January 25, 1982 recorded on February 5, 1982, as instrument number 206930 records of Elmore County, State of Idaho copies of which are attached hereto.

IN WITNESS WHEREOF the undersigned has signed and sworn to the above Certificate on the 8th day of March, 1982.

  
\_\_\_\_\_  
Jerry D. Smith, General Partner

VERIFICATION

STATE OF California )  
          Santa ) ss.  
County of Barbara )

Jerry D. Smith, of lawful age being first duly sworn, states as follows:


That he is a General Partner of National Pacific Real Estate Fund II.

That he has read the foregoing Statement of Limited Partnership, knows the contents thereof and that the facts contained therein are true and correct to the best of his knowledge and belief.

DATED this 8th day of March, 1982.

  
\_\_\_\_\_  
Jerry D. Smith

SUBSCRIBED AND SWORN to before me this 8th day of March, 1982.

  
\_\_\_\_\_  
Notary Public for California  
Residing at Santa Barbara



NATIONAL PACIFIC REAL ESTATE  
FUND II  
AGREEMENT AND CERTIFICATE OF  
LIMITED PARTNERSHIP  
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NATIONAL PACIFIC REAL ESTATE  
FUND II

FIRST AMENDED AGREEMENT AND CERTIFICATE  
OF  
LIMITED PARTNERSHIP

This First Amended Agreement and Certificate of Limited Partnership ("Partnership Agreement") is entered into this 8<sup>TH</sup> day of February, 1980, by and between Jerry D. Smith, as a General Partner, National Pacific Management Company, a California corporation, as a General Partner in the place and stead of National Pacific Investors, Corp., and Jerry D. Smith as the original Limited Partner, all of whom desire to amend and restate in its entirety the Agreement and Certificate of Limited Partnership as originally entered into by Jerry D. Smith and National Pacific Investors, Corp. on December 27, 1979.

The amended agreement of the Partners is as follows:

1. Name and Place of Business

The name of the Partnership is National Pacific Real Estate Fund II, and its principal place of business is 1528 Chapala Street, Santa Barbara, California 93105, or such other place or places as the General Partners may hereafter determine.

2. Definition and Glossary of Terms

The following words and terms having their first letter capitalized in this Partnership Agreement shall (unless otherwise expressly provided herein or unless the context otherwise requires) have the following respective meanings:

2.1 "Acquisition Fees" shall mean the total of all fees and commissions paid by any person to any person, including any Sponsor, in connection with the selection, purchase, construction, development, or initial operation of any property by the Partnership, whether designated as a real estate commission, acquisition fee, selection fee, non-recurring management or start-up fee, development fee, construction fee, investment advisory fee, or any fee of a similar nature, however designated, except a construction fee or development fee paid to a person other than the Sponsor in connection with the actual development of, or construction of improvements on, land after the acquisition thereof by the Partnership.

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2.2 "Adjusted Invested Capital" of a Limited Partner shall mean the Original Invested Capital attributable to his Units, reduced by the total Distributions of Cash From Sale or Refinancing to such Limited Partner and to other Holders of his Units.

2.3 "Affiliate" shall refer to: (i) any person directly or indirectly controlling, controlled by or under common control with another person; (ii) a person owning or controlling 10 percent or more of the outstanding voting securities of such other person; (iii) any officer, director or partner of such person; and (iv) if such other person is an officer, director or partner, any company for which such person acts in any capacity.

2.4 "Agreement" or "Partnership Agreement" shall mean this First Amended Agreement and Certificate of Limited Partnership, as amended from time to time.

2.5 "Assignee" shall mean a person who has acquired a beneficial interest in one or more Units from a Limited Partner but who himself has not been admitted to the Partnership as a Limited Partner.

2.6 "Assignee of Record" shall mean an Assignee who has acquired a beneficial interest in one or more Units, as evidenced by a written instrument of assignment the effective date of which has passed, and whose ownership of such Units has been recorded on the books of the Partnership but who has not been admitted to the Partnership as a Limited Partner.

2.7 "Cash From Operations" shall mean cash funds provided from operations, including lease payments on net leases, without deduction for depreciation, but after deducting cash funds used to pay all other expenses, debt payments, capital improvements and replacements.

2.8 "Cash From Sale or Refinancing" shall mean the net cash realized by the Partnership from the sale, refinancing or other disposition of any Partnership Property after retirement of affected mortgage debt and all expenses related to the transaction, and cash from any other source other than Cash From Operations.

2.9 "Closing Date" shall mean December 31, 1981, or such earlier or later date or dates as may be designated by the General Partners.

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2.10 "Code" shall mean the Internal Revenue Code of 1954, as amended from time to time, or corresponding provisions of subsequent revenue laws.

2.11 "Cost of Partnership Property" with respect to each Partnership Property shall mean the total consideration paid for federal income tax purposes by the Partnership in connection with the purchase of such Property, either in cash or by way of promissory notes, including payments for attorney's and accounting fees, closing costs, financing charges, and any other such expenses incurred in connection with such transaction. Reference to "Cost of All Partnership Properties" shall be the total of such consideration paid by the Partnership for all Partnership Properties.

2.12 "Distributions" shall refer to any cash or other property distributed to Partners or other Holders of Units arising from their interests in the Partnership, but shall not include any payments to the General Partners made under the provisions of Paragraph 9 or 10 of this Partnership Agreement.

2.13 "General Partners" shall refer to Jerry D. Smith and National Pacific Management Company, a California corporation, or to any other persons or entities who succeed them in that capacity.

2.14 "Gross Proceeds" shall mean the aggregate total of the Original Invested Capital of the original and all of the additional Limited Partners, and any amounts contributed by the General Partners to the capital of the Partnership.

2.15 "Gross Property Revenues" shall mean all revenues derived from the operation of Partnership Properties including but not limited to leave or rental revenues amounts received from the operation of concessions thereon, amounts received from the sale of agricultural products and any other revenues derived from the operations of the Partnership Properties except refundable security deposits paid by lessees thereof. The term "Gross Property Revenues" shall not include revenues derived from the sale, refinancing, or other disposition of Partnership Properties.

2.16 "Holders" shall refer to owners of Units who are either Partners, Assignees or Assignees of Record, and reference to a "Holder" shall be to any one of them.

2.17 "Limited Partners" shall refer to the original Limited Partner, and to any other persons or entities who are admitted to the Partnership as additional or substituted

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Limited Partners. Reference to a "Limited Partner" shall refer to any one of them.

2.18 "Majority Vote" shall mean the vote of Limited Partners who own more than 50 percent of the Total Outstanding Units entitled to vote.

2.19 "Manager" shall mean National Pacific Realty Corporation, a California corporation and an Affiliate of the General Partners.

2.20 "National Pacific" shall mean National Pacific Management Company, a California corporation, and a General Partner of the Partnership.

2.21 "Net Income" or "Net Loss" shall mean the net income or net loss of the Partnership, as determined on the accrual method of accounting, in accordance with generally accepted accounting principles.

2.22 "Net Proceeds" shall mean the Gross Proceeds less Organization and Offering Expenses and Underwriting Commissions payable to National Pacific pursuant to Paragraph 9.2 of this Partnership Agreement.

2.23 "Organization and Offering Expenses" shall mean those expenses incurred in connection with organizing and forming the Partnership and in providing for the qualification and subsequent offering and distribution of Units, including but not limited to legal and accounting fees, printing costs, filing fees, and travel and other costs incurred in connection therewith, exclusive of Underwriting Commissions payable to the General Partners or their Affiliates pursuant to Paragraph 9.2 of this Partnership Agreement.

2.24 "Original Invested Capital" of the Limited Partners shall mean the amount in cash contributed by the original and each additional Limited Partner to the capital of the Partnership for their Units, which amounts shall be attributed to such Units in the hands of subsequent Holders.

2.25 "Partners" shall refer collectively to the General Partners and to the Limited Partners, and reference to a "Partner" shall be to any one of the Partners.

2.26 "Partnership" shall refer to the limited partnership created under this Partnership Agreement.

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2.27 "Partnership Agreement" or "Agreement" shall mean this Agreement and Certificate of Limited Partnership, as amended from time to time.

2.28 "Partnership Properties" or "Properties" shall refer to all properties or any interest therein acquired directly or indirectly by the Partnership, in whole or in part. Reference to "Partnership Property" or "Property" shall be to any one of them.

