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AGREEMENT AND CERTIFICATE OF LIMITED PARTNERSHIP  
OF  
PSP ASSOCIATES LIMITED PARTNERSHIP

AGREEMENT AND CERTIFICATE OF LIMITED PARTNERSHIP, by and between PICERNE INVESTMENT CORPORATION, a Rhode Island corporation, as General Partner, and PICERNE DEVELOPMENT CORPORATION, an Arizona corporation as Limited Partner.

WHEREAS, the parties desire to organize and operate a limited partnership business under the laws of the State of Rhode Island under the terms and conditions recited herein;

NOW, THEREFORE, it is hereby agreed as follows:

ARTICLE I

Defined Terms

The Defined terms used in this Agreement shall have the meanings specified below:

"Affiliate" means as to any named Partner or Partners (or as to every Partner, if none are specifically named) (i) any such Partner or member of his Immediate Family; (ii) the legal representative, successor or assignee of, or any trustee of a trust for the benefit of, any such Partner or member of his Immediate Family; (iii) any Entity of which a majority of the voting interests is owned by any one or more of the Persons referred to in the preceding clauses (i) and (ii); (iv) any officer, director, trustee, employee, stockholder (10% or more) or partner of any Person referred to in the preceding clauses (i), (ii) and (iii); and (v) any Person directly or indirectly controlling, or under direct or indirect common control with, any Person referred to in any of the preceding clauses.

"Agreement" means this Agreement and Certificate of Limited Partnership of the Partnership, as it may be amended from time to time.

"Capital Contribution" means the amount of cash or agreed value of property contributed to the Partnership by each Partner as shown in the Schedule. Any reference in this Agreement to the Capital Contribution of a then Partner shall include a Capital Contribution previously made by any prior Partner for such Partnership interest of such then Partner.

"Certificate" or "Certificate of Limited Partnership" means this Agreement and Certificate of Limited Partnership of the Partnership or any other instrument filed with the Office of the

Secretary of State of the State of Rhode Island as the certificate of limited partnership of the Partnership and as it may be amended from time to time.

"Entity" means any general partnership, limited partnership, corporation, joint venture, trust, business trust, cooperative or association.

"General Partner" means any person designated as a General Partner in the Schedule or any Person who becomes a General Partner as provided herein, in such Person's capacity as a General Partner of the Partnership, and if there be more than one General Partner at any time, such term shall include every such Person. If at the time there is only a sole General Partner, reference to "General Partners" means the sole General Partner.

"Immediate Family" means, with respect to any person, his spouse, parents, parents-in-law, descendants, nephews, nieces, brothers, sisters, brothers-in-law, sisters-in-law, children-in-law and grandchildren-in-law, including any such adopted individuals.

"Limited Partner" means any Person designated as a Limited Partner in the Schedule or any Person who becomes a Limited Partner as provided herein, in such Person's capacity as a Limited Partner of the Partnership.

"Partner" means any General Partner or Limited Partner.

"Partnership" means the limited partnership formed in accordance with this Agreement, as said limited partnership may from time to time be construed and amended.

"Person" means any individual or Entity, and the heirs, executors, administrators, successors and assigns of such person where the context so admits; and unless the context otherwise requires the singular shall include the plural, and the masculine gender shall include the feminine and the neuter and vice versa.

"Project Partnership" means Paradise Shadows Phoenix Limited Partnership, an Arizona limited partnership, formed to acquire, construct, develop, improve, maintain, operate, lease, dispose of, borrow against and otherwise deal with Paradise Shadows Apartments, an apartment complex to be located in Phoenix, Arizona.

"Project Partnership Agreement" means the limited partnership agreement of the Project Partnership, as the same may be amended from time to time and as so amended at the time of reference thereto.

"Schedule" means Schedule A annexed hereto as amended from time to time and as so amended at the time of reference thereto.

"State" means the State of Rhode Island.

"Uniform Act" means the Uniform Limited Partnership Act as adopted by the State, and any successor statute.

"Withdrawal" means as to a General Partner, the occurrence of any of the following: retirement, death, adjudication of insanity or incompetence, dissolution, liquidation, bankruptcy or voluntary or involuntary withdrawal for any reason. Voluntary withdrawal shall occur on the date of such withdrawal stated in a written notice from the withdrawing General Partner to all other Partners, which date of withdrawal shall be at least 30 days after the date of such notice is given. Bankruptcy shall be deemed to occur whenever a General Partner shall be adjudicated a bankrupt or execute an assignment for the benefit of creditors, or be subject to the direction and control of a receiver and such receivership proceedings shall not be dismissed within 90 days of the receiver's appointment.

