

# 000078304

AMENDED AND RESTATED  
AGREEMENT AND CERTIFICATE OF  
LIMITED PARTNERSHIP OF  
REDFERN GROVE ASSOCIATES

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AMENDED AND RESTATED  
AGREEMENT AND CERTIFICATE OF LIMITED PARTNERSHIP  
OF  
REDFERN GROVE ASSOCIATES

This Amended and Restated Agreement and Certificate of Limited Partnership, dated as of the 20th day of January, 1981, is entered into by and among:

Roland O. Ferland and A. Austin Ferland (hereinafter individually and collectively referred to as the "Operating General Partner"), and Redfern, Inc., a Rhode Island corporation, (hereinafter referred to as the "Corporation") (the Operating General Partner and the Corporation are hereinafter collectively referred to as the "General Partner");

and

The Chandler Plantations Group Ltd., a Rhode Island corporation (hereinafter referred to as "Withdrawing Limited Partner");

and

Real Estate Associates Limited II, a California limited partnership (hereinafter referred to as the "Limited Partner") having as its general partners National Partnership Investments Corp., a California corporation and National Partnership Investments Associates, with reference to the following facts:

A. The General Partner and the Withdrawing Limited Partner are on the date hereof all of the general and limited partners of Redfern Grove Associates, an existing limited partnership (the "Partnership") formed on May 13, 1980 pursuant to the Uniform Limited Partnership Act as enacted in the State of Rhode Island (the "Governing Jurisdiction").

B. The Partnership is the owner and holder of the Property (as hereinafter defined), upon which the Project (as hereinafter defined) is proposed to be situated.

C. The General Partner and the Limited Partner desire to effect the admission of the Limited Partner and the Corporation to the Partnership, the withdrawal of the Withdrawing Limited Partner from the Partner-

continue the Partnership for the purposes herein described, to amend and restate in its entirety the Partnership's limited partnership agreement and its limited partnership certificate, and to enter into this Amended and Restated Agreement and Certificate of Limited Partnership on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto do hereby agree as follows:

1. DEFINITIONS.

As used in this Agreement, the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

1.1 Affiliated Person. "Affiliated Person" means any person, firm or entity

1.1.1 which owns or is owned by any person or entity comprising the General Partner in whole or in part;

1.1.2 which controls or is controlled by any person or entity comprising the General Partner in whole or in part;

1.1.3 which is the parent, subsidiary or affiliate of any person or entity comprising the General Partner;

1.1.4 in which any person or entity comprising the General Partner has any interest except as a creditor;

1.1.5 from which any person or entity comprising the General Partner shall receive any remuneration directly or indirectly;

1.1.6 to which any person or entity comprising the General Partner is a "related taxpayer" as defined in Section 1313(c) of the Internal Revenue Code of 1954, as amended; or

1.1.7 which then constitutes any person or entity comprising the General Partner.

1.2 Agreement Concerning Completion. The "Agreement Concerning Completion" means the Agreement Concerning Completion and Negative Cash Flow Guaranties of even date, by and between the General Partner (individually and not in its capacity as the general partner of the Partnership), the Partnership and the Limited Partner.

1.3 Authority. The "Authority" means the Rhode Island Housing and Mortgage Finance Corporation.

1.4 Breakeven. "Breakeven" means that for the relevant period the Partnership shall have received and maintained Cash from Operations (as hereinafter defined).

1.5 Cash from Operations. "Cash from Operations" means, with respect to any accounting period, the sum of all cash receipts of the Partnership properly attributable to such period from rents, lease payments, subsidy payments which relate to the relevant period (including those received within 30 days after the month to which such subsidy payments relate), releases from reserves for repairs and replacement of Partnership property and any and all other sources relating to the Project, including capital contributions, other than cash receipts from all tenant and trade deposits, loans, sales, exchanges or other dispositions or refinancings of the Project or other Partnership property (including but not limited to proceeds resulting from insured losses or condemnation or eminent domain proceedings), less the sum of all Operating Disbursements (as hereinafter defined); and the Partnership shall not be deemed to have received and maintained Cash from Operations for such period unless such receipts exceed such disbursements.