2.29 "Sponsor" shall mean any person directly or indirectly instrumental in organizing, wholly or in part, the Partnership or who will manage or participate in the management of the Partnership including the General Partners and their Affiliates, but excluding: (i) any non-affiliated person whose only relationship with the Partnership or the General Partners is that of an independent property manager whose only compensation from the Partnership is as such; and (ii) non-affiliated third parties such as attorneys, accountants, and underwriters whose only compensation from the Partnership is for professional services rendered in connection with the offering of Units or with the operations of the Partnership.

2.30 "Total Outstanding Units" shall mean all Units issued and outstanding as determined with respect to any given date.

2.31 "Total Partnership Revenues" shall mean the total of the revenues received by the Partnership from all sources for federal income tax purposes, including rent revenues, other operating revenues, revenues from the sale or other disposition of Partnership Properties, and revenues from any other source, without deduction for costs or expenses incurred in connection therewith.

2.32 A "Unit" shall represent a capital contribution of \$500 to the Partnership and shall entitle the Holder thereof to an interest in the Net Income, Net Loss, and Distributions of the Partnership, without regard to capital accounts, subject to the terms of this Partnership Agreement. There shall be only one class of Units.

### 3. Business, Purpose and Business Limitations

3.1 The primary purpose (character of business) of the Partnership is to invest in, hold and manage income-producing real property which is improved or which will be improved within a reasonable period after acquisition, with emphasis upon the acquisition of existing apartment complexes, shopping centers.

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industrial buildings, commercial properties, and agricultural properties located in the United States. The Partnership may enter into ventures, partnerships, and other business arrangements with respect to real estate in order to carry out its objectives, subject to Paragraph 15.3 of this Agreement.

3.2 The Partnership shall maintain a cash reserve equal to at least 5 percent of the Net Proceeds which, in the discretion of the General Partners, may be invested in an interest-bearing account with a commercial lending institution. Upon the sale of any Partnership Property, the prorata amount of the cash reserve applicable to such Property may at the discretion of the General Partners be distributed to the Limited Partners. Any Net Proceeds not utilized as cash reserves and not invested in Partnership Properties within 2 years after the Closing Date shall be distributed prorata to the Partners as a return of capital.

#### 4. Term

The Partnership commenced in December, 1979, on the date of recordation of the original certificate of limited partnership, as more fully described in the preamble of this Partnership Agreement, and shall continue until December 31, 2020, unless previously terminated in accordance with the provisions of this Partnership Agreement.

#### 5. General Partners

Jerry D. Smith and National Pacific, as General Partners, shall not receive any Units as General Partners but shall each receive 1/2 of the 1 percent interest in the Net Income, Net Loss, and Distributions of the Partnership which is provided to the General Partners pursuant to Paragraph 11 of this Partnership Agreement. For such interest as General Partners, on or before the Closing Date, Jerry D. Smith and National Pacific shall each contribute cash in an amount which shall cause each of them to have contributed not less than one-half of one percent of the Gross Proceeds.

#### 6. Original and Additional Limited Partners

6.1 Jerry D. Smith, as the original Limited Partner, has contributed the sum of \$1,000 in cash to the capital of the Partnership and has received 2 Units therefor.

6.2 The Partnership intends to issue not less than 2,400 nor more than 40,000 additional Units, and to admit as additional Limited Partners the persons who contribute the requisite amount of cash to the capital of the Partnership for such Units. All amounts received will be deposited with a bank qualified to do

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business in California and, if a minimum of 2,400 additional Units has not been sold on or before the Closing Date, all amounts received will be returned, together with interest earned thereon, if any. Subsequent to the time that a minimum of 2,400 additional Units has been sold, amounts deposited in such bank shall be released to the Partnership to be used for Partnership purposes, and all amounts thereafter received from the sale of additional Units shall be deposited directly in the account of the Partnership to be utilized for Partnership purposes.

6.3 Each person who acquires any such additional Units shall become a Limited Partner at such time as he has: (i) purchased 5 or more Units; (ii) contributed the sum of \$500 in cash for each Unit purchased; and (iii) executed and filed with the Partnership a written instrument which sets forth an intention to become a Limited Partner and requests admission to the Partnership in that capacity, together with such other instruments as the General Partners may deem necessary or desirable to effect such admission, including the written acceptance and adoption by such person of the provisions of this Partnership Agreement and the execution, acknowledgement and delivery to the General Partners of a special power of attorney, the form, style and content of which are more fully described herein.

6.4 The General Partners or their Affiliates may purchase Units for the same price and upon the same terms as all other Limited Partners for such reason as may be deemed appropriate by the General Partners or their Affiliates, including but not limited to causing the Partnership to have sold a minimum of 2,400 Units or for affecting the timing thereof. In such event, the General Partners or their Affiliates shall be admitted to the Partnership as Limited Partners with respect to such Units and shall have all rights as Limited Partners which are appurtenant thereto, including but not limited to the right to vote on certain Partnership matters as provided for in this Partnership Agreement and to receive allocations of Net Income, Net Loss and Distributions attributable to the Units purchased by them.

6.5 The General Partners shall amend this Partnership Agreement and any separate certificate of limited partnership filed for record to reflect the admission of additional Limited Partners not later than 15 days after the release from the trust account of amounts received from the sale of Units, as provided for by Paragraph 6.2 of this Partnership Agreement. Thereafter, this Partnership Agreement and any separate certificate of limited partnership shall be amended to reflect the addition of Limited Partners not later than the last day of the calendar month following the date that their offer to purchase Units is

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accepted by the Partnership. All offers to purchase Units shall be accepted or rejected by the Partnership within 30 days of their receipt and, if rejected, associated monies immediately returned.

**7. Status of Limited Partners**

Limited Partners shall not be bound by, or be personally liable for, the expenses, liabilities or obligations of the Partnership.

**8. Status of Units**

Each Unit, when issued, shall be fully paid and non-assessable.

**9. Compensation to General Partners**

9.1 The General Partners and their Affiliates will receive compensation only as specified in this Partnership Agreement.

9.2 Underwriting Commissions. National Pacific and its Affiliates shall be entitled to receive Underwriting Commissions in an amount equal to 8 percent of the aggregate sales price of all Units sold by the Partnership. Underwriting Commissions are intended to compensate National Pacific and its Affiliates for their services in marketing Units on behalf of the Partnership. National Pacific or its Affiliates may, at their own expense and at no additional expense to the Partnership, pay Underwriting Commissions, securities sales commissions and finder's or referral fees to unaffiliated persons or entities for their services in marketing Units on behalf of the Partnership; provided, however, that in no event shall the amount of Underwriting Commissions and any such underwriting, finder's or referral fees paid by National Pacific or its Affiliates to any person or entity exceed an amount equal to 10 percent of the purchase price of all Units sold thereby.

**9.3 Acquisition Fees**

9.3.1 In connection with the acquisition of a Partnership Property, National Pacific shall be entitled to receive from the sellers thereof and not from the Partnership, Acquisition Fees in a maximum amount not to exceed the lesser of: (i) 18 percent of that portion of the Gross Proceeds applicable to such Partnership Property; (ii) the amount customarily charged by unaffiliated parties rendering similar real

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estate brokerage services as an on-going public activity in the same geographic locale; or (iii) 6 percent of the Cost of Partnership Property of such Property.

9.3.2 Except as set forth in this Paragraph 9, no other Acquisition Fee, real estate commission, property purchase fee, finder's fee or other compensation shall be paid or payable to National Pacific or to any other person in connection with the acquisition of Partnership Properties; provided, however, that National Pacific may, at its own expense and at no expense to the Partnership, pay Acquisition Fees to other persons in such amount as may be deemed appropriate by National Pacific, even if in excess of the limitations set forth in this Paragraph 9.

9.4 Property Management Fee. National Pacific Realty Corporation, as Manager, shall receive a Property Management Fee, payable monthly in advance and equal to the lesser of: (i) 5 percent of the Gross Property Revenues; or (ii) the amount customarily charged by unaffiliated persons rendering comparable services in the same geographic locale. In the event National Pacific Realty Corporation retains third parties to perform all or a portion of property management services, it will be solely responsible for any fees charged by such persons and shall pay them at its own expense without additional cost to the Partnership.

Property management services to be provided by Manager include but are not limited to: (i) overall supervision of the operation, maintenance, and repair of the Partnership Properties; (ii) review of rental schedules and making recommendations with respect thereto; (iii) selection and supervision of on-site management personnel and employers; and (iv) periodic physical inspection of Partnership Properties. Property management services to be provided by National Pacific Realty Corporation do not include the providing of on-site property managers or the initial rent-up, leasing or re-leasing of Partnership Properties, for which the Partnership may be required to pay separate fees to unaffiliated parties.