## ARTICLE II

### Formation; Name and Purpose

#### Section 2.1 Formation

The parties hereto hereby form a limited partnership pursuant to the provisions of the Uniform Act.

#### Section 2.2 Name; Place of Business; Resident Agent

(a) The Partnership shall be conducted under the name and style of PSP ASSOCIATES LIMITED PARTNERSHIP.

(b) The principal place of business of the Partnership is located c/o Picerne Investment Corporation, 75 Lambert Lind Highway, Warwick, Rhode Island 02886. The General Partner may at any time change the location of the office and shall give due notice of any such change to the Limited Partners.

(c) The resident agent for service of process is Picerne Investment Corporation, 75 Lambert Lind Highway, Warwick, Rhode Island 02886.

#### Section 2.3 Purpose and Character of Business

The purpose of the Partnership shall be to become the limited partner of the Project Partnership. The business of the Partnership shall include the acquisition, retention, sale or

exchange of such limited partnership interest and participation in such other activities as are necessary to protect or enhance the assets of the Partnership.

### ARTICLE III

#### Partners; Capital

##### Section 3.1 General Partner

The General Partner of the Partnership as of the date of this Agreement is PICERNE INVESTMENT CORPORATION.

##### Section 3.2 Original Limited Partner

The Original Limited Partner of the Partnership is PICERNE DEVELOPMENT CORPORATION. The amount contributed to the capital of the Partnership in cash by the Limited Partner is set forth in the Schedule.

##### Section 3.3 Partnership Capital

The capital of the Partnership shall be the aggregate amount of cash and the agreed value of property contributed by the General Partner and the Limited Partners, as set forth in the Schedule.

The original capital account of each Partner shall be the amount of his Capital Contribution.

##### Section 3.4 Interest on Capital

No interest shall be paid on any Capital Contribution to the Partnership.

##### Section 3.5 Withdrawal of Capital

No partner shall have the right to withdraw his Capital Contribution or the right to receive any funds or property of the Partnership except as may be specifically provided in this Agreement.

##### Section 3.6 Loans by Partners

If any Partner shall loan any monies to the Partnership, the amount of any such loan shall not be an increase of his Capital Contribution or entitle him to any increase in his share of the profits, losses or distributions of the Partnership; but the amount of any such loan shall be an obligation of the Partnership

to such Partner and unless otherwise provided for and agreed upon, shall be repaid to him without interest.

Section 3.7 Liability of Partners

No Limited Partner shall be personally liable for any liabilities, contracts or obligations of the Partnership. A Limited Partner's liability is limited to the amount of his Capital Contribution. After his Capital Contribution has been made, no Limited Partner shall be required to make any further capital contributions or lend any funds to the Partnership. No General Partner shall have any personal liability for the repayment of the Capital Contribution of any Partner.

Section 3.8 Additional Limited Partners

The General Partners shall be authorized to admit to the Partnership additional Limited Partners on such terms as they shall determine.

ARTICLE IV

Rights, Powers and Duties of General Partners

Section 4.1 Authorized Acts

Subject to the provisions of this Agreement, but without the consent of any Limited Partner, the General Partners, for, in the name and on behalf of the Partnership, are hereby authorized:

(a) To acquire by purchase, lease or otherwise any personal property which may be necessary, convenient or incidental to the accomplishment of the purposes of the Partnership;

(b) To borrow money and issue evidences of indebtedness in furtherance of any or all of the purposes of the Partnership, to guaranty obligations of the Project Partnership and to secure the same by grant of security interests in assets of the Partnership;

(c) To employ persons, firms or corporations (including Affiliates) to provide advisory, administrative, professional and other services to the Partnership, and to pay reasonable compensation for such services;

(d) To enter into the Project Partnership Agreements and all other agreements, instruments and documents as may be required by the general partner(s) of the Project Partnership in connection with the

admission of the Partnership as a limited partner therein;

(e) To enter into 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, so long as said activities and contracts may be lawfully carried on or performed by a partnership under the laws of the State; and

(f) To sell, convey and assign any or all of the assets of the Partnership and to take all other appropriate actions in connection with the liquidation of the Partnership.