9.5 Partnership Management Fee. National Pacific shall receive a Partnership Management Fee equal to 10 percent of all Distributions of Cash From Operations, payable as such Distributions are made, as compensation for its services in managing the Partnership.

Partnership management services to be provided by National Pacific include but are not limited to: (i) overall supervision of the Partnership and its business;

(ii) the maintenance of the books and records of the Partnership; (iii) payment of operating cash disbursements of the Partnership, including taxes and debt service requirements; (iv) preparation and dissemination of Partnership reports.

**9.6 Mortgage Brokerage Commission.** National Pacific or an Affiliate shall be entitled to receive a Mortgage Brokerage Commission on the financing of any Partnership Property which is financed 2 years or more after the Closing Date with financing obtained by National Pacific or an Affiliate for or on behalf of the Partnership. The amount of any such Mortgage Brokerage Commission shall be limited to the amount customarily charged in arm's-length transactions by unaffiliated parties rendering similar services as an on-going activity in the same geographic locale, but in no event shall the total amount of Mortgage Brokerage Commissions payable to National Pacific or its Affiliate exceed an amount equal to 2 percent of the principal amount of any loan so obtained. No Mortgage Brokerage Commission will be paid on the initial acquisition of Partnership Properties, nor in connection with any financing or refinancing of Properties which occurs within 2 years after the Closing Date.

Mortgage brokerage services to be provided by National Pacific or its Affiliate may include, but are not limited to, (i) the preparation of financing packages for presentation to lenders; (ii) negotiation with commercial lenders on such financing; and (iii) documentation and closing of such financing.

**9.7 Subordinated Incentive Interest.** National Pacific shall receive a Subordinated Incentive Interest equal to 15 percent of any Cash From Sale or Refinancing remaining after the Partnership has distributed to the Limited Partners an aggregate amount of Cash From Sale or Refinancing which is equal to the sum of: (i) their Original Invested Capital; plus (ii) an amount which, when added to all prior Distributions from any source received by them, shall be equal to a 6 percent per annum cumulative return on their Adjusted Invested Capital. Notwithstanding the foregoing, all or a portion of the Subordinated Incentive Fee may be paid prior to such amounts being distributed to the Limited Partners if and to the extent subsequently permitted under applicable regulatory requirements. The Subordinated Incentive Interest is intended to provide an incentive to National Pacific for its performance on behalf of the Partnership.

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9.8 Subordinated Real Estate Commission. National Pacific shall be entitled to a Subordinated Real Estate Commission on the sale of each Partnership Property equal to one-half the amount of the maximum permissible Acquisition Fee which could have been paid to National Pacific pursuant to Paragraph 9.3 of this Partnership Agreement if Acquisition Fees were in fact paid upon the acquisition of such Property but, if no Acquisition Fees were paid to National Pacific in connection with such acquisition, then National Pacific shall be entitled to a Subordinated Real Estate Commission equal to the standard real estate commission which would otherwise be customarily charged in arm's-length transactions by unaffiliated parties rendering similar services in the same geographic locale; provided, however, that the amount of the Subordinated Real Estate Commission shall accrue but not be paid or payable until such time as the Partnership has distributed to the Limited Partners an aggregate amount of Cash From Sale or Refinancing equal to the sum of: (i) their Original Invested Capital; plus (ii) an amount which, when added to all prior Distributions from any source received by them, shall be equal to a 6 percent per annum cumulative return on their Adjusted Invested Capital. In the event National Pacific participates with one or more independent brokers, the foregoing limitations shall apply to commissions paid by the Partnership to all persons involved in the transaction. Notwithstanding the foregoing, all or a portion of the Subordinated Real Estate Commission may be paid prior to the foregoing amounts being distributed to Limited Partners if and to the extent subsequently permitted under applicable regulatory requirements. The Subordinated Real Estate Commission is intended to compensate National Pacific for its services in marketing the Partnership Properties on behalf of the Partnership.

9.9 Should National Pacific make loans to the Partnership, it will be entitled to interest on any loans so made subject to the provisions of this Partnership Agreement.

#### 10. Partnership Expenses

10.1 Subject to Paragraph 10.3 of this Partnership Agreement, the Partnership shall reimburse National Pacific or an Affiliate for: (i) all Organization and Offering Expenses incurred by National Pacific on behalf of the Partnership; (ii) the actual cost to National Pacific or Affiliates of goods and materials used for or by the Partnership; and (iii) the actual cost of services for the Partnership performed by non-affiliated parties and paid for by National Pacific or an Affiliate.

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10.2 Except as set forth in Paragraphs 10.1 and 10.2 of this Partnership Agreement, all of the Partnership's expenses shall be billed directly to and paid by the Partnership. The Partnership shall reimburse National Pacific or an Affiliate, at its actual cost as described herein, for the accounting, documentation, professional and reporting expenses, as set forth in Paragraph 10.4.4 of this Partnership Agreement. The billing rates for such services shall not exceed those customarily charged for similar services in the same or comparable geographic locations by persons dealing at arm's-length and having no affiliation with the Partnership; provided, however, that whether or not there exists a basis for comparing such rates, they shall not exceed actual costs. No reimbursement will be made to National Pacific or its Affiliate for their overhead expenses or for any of the expenses of any of the officers and directors who are members of National Pacific or its Affiliate, and no payment will be made for services for which National Pacific or its Affiliate are entitled to compensation by way of a separate fee as enumerated in Paragraph 10.3(iv) of this Partnership Agreement. Actual cost of services as used herein means the pro rata cost of personnel, including an allocation for the direct costs (as if such persons were part-time employees of the Partnership) associated with such personnel, all based on the amount of time such personnel spent on business or affairs of the Partnership.

10.3 National Pacific or an Affiliate shall pay at their own expense and at no cost to the Partnership: (i) overhead expenses of National Pacific and its Affiliates; (ii) Organization and Offering Expenses in excess of 5 percent of Gross Proceeds, any such excess amount to be reimbursed to the Partnership at or subsequent to the Closing Date; (iii) securities underwriting or marketing fees, commissions in excess of the Underwriting Commissions payable to National Pacific or its Affiliates pursuant to Paragraph 9.2 of this Partnership Agreement; (iv) expenses and salaries related to the performance of those services for which National Pacific or its Affiliate are entitled to compensation by way of Acquisition Fees, the Partnership Management Fee, Property Management Fee, Mortgage Brokerage Commissions and Subordinated Real Estate Commission; and (v) all other expenses which are unrelated to the business of the Partnership.

10.4 The Partnership shall pay the following expenses of the Partnership, subject to the provisions of Paragraphs 10.1, 10.2 and 10.3 preceding:

10.4.1 Organization and Offering Expenses, except that National Pacific shall, at or subsequent

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to the Closing Date, reimburse to the Partnership any Organization and Offering Expenses incurred by the Partnership which are in excess of an amount equal to 5 percent of the Gross Proceeds.

10.4.2 All other expenses of the Partnership, which may include, but are not limited to: (i) all costs of personnel employed by the Partnership and directly involved in the business of the Partnership, including persons who may also be officers or employees of National Pacific or its Affiliate; (ii) all costs of borrowed money, taxes and assessments on Partnership Properties and other taxes applicable to the Partnership; (iii) legal, accounting, audit, brokerage, and other fees; (iv) fees and expenses paid to independent contractors, mortgage bankers, brokers, and other agents; and (v) expenses in connection with the acquisition and disposition of Partnership Properties (including Acquisition Fees, appraisers fees, legal and accounting fees, engineering fees and completion bonds); and (vi) expenses in connection with the disposition, replacement, alteration, repair, remodeling, refurbishment, leasing and operation of Partnership Properties (including the costs and expenses of foreclosures, legal and accounting fees, insurance premiums, real estate brokerage and leasing commissions and of maintenance connected with such Property); and

10.4.3 All accounting, documentation, professional and reporting expenses of the Partnership, which may include, but are not limited to: (i) preparation and documentation of Partnership bookkeeping, accounting and audits; (ii) preparation and documentation of budgets, economic surveys, cash flow projections and working capital requirements; (iii) preparation and documentation of Partnership state and federal tax returns; (iv) printing, engraving and other expenses and taxes incurred in connection with the issuance, distribution, transfer, registration and recordation of documents evidencing ownership of an interest in the Partnership or in connection with the business of the Partnership; (v) expenses of insurance as required in connection with the business of the Partnership; (vi) expenses in connection with Distributions made by the Partnership to, and communications, bookkeeping and clerical work necessary in maintaining relations with Limited Partners, including the costs of printing and mailing to such persons certificates for Units and reports of the Partnership.