#### Section 4.2 Management of Partnership Business

The business affairs of the Partnership shall be managed by the General Partners, who shall devote such amount of their time and services as they, in their absolute discretion, deem necessary. Any party may rely on any action taken by the General Partners as having been a duly authorized act of the Partnership. Each of the Partners consents that any Partner may engage in and/or possess an interest in other business ventures of every nature and description, independently or with others, including, but not limited to, the ownership, financing, leasing, operation, management and development of real property.

#### Section 4.3 Business Control

No Limited Partner (except one who may also be a General Partner, and then only in his capacity as General Partner) shall participate in or have any control over the Partnership business, except as required by law. The Limited Partners hereby consent to the exercise by the General Partner of the powers conferred upon it by this Partnership Agreement and to the employment, when, if in the sole discretion of the General Partner, the same is deemed necessary or advisable, of such brokers, agents, or attorneys as the General Partner may determine (notwithstanding that any parties to this Agreement may have an interest in, or be one of, such brokers, agent or attorneys). No Limited Partner (except one who may also be a General Partner, and then only in his capacity as a General Partner) shall have any authority or right to act for or bind the Partnership.

#### Section 4.4 Transfer or Withdrawal by General Partner

No General Partner may withdraw as a General Partner of the Partnership or transfer, sell or assign its interest in the Partnership without the consent of the Limited Partners.

Section 4.5 Indemnification

The Partnership shall indemnify and save harmless each General Partner against any claims or liability incurred by it provided that the acts or omissions giving rise to such claims or liabilities were performed in good faith in the belief that it was acting within the scope of its authority under this Agreement. Nothing contained in this paragraph shall be construed as imposing any liability on any Limited Partner (except one who may also be a General Partner, and then only in his capacity as a General Partner).

Section 4.6 Dealing with Affiliates

The General Partner may, in the name and on behalf of the Partnership, enter into such agreements, contracts or the like with any Affiliate individually, as distinguished from his or its capacity, if any, as a Partner, to undertake and carry out the business of the Partnership as if such Affiliate were an independent contractor; and the General Partner may obligate the Partnership to pay for and on account of any such services reasonable compensation therefor.

The fact that a Partner or a member of his family is employed or is directly interested in or connected with any Person employed by the Partnership, shall not prohibit the General Partner from employing or otherwise dealing with such Person, and neither the Partnership nor any Partner shall have any rights in or to any income or profits derived therefrom.

ARTICLE V

Term and Dissolution

The Partnership shall continue in full force and effect until December 31, 2030, except that the Partnership shall be dissolved prior to such date upon the happening of any of the following events:

- (a) The sale or other disposition of all or substantially all the assets of the Partnership,
- (b) The Withdrawal of a sole General Partner, or
- (c) An election to dissolve the Partnership made in writing by all of the General Partners.

## ARTICLE VI

### Withdrawal of a General Partner

Upon the Withdrawal of a sole General Partner, the Partnership shall be dissolved and the business of the Partnership terminated.

## ARTICLE VII

### Transferability of Limited Partner Interests

#### Section 7.1 Restrictions on Transfer

Except as permitted below, no Limited Partner may transfer, sell, alienate, assign or otherwise dispose of all or any part of his interest in the Partnership, whether voluntarily, involuntarily or by operation of law, or at judicial sale or otherwise, without the consent of the General Partner. The immediately preceding sentence of this Article shall not apply to the transfer or assignment (in trust or otherwise) by a Limited Partner, whether on death or inter vivos, of all or any part of his interest in the Partnership

(a) to or for the benefit of himself, his Immediate Family or another Partner, or

(b) to the legal representatives of a deceased or incapacitated Limited Partner, or by such a legal representative to accomplish any transfer or assignment permitted by the foregoing subparagraph (a).

In no event shall all or any part of a Limited Partner's interest in the Partnership be assigned or transferred to a minor (other than a member of his Immediate Family by reason of death) or incompetent, and any such attempted assignment shall be void and ineffectual and shall not bind the Partnership.

#### Section 7.2 Substituted Limited Partner

No Limited Partner shall have the right to substitute an assignee as a Limited Partner in his place. The General Partner shall, however, have the right to permit such assignee to become a substituted Limited Partner and any such permission by the General Partner shall be binding and conclusive without the consent of any Limited Partner. Any such substituted Limited Partner shall, as a condition of receiving any interest in the Partnership property, agree to be bound by the provisions of this Agreement, and shall also agree to accept such other terms and conditions as the General Partner in its sole discretion may determine.

Upon the admission of a substituted Limited Partner, the Schedule shall be amended to reflect the name and address of such substituted Limited Partner, and an amendment to the Certificate of Limited Partnership reflecting such admission shall be filed as required by the Uniform Act. Each substituted Limited Partner shall execute such instrument or instruments as shall be required by the General Partner to signify his agreement to be bound by all the provisions of this Agreement.

Each General Partner (and each general partner of any General Partner which is a partnership) is hereby constituted the attorney-in-fact of all Limited Partners to execute, acknowledge and deliver such instruments as may be necessary or appropriate to carry out the provisions of this Article VII, including amendments to the Schedule, amendments to the Certificate of Limited Partnership required by the Uniform Act, business certificates and the like.

### Section 7.3     Assignees

In the event of the decease or incapacity of a Limited Partner, his personal representatives shall have the same status as an assignee of the Limited Partner unless and until the General Partner shall permit such personal representatives to become a substituted Limited Partner on the same terms and conditions as herein provided for assignees generally. The death of a Limited Partner shall not dissolve the Partnership.

An assignee of a Limited Partner who does not become a substituted Limited Partner as provided aforesaid shall have the right to receive the same share of profits, losses and distributions of the Partnership to which the assigning Limited Partner would have been entitled if no such assignment had been made by such Limited Partner.

Any Limited Partner who shall assign all his interest in the Partnership shall cease to be a Limited Partner of the Partnership, and shall no longer have any rights or privileges of a Limited Partner except that, unless and until the assignees of such Limited Partner becomes a substituted Limited Partner, the assignor Limited Partner shall retain all the statutory rights and be subject to all the statutory obligations of an assignor Limited Partner.

In the event any assignment of the interest of a Limited Partner shall be made, there shall be filed with the Partnership a duly executed and acknowledged counterpart of the instrument making such assignment, and such instrument must evidence the written acceptance of the assignee of all the terms and provisions of this Agreement and until such instrument is so filed,

the Partnership need not recognize any such assignment for any purpose hereunder.

An assignee of the interest of a Limited Partner who does not become a substituted Limited Partner as provided aforesaid and who desires to make a further assignment of his interest shall be subject to all the provisions of this Article VII to the same extent and in the same manner as any Limited Partner desiring to make an assignment of his interest.

## ARTICLE VIII

### Profits and Losses; Distributions; Capital Accounts

#### Section 8.1 Profits and Losses; Distributions

All profits, losses and distributions (including distributions upon dissolution of the Partnership) shall be shared by each Partner in the ratio of his Capital Contribution to the total Capital Contributions of all Partners.

Distribution of available funds of the Partnership shall be made at such times, and to such extent, as the General Partner shall in its sole discretion determine. The General Partner shall have the right to hold in reserve and not to distribute such amounts of profits or other funds of the Partnership as it deems advisable or necessary to carry out the purposes of the Partnership.

#### Section 8.2 Miscellaneous

A. All profits and losses shared by the Partners shall be credited or charged, as the case may be, to their capital accounts.

B. All distributions to the Partners shall be charged to their capital accounts.

C. All profits and losses shall be determined in accordance with the accounting methods followed by the Partnership for Federal income tax purposes.

## ARTICLE IX

### Books and Records, Accounting, Tax Elections, Etc.

#### Section 9.1 Books and Records

The books and records of the Partnership shall be kept and maintained at the principal office of the Partnership and shall be available for examination by any Partner, or his duly

authorized representatives, during regular business hours. The Partnership may maintain books and records and may provide such financial, or other, statements as the General Partner in its sole discretion deems advisable.

Section 9.2 Bank Accounts

The bank accounts of the Partnership shall be maintained in such banking institutions as the General Partner shall determine; withdrawals shall be made on such signature or signatures as the General Partner shall determine.

Section 9.3 Audits

The books of the Partnership shall be reviewed annually by such accountant or accounting firm as shall be selected by the General Partner.

Section 9.4 Federal Income Tax Elections

All income tax returns of the Partnership shall be prepared by the General Partner or accountant(s) chosen by the General Partner, and the General Partner in its sole discretion shall determine the elections and other items to be reported in such tax returns.

Section 9.5 Special Basis Adjustments

In the event of a transfer of all or any part of the interest of a General Partner or a Limited Partner, the Partnership may elect, pursuant to Section 754 of the Internal Revenue Code of 1954 (or corresponding provisions of succeeding law) to adjust the basis of the Partnership property. However, the determination of profits, losses and distributions and capital accounts shall, for purposes of Article IX of this Agreement, be made without taking into account any such special basis adjustments. Each Partner will furnish the Partnership with all information necessary to give effect to any such election.