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and of preparing proxy statements and soliciting proxies in connection therewith; (vii) expenses in connection with preparing and mailing reports required to be furnished to Limited Partners for investor, tax reporting or other purposes, including reports required to be filed with the Securities and Exchange Commission and other federal or state regulatory agencies, or expenses associated with furnishing reports to Limited Partners which National Pacific deems to be in the best interests of the Partnership; (ix) costs incurred in connection with any litigation in which the Partnership is involved as well as any examination, investigation, or other proceedings conducted by any regulatory agency, including legal and accounting fees incurred in connection therewith; (x) costs of any computer equipment or services used for or by the Partnership; (xi) costs of any accounting, statistical or bookkeeping equipment necessary for the maintenance of the books and records of the Partnership; (xii) the costs of preparation and dissemination of informational material and documentation relating to potential sale, refinancing or other disposition of Partnership Properties; and (xiii) supervision and expenses of professionals employed by the Partnership in connection with any of the foregoing, including attorneys, accountants and appraisers.

#### **11. Allocation of Net Income, Net Loss, and Distributions**

11.1 Subject to the provisions set forth in this Paragraph 11, the Net Income, Net Loss, and Distributions of the Partnership shall be allocated 99 percent to the Limited Partners, and 1 percent to the General Partners (which amount shall be further divided among the General Partners equally).

11.2 Notwithstanding Paragraph 11.1 of this Partnership Agreement, the Net Income and Net Loss of the Partnership shall be determined as follows:

11.2.1 For income tax purposes, the Net Income or Net Loss shall be determined after subtracting the amount of Total Partnership Revenues allocated to National Pacific in accordance with Paragraphs 11.2.2 and 11.2.3 of this Partnership Agreement.

11.2.2 For income tax purposes, Total Partnership Revenues shall first be allocated to National Pacific to the extent that National Pacific receives payment of: (i) the Partnership Management

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Fee provided for in Paragraph 9.5 of this Partnership Agreement; or (ii) the Subordinated Real Estate Commission provided for in Paragraph 9.8 of this Partnership Agreement.

11.2.3 For income tax purposes, if payments are made to National Pacific pursuant to Paragraph 9.7 (Subordinated Incentive Interest) of this Partnership Agreement, then to the extent of the amount of such payments, there shall first be allocated to National Pacific the Total Partnership Revenues of the Partnership for the year or years that such Partnership Properties are disposed of and, where necessary, in subsequent years.

11.2.4 For income tax purposes, payments made to National Pacific pursuant to Paragraph 9.5 (Partnership Management Fee), Paragraph 9.7 (Subordinated Incentive Interest), and Paragraph 9.8 (Subordinated Real Estate Commission) of this Partnership Agreement shall be treated as "distributions" (within the meaning of Section 731 of the Code) by the Partnership to National Pacific as a Partner.

11.2.5 For financial accounting purposes, the amount of Total Partnership Revenues allocated to National Pacific pursuant to Paragraphs 11.2.2 and 11.2.3 of this Partnership Agreement shall be treated as expenses of the Partnership rather than as a special allocation of Total Partnership Revenues.

11.3 Notwithstanding Paragraph 11.1 of this Partnership Agreement, Net Income shall be allocated to all Partners in an amount equal to any Net Income attributable to the sale or other disposition of Partnership Properties to the extent of the aggregate total of the sum of: (i) the Net Losses allocated to such Partners for all Partnership years ending on or before December 31, 1981, and (ii) Distributions made to such Partners for all Partnership years ending on or before December 31, 1981. Such Net Income shall be further divided among and allocated to each such Partner in the same ratio as the sum of such Net Loss and Distributions for such Partner bears to the aggregate total of such sums for all Partners. Any Net Income in excess of the amount allocated pursuant to the first sentence of this Paragraph 11.3 shall be allocated in accordance with Paragraph 11.1 of this Partnership Agreement.

11.4 Notwithstanding any and all of the provisions of this Paragraph 11, in all events, there shall be allocated to the General Partners not less than 1 percent of Net

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Income and Net Loss (which amount shall be further divided between them equally).

11.5 In the event that, immediately prior to the dissolution of the Partnership, the General Partners shall have any deficiency in their capital accounts as determined in accordance with generally accepted accounting principles, and if the assets available for distribution upon the dissolution and termination of the Partnership are insufficient to allow Distributions to the Holders of amounts equal to the then balances in their capital accounts as determined in accordance with generally accepted accounting principles, then the General Partners shall each contribute in cash to the capital of the Partnership an amount equal to whichever is the lesser of (i) the deficiency in their capital accounts or (ii) the aggregate amount needed so that the Distributions may be made to the Partners in an amount equal to the then balances in their respective capital accounts, which aggregate amount shall be contributed by the General Partners in proportion to the respective deficiencies in their capital accounts.

11.6 All divisions among and allocations of the Net Income, Net Loss, and Distributions of the Partnership to the Limited Partners shall be in the ratio which the number of Units held by each such Limited Partner on the date of such allocation (as determined by National Pacific) bears to the total number of Units issued and outstanding as of such date, without regard to capital accounts.

11.7 In the event of the assignment of a Unit prior to an allocation date, the Net Income, Net Loss and Distributions of the Partnership during the period commencing with the last allocation date before the assignment and ending on the first allocation date after the assignment shall be apportioned as between the Partner and his Assignee as of the date that such Assignee became an Assignee of Record in accordance with Paragraph 12.2 of this Partnership Agreement, such Limited Partner being entitled to all such allocations prior to such date and such Assignee being entitled to all thereafter, without regard to the results of the Partnership's operations during the period before or after such assignment.

11.8 The Partnership intends to make quarterly Distributions of substantially all Cash From Operations and all Cash From Sales or Refinancing which is available for Distributions, as determined by National Pacific, subject to the following: (i) Distributions may be restricted or suspended for limited periods in circumstances when the General

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Partners determine in their absolute discretion that it is in the best interests of the Partnership to do so, (ii) all Distributions are subject to the payment of the Partnership expenses and to the maintenance of reasonable reserves for alterations, repairs, improvements, maintenance and replacement of furniture and fixtures and, (iii) the Partnership may at any time during the first 5 years after the Closing Date reinvest any Cash From Sales or Refinancing remaining after the Partnership has distributed to the Partners and Assignees of Record sufficient cash for a taxpayer in the 50 percent federal earned income tax bracket to pay any federal taxes which may arise by reason of such sale.

11.9 The methods hereinabove set forth by which the Distributions and allocations of Net Income and Net Loss are made and apportioned are hereby expressly consented to by each Partner as a condition of becoming a Partner.

## 12. Assignment of Units

12.1 Subject to the provisions of Paragraphs 12.3. and 12.4, Limited Partners shall have the right to assign 5 or more whole Units (provided, however, that a Limited Partner must assign all of his Units if he would otherwise retain less than 5 Units) by a written instrument of assignment, the terms of which are not in contravention of any of the provisions of this Partnership Agreement, which instrument has been duly executed by the assignor of such Units.

12.2 An Assignee who becomes an Assignee of Record shall be entitled to receive Distributions of cash or other property from the Partnership attributable to the Units acquired by reason of such assignment from and after the effective date of the assignment of such Units to him and to receive Partnership reports and accountings; provided however, that anything herein to the contrary notwithstanding, the Partnership and the General Partners shall be entitled to treat the assignor of such Units as the absolute owner thereof in all respects, and shall incur no liability for allocations of Net Income, Net Loss, or Distributions, or for the transmittal of reports or accountings which are made in good faith to such assignor until such time as the written instrument of assignment has been received by the Partnership and recorded on its books and the effective date of the assignment has passed. The effective date of such assignment (on which date the Assignee shall be deemed to be an Assignee of Record) shall be the first day of the month following the date on which the Partnership receives actual notice of the assignment of Units.

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12.3 Unless and until they are admitted to the Partnership as substituted Limited Partners, Assignees and Assignees of Record shall have no right to inspect the Partnership books or records, to vote on Partnership matters, or to exercise any other right or privilege as Limited Partners. Further, Limited Partners assigning their Units may not, as a condition of such assignment or otherwise, agree or obligate themselves to act on behalf of or under the direction of such Assignee or Assignee of Record with regard to any such right or privilege which a Limited Partner would have with respect to such Units, and any attempt to act in such capacity shall be void and of no effect and shall not be recognized by the Partnership.

12.4 Except as provided in this Paragraph 12.4, no assignment of any Units may be made if the Units to be assigned, when added to the total of all other Units assigned within the 12 immediately preceding months would, in the opinion of counsel for the Partnership, result in the termination of the Partnership under the Code unless the Holder desiring to make such assignment shall at his own expense procure a private ruling by the Internal Revenue Service that the proposed assignment will not cause such termination.

12.5 No assignment, sale, transfer, exchange or other disposition of any Units in the Partnership may be made except in compliance with the then applicable rules of any other appropriate governmental authority.

12.6 Any assignment, sale, exchange or other transfer in contravention of any of the provisions of this Paragraph 12 shall be void and ineffectual, and shall not bind or be recognized by the Partnership.

### 13. Substituted Limited Partners

13.1 No Assignee or Assignee of Record shall have the right to become a substituted Limited Partner unless all of the following conditions are first satisfied:

13.1.1 A duly executed and acknowledged written instrument of assignment covering no less than 5 Units shall have been filed with the Partnership, which instrument shall specify the number of Units being assigned and set forth the intention of the assignor that the Assignee or Assignee of Record succeed to assignor's interest as a substituted Limited Partner in his place;

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13.1.2 The assignor and Assignee or Assignee of Record shall have executed and acknowledged such other instruments as the General Partners may deem necessary or desirable to effect such substitution, including the written acceptance and adoption by the Assignee or Assignee of Record of the provisions of this Partnership Agreement and his execution, acknowledgement and delivery to the General Partners of a special power of attorney, the form and content of which are more fully described herein;

13.1.3 The written consent of a General Partner to such substitution shall have been obtained, the granting or denial of which shall be within the absolute discretion of each General Partner; and

13.1.4 A transfer fee not in excess of \$50 shall have been paid to the Partnership which is sufficient to cover all reasonable expenses connected with such substitution.

13.2 By executing or adopting this Partnership Agreement, each Limited Partner hereby consents to the admission of additional or substituted Limited Partners, and to any Assignee of his Units becoming a substituted Limited Partner.

13.3 The General Partners shall cause the Partnership Agreement and any separate certificate of limited partnership to be amended to reflect the substitution of Limited Partners not less frequently than once in each calendar quarter in which any such substitution occurs.

#### 14. Books, Records, Accountings and Reports

14.1 The Partnership's books and records, the Agreement and all amendments thereto, and any separate certificates of limited partnership, and copies of each appraisal on Partnership Property, shall be maintained at the principal office of the Partnership or such other place as the General Partners may determine, and shall be open to the inspection and examination of Limited Partners or their duly authorized representatives at all reasonable times. Upon written request, a Limited Partner or his duly authorized representative, will be provided with a copy of the certificate or certificates of limited partnership containing the most recent listing of Partners' names, addresses and capital contributions. Each appraisal on Partnership Property will be maintained by the General Partners and available for such inspection and duplication by any Limited

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Partner for a period of at least 5 years following the date of acquisition of the respective Property.

14.2 The General Partners shall have prepared at least once annually, at Partnership expense, financial statements (balance sheet, statement of income or loss, Holders' equity, and changes in financial position) prepared in accordance with generally accepted accounting principles and accompanied by an auditor's report containing an opinion of an independent certified public accountant or independent public accountant. Copies of such statement and report shall be distributed to each Limited Partner and Assignee of Record within 120 days after the close of each taxable year of the Partnership.

14.3 The General Partners shall have prepared at least once annually, at Partnership expense: (i) a statement of cash flow; (ii) Partnership information necessary in the preparation of the Holders' federal income tax returns; (iii) a report of the business of the Partnership; (iv) a statement as to the compensation received by the General Partners during the year from the Partnership, which statement shall set forth the services rendered or to be rendered by the General Partners and the amount of fees received, and a report identifying Distributions from: (a) Cash From Operations of that year; (b) Cash From Operations of prior years; (c) Cash From Sale or Refinancing; and (d) cash receipts from net leases to seller/lessees of Partnership Properties, if any. Copies of such report shall be distributed to each Limited Partner and Assignee of Record within 120 days after the close of each taxable year of the Partnership; provided, however, all Partnership information necessary in the preparation of the Holders' federal income tax returns shall be distributed to each Limited Partner and Assignee of Record within 75 days after the close of each taxable year of the Partnership.

14.4 The General Partners shall have prepared quarterly, at Partnership expense, commencing with the first calendar quarter following the Closing Date: (i) a statement as to the compensation received by the General Partners during such quarter from the Partnership which statement shall set forth the services rendered or to be rendered by the General Partners and the amount of fees received, and (ii) other pertinent information. Copies of such statement shall be distributed to each Limited Partner and Assignee of Record within 60 days after the end of each quarterly period.

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14.5 The General Partners shall have prepared, at Partnership expense, a semi-annual report covering the first 6 months of Partnership operations following the Closing Date, which report shall contain the unaudited financial statements (balance sheet, statement of income or loss for said 6-month period and a statement of Cash From Operations for said first 6-month period) and a statement of other pertinent information regarding the Partnership and its activities during the 6-month period covered by the report. Copies of such statements and other pertinent information shall be distributed to each Limited Partner and Assignee of Record within 60 days after the close of the 6-month period covered by the report of the Partnership.

14.6 In the event the Partnership becomes registered under Section 12(g) of the Securities Exchange Act of 1934, commencing with the first quarterly period required after Section 12(g) registration is effective, the General Partners shall thereafter have prepared, at Partnership expense, a quarterly report containing the unaudited financial statements (balance sheet, statement of income or loss for said quarterly period and statement of Cash From Operations for said quarterly period) and a statement of other pertinent information regarding the Partnership and its activities during the quarterly period covered by the report. Copies of such statements and other pertinent information shall be distributed to each Limited Partner and Assignee of Record within 60 days after the close of each quarterly period covered by such report.

14.7 The General Partners shall have prepared, at Partnership expense, no later than the end of each calendar quarter in which Partnership Properties are acquired, a notice which shall describe: (i) each Partnership Property so acquired; (ii) the geographic area in which each such Property is located; (iii) the market upon which the General Partners are relying in projecting successful operation for each such Property, a statement of the date and amount of its appraised value, a statement of the purchase price including the terms of purchase of the Property, a statement of the total amount of cash expended by the Partnership to acquire the Property and a statement as to the remaining amount of Net Proceeds both as a dollar amount and percentage of the Gross Proceeds; and (iv) such other pertinent information with respect to the acquisition of each such Property as the General Partners deem appropriate, including all facts appearing to the General Partners to be substantially affecting the value thereof. Copies of such notice shall be distributed to each Limited Partner and Assignee of Record within 60 days after the end of any such quarter. If

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deemed appropriate by the General Partners, such notice may be prepared and distributed more frequently than quarterly.

14.8 The General Partners, at Partnership expense, shall cause income tax returns for the Partnership to be prepared and timely filed with the appropriate authorities.

14.9 The General Partners, at Partnership expense, shall cause to be prepared and timely filed, with appropriate federal and state regulatory and administrative bodies, all reports required to be filed with such entities under then current applicable laws, rules and regulations. Such reports shall be prepared on the accounting or reporting basis required by such regulatory bodies. Any Limited Partner and Assignee of Record shall be provided with a copy of any such report upon request and without expense to him.