ARTICLE X

General Provisions

Section 10.1 Appointment of General Partners  
As Attorneys-In-Fact

Without limiting the effect of provisions elsewhere in this Agreement appointing each General Partner as attorney-in-fact for all those who are or become Limited Partners (including substituted or additional Limited Partners) under this Agreement in connection with the doing of certain acts and the filing of

certain papers, each Partner hereunder (including a substitute or additional Partner) hereby irrevocably appoints and empowers each General Partner and each general partner of a General Partner which is a partnership his attorney-in-fact to execute all instruments and file all documents requisite to carrying out the intention and purpose of this Agreement, including but not limited to the Certificate of Limited Partnership and amendments thereto as required by the Uniform Act and the filing of all business certificates.

The appointment by all Partners of each General Partner as aforesaid as attorney-in-fact shall be deemed to be a power coupled with an interest in recognition of the fact that each of the Partners under this Agreement will be relying upon the power of each General Partner to act as contemplated by this Agreement in such filing and other action by such General Partner on behalf of the Partnership. The foregoing power of attorney shall survive the assignment by any Partner of the whole or any part of his interest hereunder.

#### Section 10.2 Notices

Any and all notices called for under this Agreement shall be deemed adequately given only if in writing and sent by registered or certified mail, postage prepaid, to the party or parties for whom such notices are intended.

#### Section 10.3 Binding Provisions

The covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the heirs, executors, administrators and assigns of the respective parties hereto.

#### Section 10.4 Applicable Law

This Agreement shall be construed and enforced in accordance with the laws of the State.

#### Section 10.5 Counterparts

This Agreement may be executed in several counterparts and all so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties have not signed the original or the same counterpart, except that no counterpart shall be binding unless signed by one of the General Partners.

#### Section 10.6 Separability of Provisions

Each provision of this Agreement shall be considered separable and if, for any reason any provision or provisions herein are

determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those portions of this Agreement which are valid.

Section 10.7 Paragraph Titles

Paragraph titles are for descriptive purposes only and shall not control or alter the meaning of this Agreement as set forth in the text.

Section 10.8 Amendments

This Agreement may be amended by written consent of those Partners whose aggregate interest in the Partnership exceeds 50%, except that any amendment which alters the share of profit and loss allocable to each Partner shall require the written consent of all Partners.

IN WITNESS WHEREOF, each of the parties hereto has executed and sworn to this Agreement as of this 20<sup>th</sup> day of Dec, 1985.

GENERAL PARTNER:

PICERNE INVESTMENT CORPORATION,  
a Rhode Island corporation

By: Ronald R. Picerno

ORIGINAL LIMITED PARTNER:

PICERNE DEVELOPMENT CORPORATION,  
an Arizona corporation

By: Ronald R. Picerno

STATE OF RHODE ISLAND )  
 ) SS.  
COUNTY OF Kent )

BEFORE ME, the undersigned Notary Public in and for said County and State, personally appeared Ronald R. Picerno known to me to be the President of PICERNE INVESTMENT CORPORATION, who, being duly sworn, acknowledged that he signed the same as his free act and deed and the free act and deed of PICERNE INVESTMENT CORPORATION.

WITNESS my hand and official seal this 20 day of December, 1985.

Pauline L. Allen  
Notary Public PAULINE L. ALLEN  
My Commission Expires: 6/30/86

STATE OF RHODE ISLAND )  
 ) SS.  
COUNTY OF Kent )

BEFORE ME, the undersigned Notary Public in and for said County and State, personally appeared Ronald R. Picerno known to me to be an Officer (Pres) of PICERNE DEVELOPMENT CORPORATION, who, being duly sworn, acknowledged that he signed the same as his free act and deed and the free act and deed of PICERNE DEVELOPMENT CORPORATION.

WITNESS my hand and official seal this \_\_\_ day of December, 1985.

Pauline L. Allen  
Notary Public PAULINE L. ALLEN  
My Commission Expires: 6/30/86

PSP ASSOCIATES LIMITED PARTNERSHIP

SCHEDULE A

<u>Name</u>	<u>Business Address</u>	<u>Cash Capital Contribution</u>	<u>Percentage Interest</u>
<u>General Partner:</u>			
Picerne Investment Corporation	75 Lambert Lind Highway Warwick, RI 02886	\$99.00	99%
<u>Original Limited Partner:</u>			
Picerne Development Corporation	75 Lambert Lind Highway Warwick, RI 02886	\$ 1.00	1%

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