15. Rights, Authority, Powers, Responsibilities and Duties of the General Partners

15.1 The General Partners shall have a fiduciary responsibility to the Partnership and the Partners and, in the exercise thereof, shall have all authority, rights and powers conferred by law, those provided to a partner in a partnership without limited partners, and those required or appropriate to the management of the Partnership business which, by way of illustration but not by way of limitation, shall, subject only to the provisions of Paragraph 15.3 following, include the right, authority and power:

15.1.1 To acquire, develop, hold and dispose of real property, interests therein or appurtenances thereto, as well as personal or mixed property connected therewith, including the purchase, lease, development, improvement, maintenance, exchange, trade or sale of such properties, at such price, rental or amount, for cash, securities or other property, and upon terms, as the General Partners, in their sole discretion, deem to be in the best interests of the Partnership;

15.1.2 To borrow money and, if security is required therefor, to mortgage or subject any Partnership investment to any other security device, to obtain replacements of any mortgage or other security device, and to prepay, in whole or in part, refinance, increase, modify, consolidate, or extend any mortgage or other security device, all of the foregoing at such terms and in such amounts as the General Partners, in their sole discretion, deem to be in the best interests of the Partnership;

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15.1.3 To acquire and enter into any contract of insurance which the General Partners deem necessary or appropriate for the protection of the Partnership and the General Partners, for the conservation of Partnership assets, or for any purpose convenient or beneficial to the Partnership;

15.1.4 To employ unaffiliated persons in the operation and management of the business of the Partnership including, but not limited to, supervisory managing agents, building management agents, insurance brokers, real estate brokers and loan brokers, attorneys and accountants, on such terms and for such compensation as the General Partners shall determine to be appropriate and in the best interests of the Partnership;

15.1.5 To prepare or cause to be prepared reports, statements and other relevant information for distribution to Limited Partners and Assignees of Record, including annual and quarterly interim reports;

15.1.6 To open accounts and deposit and maintain funds in the name of the Partnership in banks or savings and loan associations;

15.1.7 To cause the Partnership to make or revoke any of the elections referred to in Section 754 of the Internal Revenue Code of 1954 or any similar provision enacted in lieu thereof;

15.1.8 To select as its accounting year a calendar year or such fiscal year as may be approved by the Internal Revenue Service;

15.1.9 To determine the appropriate accounting method or methods to be used by the Partnership;

15.1.10 To amend this Partnership Agreement by use of the Special and Limited Power of Attorney set forth in Paragraph 20 without further consent or vote of any of the Limited Partners to reflect the addition or substitution of Limited Partners, changes of address, or the reduction of the capital accounts upon the return of capital to Partners;

15.1.11 To reinvest at any time during the first 5 years after the Closing Date, any Cash From Sale or Refinancing remaining from the sale or refinancing of any Partnership Property after the Partnership has distributed to each Limited Partner and

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Assignee of Record the amount necessary for a taxpayer in the 50 percent bracket to pay any federal income taxes arising by reason of any such transaction;

15.1.12 To require in all Partnership contracts that the General Partners shall not have any personal liability thereon but that the person or entity contracting with the Partnership is to look solely to the Partnership and its assets for satisfaction;

15.1.13 To execute, acknowledge and deliver any and all instruments to effectuate the foregoing, and to take all such action in connection therewith as the General Partners shall deem necessary or appropriate. Any and all documents or instruments may be executed on behalf and in the name of the Partnership by the duly authorized signature of either one of the General Partners which, in the case of National Pacific, may be by one of the duly authorized officers thereof acting on behalf of the Partnership; and

15.1.14 To cause the Partnership to purchase properties which may not be improved and may not produce Cash From Operations for a reasonable period to time following their acquisition by the Partnership.

15.2 Except as otherwise provided for herein, the General Partners shall have all rights, powers and authorities permitted partners in partnerships not having limited partners.

15.3 Neither the General Partners nor any Affiliates shall have the authority to:

15.3.1 Enter into contracts with the Partnership which would bind the Partnership after the expulsion, adjudication of bankruptcy or insolvency, dissolution or other cessation to exist of the General Partners, or to continue the business with Partnership assets after the occurrence of such event;

15.3.2 Grant to themselves or any Affiliate an exclusive listing for the sale of Partnership assets, including Partnership Properties;

15.3.3 Sell substantially all of the assets of the Partnership in a single sale, or in multiple sales in the same 12-month period, except in the orderly liquidation and winding up of the business of the Partnership upon its termination and dissolution;

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15.3.4 Pledge or encumber substantially all of the assets of Partnership at one time, other than in connection with the acquisition or improvement of assets or the refinancing of previous obligations;

15.3.5 Use or permit any other person to use Partnership funds or assets in any manner except for the exclusive benefit of the Partnership;

15.3.6 Alter the primary purpose of the Partnership as set forth in Paragraph 3 of this Partnership Agreement;

15.3.7 Receive any insurance brokerage fee or write any insurance policy governing the General Partners or any of the Partnership Properties,;

15.3.8 Receive from the Partnership a rebate or give-up or participate in any reciprocal business arrangements which would enable them or any Affiliate to do so;

15.3.9 Sell or lease to the Partnership any real property in which the General Partners or any Affiliate have any interest;

15.3.10 Cause the Partnership to invest in any program, partnership or other venture unless; (i) it is a general partnership or a joint venture; (ii) the other partner or joint venturer is not a General Partner or an Affiliate; (iii) such general partnership or venture owns and operates a particular property and the Partnership acquires the controlling interest in such venture or general partnership; (iv) the Partnership, as a result of such joint ownership or partnership ownership of a property, is not charged directly or indirectly, more than once for the same service; (v) the Partnership has in all cases the right of first refusal to acquire the interest of the other partner or joint owner in the event of sale or a preference in payment of the net proceeds of sale or refinancing of the joint venture property and a preference in distributions of cash from operations from the property; (vi) the other partner or joint owner is not in a position to take actions which are contrary to the instructions or requests of the Partnership or contrary to the Partnership's investment objectives and policies; (vii) the agreement of partnership or joint venture does not authorize the Partnership to do anything as a partner or joint

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venturer with respect to the property which the Partnership, or a General Partner, could not do directly because of the policies set forth in this Partnership Agreement; and (viii) the General Partners and the Affiliates of a General Partner are prohibited from receiving any compensation, fees or expenses which are not permitted to be paid under the terms of this Partnership Agreement.

15.3.11 Purchase or lease real property from the Partnership;

15.3.12 Purchase a Partnership Property without first having obtained an appraisal thereof from a competent, independent appraiser;

15.3.13 Cause the Partnership to exchange Units for real property;

15.3.14 Make long-term secured loans to the Partnership and, on short-term unsecured loans made to the Partnership, receive interest or other financing charges or fees in excess of those amounts which would be charged by third party financing institutions on comparable loans for the same purpose in the same geographic area;

15.3.15 Cause the Partnership to finance the purchase of Partnership Property by use of a wrap-around note and mortgage ("all-inclusive" note and deed of trust) unless: (i) neither the General Partners nor any Affiliate thereof receives interest on the amount of the underlying encumbrance in excess of that payable to the holder of such underlying encumbrance; (ii) all payments on the obligation are made by the Partnership to a third party collecting agent which in turn disburses such payment, first to the holder of such underlying obligation and thereafter to the holder of the wrap-around note; and (iii) the Partnership receives credit on its obligation for all payments made on the underlying encumbrance;

15.3.16 Cause the Partnership to redeem or repurchase Units;

15.3.17 Do any act in contravention of this Partnership Agreement or which would make it impossible to carry on the ordinary business of the Partnership;

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15.3.18 Confess a judgment against the Partnership in connection with any threatened or pending legal action;

15.3.19 Possess any Partnership Property or assign the rights of the Partnership in specific Partnership Property for other than a Partnership purpose;

15.3.20 Admit a person as a General Partner except with the consent of the Limited Partners as provided for in this Partnership Agreement;

15.3.21 Perform any act (other than an act required by this Partnership Agreement or any act taken in good faith reliance upon counsel's opinion) which would, at the time such act occurred, subject any Limited Partner to liability as a general partner in any jurisdiction;

15.3.22 Reinvest Cash From Operations in new or additional Partnership Properties;

15.3.23 Cause the Partnership to loan to the General Partners or Affiliates thereof Partnership assets, or employ, or permit to employ, the funds or assets of the Partnership in any manner except for the exclusive benefit of the Partnership;

15.3.24 Commingle the Partnership funds with those of any other person or entity;

15.3.25 Cause the Partnership to enter into any transaction with any other partnership or venture in which the General Partners or Affiliates have any interest;

15.3.26 Receive any commission or fee for the placement of mortgage loans or trust deed loans on the Partnership Properties, or otherwise act as a finance broker on behalf of the Partnership other than as specifically provided for in this Partnership Agreement;

15.3.27 Directly or indirectly pay or award any finder's fees, commissions or other compensation to any person engaged by a potential investor for investment advice as an inducement to such advisor to advise the purchaser regarding the purchase of Units; provided, however, that the General Partners shall not

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be prohibited from paying underwriting or marketing commissions, or finder's or referral fees to registered broker-dealers or other properly licensed persons for their services in marketing Units as provided for in this Partnership Agreement;

15.3.28 Amend this Partnership Agreement without the consent of each Limited Partner who would be adversely affected thereby to: (i) convert a Limited Partner into a General Partner; (ii) adversely affect the limited liability of a Limited Partner; (iii) alter the interests of the Partners in the Net Income, Net Loss, or Distributions of or from the Partnership; or (iv) adversely affect the status of the Partnership as a partnership for federal income tax purposes;

15.3.29 Cause the Partnership to invest in trust deeds, or other secured or unsecured obligations; or

15.3.30 Cause the Partnership to invest more than 60 percent of the Net Proceeds in agricultural properties;

15.3.31 Cause the Partnership to invest more than 20 percent of the Net Proceeds in unimproved real properties;

15.3.32 Receive any Acquisition Fees or any other fee or commission in connection with any re-investment of Cash From Sales or Refinancing; or

15.3.33 Cause the Partnership to incur indebtedness in such amounts as would result in the total secured indebtedness incurred by the Partnership to exceed an amount equal to 80 percent of the Cost of All Partnership Properties.

15.4 Within 90 days after the Limited Partners have voted to remove a General Partner, the General Partners shall have prepared, at Partnership expense, a financial statement (balance sheet, statement of income or loss, partners' equity, and changes in financial position) prepared in accordance with generally accepted accounting principles and shall cause such statement to be mailed to the Limited Partners and Assignors of Record as soon as possible after receipt thereof.

15.5 The General Partners shall have the duty and responsibility for providing continuing administrative and

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executive support, advice, consultation, analysis and supervision with respect to the functions of the Partnership as an owner of Partnership Properties, including decisions regarding adjustments to rental schedules, the sale or refinancing or other disposition of property, and compliance with federal, state and local regulatory requirements and procedures.

16. Rights, Powers and Voting Rights of the Limited Partners

16.1 No Limited Partner, Assignee or Assignee of Record shall take part in or interfere in any manner with the control, conduct or operation of the Partnership, nor shall they have any right or authority to act for or bind the Partnership.

16.2 Limited Partners (but not Assignees or Assignees of Record) shall have the right to vote only upon the following matters affecting the basic structure of the Partnership:

16.2.1 Removal of a General Partner;

16.2.2 Election of a successor General Partner;

16.2.3 Termination and dissolution of the Partnership;

16.2.4 Amendment of this Partnership Agreement, except as otherwise provided by Paragraph 15.1.10 of this Partnership Agreement;

16.2.5 The extension of the term of the Partnership;

16.2.6 The determination of the fair market value of the General Partners' compensation and interest in the Partnership pursuant to Paragraph 17.4 of this Partnership Agreement;

16.2.7 Approval of the terms of the sale of all or substantially all of the assets of the Partnership in a single sale, or in multiple sales in the same 12-month period, except in the liquidation and winding up of the business of the Partnership upon its termination and dissolution; and

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16.2.8 Approval of the terms of any pledge or encumbrance of all or substantially all of the assets of the Partnership at one time, other than in connection with the acquisition or improvement of assets or the refinancing of previous obligations.

16.3 Matters upon which the Limited Partners may vote shall require the Majority Vote of the Limited Partners to pass and become effective.

16.4 The General Partners may at any time call for a meeting of the Limited Partners, or for a vote without a meeting on matters on which the Limited Partners are entitled to vote, and shall call for such meeting or vote following receipt of written request therefor of Limited Partners holding 10 percent or more of the Total Outstanding Units as of the date of receipt of such written request ("notice date"). Within 10 days of such notice date, the General Partners shall notify all Limited Partners of record as of the notice date as to the time and place of the Partnership meeting, if called, and the general nature of the business to be transacted thereat, or if no such meeting has been called, of the matter or matters to be voted upon and the date upon which the votes will be counted. Any Partnership meeting or the date upon which such votes, without a meeting, will be counted, shall be no less than 15 nor more than 60 days following mailing of the notice thereof by the General Partners at a place convenient to the Limited Partners. All expenses of such voting and notification shall be borne by the Partnership.

16.5 A Limited Partner shall be entitled to cast one vote for each Unit which he owns: (i) at a meeting, in person, by written proxy or by a signed writing directing the manner in which he desires that his vote be cast, which writing must be received by the General Partners prior to such meeting; or (ii) without a meeting, by a signed writing directing the manner in which he desires that his vote be cast, which writing must be received by the General Partners prior to the date upon which the votes of Limited Partners are to be counted. Only the votes of Limited Partners of record on the notice date, whether at a meeting or otherwise, shall be counted. The General Partners as General Partners, shall not be entitled to vote, except that they may vote as Limited Partners with respect to any Units purchased by them. Neither Assignees nor Assignees of Record shall be entitled to vote on Partnership matters. The laws of the State of California pertaining to the validity and use of corporate proxies shall govern the validity and use of proxies given by Limited Partners.

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16.6 No Limited Partner or Holder shall have the right or power to: (i) withdraw or reduce his contribution to the capital of the Partnership except as a result of the dissolution of the Partnership or as otherwise provided by law, (ii) bring an action for partition against the Partnership, (iii) cause the termination and dissolution of the Partnership by court decree or otherwise, except as set forth in this Partnership Agreement, or (iv) demand or receive property other than cash in return for his contribution. Except as provided in this Partnership Agreement, no Limited Partner or Holder shall have priority over any other Limited Partner either as to the return of contributions of capital or as to allocations of the Net Income, Net Loss, or Distributions of the Partnership. Other than upon the termination and dissolution of the Partnership as provided by this Partnership Agreement, there has been no time agreed upon when the contribution of each Limited Partner or Holder is to be returned.

17. Expulsion, Bankruptcy or Dissolution of General Partners

17.1 Either or both of the General Partners may be expelled from the Partnership by Majority Vote.

17.2 Written notice of the expulsion of one or both of the General Partners shall be served either by certified or by registered mail, return receipt requested, or by personal service. Such notice shall set forth the date upon which the expulsion is to become effective.

17.3 Upon the death, retirement, expulsion, adjudication of bankruptcy or insolvency, or the dissolution of a General Partner, the interest of such General Partner in the Net Income, Net Loss, and Distributions of the Partnership, as set forth in Paragraph 11 of this Partnership Agreement, and their interest in the Subordinated Incentive Interest and the Subordinated Real Estate Commission provided for in Paragraph 9 of this Partnership Agreement, shall be purchased by the Partnership for a purchase price equal to the aggregate fair market value thereof determined according to the provisions of Paragraph 17.4 following. The purchase price of such interest shall be paid by the Partnership to such General Partner by the promissory note of the Partnership, payable to such General Partner or its order, having a face amount equal to said purchase price, containing provisions as would be usual and customary in a commercial promissory note, bearing interest at a rate per annum which is the lesser of 2 percent over Bank of America, N.T.&S.A. prime rate or 10 percent per annum, principal and all unpaid

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accrued interest payable from time to time, with the remaining unpaid principal balance and unpaid accrued interest on such promissory note to be due and payable 5 years from the date of the General Partner's death, retirement, expulsion, adjudication of bankruptcy or insolvency, or dissolution, or upon the dissolution of the Partnership whichever is first to occur, except that, at the option of such General Partner, such purchase price shall be paid upon terms and conditions that will qualify for the installment method as provided for in Section 453 of the Code.

17.4 The fair market value of the General Partner's interest purchased by the Partnership according to the provisions of Paragraph 17.3 above shall be determined by agreement between the General Partners and the Partnership (which agreement shall require a Majority Vote). For this purpose, the fair market value of such interest of the terminated General Partner shall be computed as the present value of the future amount which could reasonably be expected to be realized by such General Partner upon the sale of the Partnership's assets in the ordinary course of its business. If the General Partner and the Partnership cannot agree upon the fair market value of such Partnership interest within 30 days, the fair market value thereof shall be determined in the manner provided by the laws of the State of California for the determination of controversies by arbitration, the General Partner to choose one arbitrator, the Partnership to choose one arbitrator and the 2 arbitrators so chosen to choose a third arbitrator. The decision of a majority of said arbitrators as to the fair market value of such Partnership interest shall be final and binding and may be enforced by legal proceedings. The General Partner and the Partnership shall each compensate the arbitrator appointed by it and the compensation of the third arbitrator shall be borne equally by such parties.

#### 18. Certain Transactions

18.1 The General Partners, any Limited Partner, Holder, Assignee, Assignee of Record, or any Affiliate thereof, or any shareholder, officer, director, employee or any person owning a legal or beneficial interest therein, may engage in or possess an interest in any other business or venture of every nature and description, independently or with others, including, but not limited to, the ownership, financing, leasing, operation, management, brokerage and development of real property, and no Partner, Holder or any such other person or entity shall have any interest therein by reason of their interest in the Partnership.

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18.2 The Partnership shall enter into a written agreement with Manager pursuant to which Manager shall provide those services and receive that compensation provided for by Paragraph 9.4 of this Agreement, which contract shall be terminable by either party thereto without penalty upon 60 days' notice to the other party.

19. Termination and Dissolution of the Partnership

19.1 The Partnership shall be terminated and dissolved upon the earlier to occur of the following:

19.1.1 The death, retirement, expulsion, adjudication of bankruptcy or insolvency, or the dissolution of a General Partner unless within 120 days thereafter the remaining General Partner and any successor General Partner which may be elected in place of the terminated General Partner both elect to continue the business of the Partnership.

19.1.2 A Majority Vote in favor of dissolution and termination of the Partnership.

19.1.3 The expiration of the term of the Partnership.

19.1.4 The written decision, subsequent to the Closing Date, of either General Partner to dissolve the Partnership.

19.2 Upon a dissolution and termination of the Partnership for any reason, the General Partners shall take full account of the Partnership assets and liabilities, shall liquidate the assets as promptly as is consistent with obtaining the fair value thereof, and shall apply and distribute the proceeds therefrom in the following order:

19.2.1 To the payment of creditors of the Partnership, but excluding secured creditors whose obligations will be assumed or otherwise transferred on the liquidation of Partnership assets;

19.2.2 To the repayment of any outstanding loans made by the General Partners to the Partnership;

19.2.3 To the Partners and Assignees of Record pursuant to the provisions of Paragraph 11 of this Partnership Agreement.

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20. Special and Limited Power of Attorney

20.1 The General Partners shall at all times during the term of the Partnership have a special and limited power of attorney as the attorney-in-fact for each Limited Partner, with power and authority to act in the name and on the behalf of each such Limited Partner to execute, acknowledge, and swear to in the execution, acknowledgement and filing of documents, which shall include, by way of illustration but not of limitation, the following:

20.1.1 The Agreement, any separate certificates of limited partnership, as well as any amendments to the foregoing which, under the laws of the State of California or the laws of any other state, are required to be filed or which the General Partners shall deem it advisable to file;

20.1.2 Any other instrument or document which may be required to be filed by the Partnership under the laws of any state or by any governmental agency or which the General Partners shall deem it advisable to file; and

20.1.3 Any instrument or document which may be required to effect the continuation of the Partnership, the admission of additional or substituted Limited Partners, or the dissolution and termination of the Partnership (provided such continuation, admission or dissolution and termination are in accordance with the terms of this Partnership Agreement), or to reflect any reductions in amount of contributions of Partners.

20.2 The special and limited power of attorney of the General Partners:

20.2.1 Is a special power of attorney coupled with an interest, is irrevocable, shall survive the death of the granting Limited Partner, and is limited to those matters herein set forth;

20.2.2 May be exercised by the General Partners for each of the Limited Partners by the signature of one of the General Partners or by one of the duly authorized officers thereof acting as attorney-in-fact for all of the Limited Partners, together with a list of all Limited Partners executing such instrument by their attorney-in-fact; and

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20.2.3 Shall survive an assignment by a Limited Partner of all or any portion of his Units except that, where the Assignee of the Units owned by a Limited Partner has been approved by the General Partners for admission to the Partnership as a substituted Limited Partner, the special power of attorney shall survive such assignment for the sole purpose of enabling the General Partners to execute, acknowledge and file any instrument or document necessary to effect such substitution.

## 21. Indemnification

21.1 The Partnership shall indemnify and hold harmless the General Partners, their officers, directors, employees, agents and assigns, from any loss or damage incurred by them in connection with the business of the Partnership, including costs and reasonable attorneys' fees and any amounts expended in the settlements of any claims of loss or damage provided that, if such loss or liability arises out of any action or inaction of the General Partners, or any such other person, the General Partners must have determined, in good faith, that such course of conduct was undertaken in good faith and did not constitute gross negligence or willful misconduct and, provided further, that any such indemnification shall be recoverable only from the assets of the Partnership and not from the assets of the Limited Partners.

21.2 Notwithstanding the foregoing Paragraph 22.1 of this Agreement, neither the General Partners nor any officer, director, employee, agent, subsidiary or assign of the General Partners or of the Partnership shall be indemnified from any loss or damage incurred by them in connection with any claim or settlement involving allegations that federal or state securities laws were violated by the General Partners or by any such other person or entity unless: (i) the General Partners or other persons or entities seeking indemnification are successful in defending such action; and (ii) such indemnification is specifically approved by a court of law which shall have been advised as to the current position of both the Securities and Exchange Commission and the California Commissioner of Corporations regarding indemnification for violations of securities laws.

21.3 The General Partners shall have the right and authority to require in all Partnership contracts that they will not be personally liable thereon and that the person or entity contracting with the Partnership is to look solely to the Partnership and its assets for satisfaction.

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## 22. Miscellaneous

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

22.2 The terms and provisions of this Partnership Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the respective Partners.

22.3 In the event any sentence or paragraph of this Partnership Agreement is declared by a court of competent jurisdiction to be void, such sentence or paragraph shall be deemed severed from the remainder of the Partnership Agreement and the balance of the Partnership Agreement shall remain in full force and effect.

22.4 All notices under this Partnership Agreement shall be in writing and shall be given to the Limited Partner or Assignee of Record entitled thereto, by personal service or by mail, posted to the address maintained by the Partnership for such person or at such other address as he may specify in writing.

22.5 This Partnership Agreement shall be governed by and construed in accordance with the laws of the State of California, the state where the Partnership maintains its principal place of business and the state where this Partnership Agreement is made and entered into.

22.6 Paragraph titles or captions contained in this Partnership Agreement are inserted only as a matter of convenience and for reference. Such titles and captions in no way define, limit, extend or describe the scope of this Partnership Agreement nor the intent of any provision hereof.

22.7 Whenever required by the context hereof, the singular shall include the plural, and vice-versa; the masculine gender shall include the feminine and neuter genders, and vice-versa; and the word "person" shall include a corporation, partnership, firm or other form of association.

22.8 The names and addresses of the General Partners are as follows:

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Jerry D. Smith  
1528 Chapala Street  
Santa Barbara, California 93105

National Pacific Investors, Corp.  
1528 Chapala Street  
Santa Barbara, California 93105

22.9 The names, addresses and capital contributions of the Limited Partners shall be set forth on Exhibit A to this Partnership Agreement, which exhibit shall be separately recorded and a copy thereof maintained at the principal place of business of the Partnership.


IN WITNESS WHEREOF, the undersigned have set their hands to this First Amended Agreement and Certificate of Limited Partnership on the date first set forth in the pre-amble hereof.

GENERAL PARTNERS:


  
Jerry D. Smith

NATIONAL PACIFIC MANAGEMENT COMPANY,  
a California corporation

By   
Jerry D. Smith, President

By   
Donald K. Sorensen, Vice-President

ORIGINAL LIMITED PARTNER:

  
Jerry D. Smith

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STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO ) ss.

On February 8, 1980, before me, the undersigned, a Notary Public in and for said State, personally appeared Jerry D. Smith known to me to be the individual that executed the within instrument and acknowledged to me that he executed the same.

WITNESS my hand and official seal.



Sally Reese  
NOTARY PUBLIC IN AND FOR SAID STATE

STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO ) ss.

On February 8, 1980, before me, the undersigned, a Notary Public in and for said State, personally appeared Jerry D. Smith, known to me to be the President of National Pacific Management Company, a California corporation, the corporation that executed the within instrument, on behalf of this corporation therein named, and acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal.



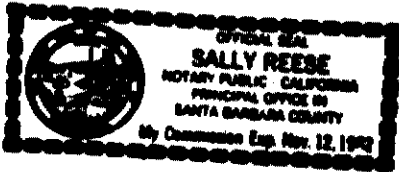
Sally Reese  
NOTARY PUBLIC IN AND FOR SAID STATE

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STATE OF CALIFORNIA )  
 ) ss.  
 COUNTY OF SAN DIEGO )

On February 8, 1980, before me, the undersigned, a Notary Public in and for said State, personally appeared Donald K. Sorsabal, known to me to be the Vice President of National Pacific Management Company, a California corporation, the corporation that executed the within instrument, on behalf of this corporation therein named, and acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal.



Sally Reese  
 NOTARY PUBLIC IN AND FOR SAID STATE

I HEREBY CERTIFY THAT IF IMPRESSED WITH THE SEAL OF THE SANTA BARBARA COUNTY RECORDER, THIS IS A TRUE COPY OF THE PERMANENT RECORD FILED AND/OR RECORDED IN THIS OFFICE.

HOWARD C. MENZEL CO. CLERK-RECORDER

John Thomas DEPUTY

DATE MAR 25 1982

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