1.6 Capital Contribution. "Capital Contribution" means \$360,000, as adjusted from time to time pursuant to this Agreement, plus interest as provided in the In-Trust Agreement of even date.

1.7 Completion of the Project. "Completion of the Project" means the later of

1.7.1 delivery of a certificate from the Project's architect to the effect that the Project has been completed pursuant to the plans and specifications therefor approved by HUD and/or the Authority, as applicable, as may be amended from time to time with the consent of HUD and/or the Authority, as applicable, with all of the units and the Project ready for occupancy by tenants; and

1.7.2 obtaining of certificates of occupancy for all of the units of the Project from the local governmental body or agency having jurisdiction, provided such agency customarily furnishes such certificates.

1.8 Disposition or Disposition of Partnership Property. "Disposition" or "Disposition of Partnership Property" means any sale or exchange either in one transaction or a series of transactions to one or more buyers pursuant to a plan of disposition formulated by the Operating General Partner, or other disposition, including but not limited to an involuntary disposition giving rise to insurance or other proceeds, of all or substantially all of the Partnership's property.



1.9 Disposition Losses. "Disposition Losses" means all Losses resulting from the Disposition of Partnership Property.

1.10 Disposition Profits. "Disposition Profits" means all Profits resulting from the Disposition or Partial Disposition of Partnership Property.

1.11 Excess Gross Rental Income. "Excess Gross Rental Income" means the Partnership's gross rental income from the Project for any accounting period, in an amount equal to the amount of Cash from Operations for such accounting period.

1.12 Final Acceptance. "Final Acceptance" means

1.12.1 the final act of acceptance (which shall include a cost certification, if applicable) of the Project by HUD and/or the Authority, as applicable, as having been completed in accordance with the plans and specifications for the Project and the terms of the HUD and/or the Authority, as applicable, commitment letter and any commitment letter of such other agency; and

1.12.2 the execution by HUD and/or the Authority of all contracts to be executed with respect to the Project upon its completion; and

1.12.3 the funding of the permanent loan for the Project.

1.13 HUD. "HUD" means the United States Department of Housing and Urban Development, the Federal Housing Administration, or the Federal Housing Commissioner acting on behalf thereof.

1.14 Initial Closing. The "Initial Closing" means the execution by the sponsors of the Project and HUD and/or the Authority of all documents, approvals and agreements (including all subsidy agreements) required by HUD and/or the Authority in connection with the initial disbursement of construction loan proceeds for the Project, and the occurrence of the initial disbursement thereof.

1.15 Investment Agreement. The "Investment Agreement" means the Agreement for Investment in Redfern Grove Associates of even date, by and among the Partnership, the General Partner and the Limited Partner.

1.16 Mortgage. The "Mortgage" means the first mortgage encumbering the Property which secures the Mortgage Loan.

1.17 Mortgage Loan. The "Mortgage Loan" means the mortgage loan to be obtained by the Partnership, secured by a first mortgage encumbering the Property, in the face amount of \$2,650,000.

1.18 Mortgage Note. The "Mortgage Note" means the non-recourse promissory note, as from time to time amended, made by the Partnership to evidence the Mortgage Loan.

1.19 Operating Disbursements. "Operating Disbursements" means all costs and expenses incurred incident to operation of the Partnership or the ownership, development, rehabilitation, operation, repair or maintenance of the Project or the Property, including without limitation, taxes, capital improvements and acquisitions, payments of principal, interest and annual fees on the Mortgage Note, repayment of loans from Partners, payments of fees and salaries, and the funding of reserves and escrows, if any, required by HUD, the Authority or any other governmental agency having jurisdiction with respect to the Project. All costs and expenses representing fuel or other utility costs shall be annualized so as to reflect on a monthly basis the average of the expenses so incurred. Operating Disbursements shall be determined on the accrual basis of accounting regardless of the basis upon which the books of the Partnership are kept for other purposes. For the purpose of computing Breakeven, Operating Disbursements shall include all principal and interest payments and reserves and escrow funds required by the Project's permanent mortgage financing, which must be in place during the entire relevant period for Breakeven to be deemed achieved, and all Operating Disbursements arising with respect to prior accounting periods must be discharged in full for Breakeven to be deemed achieved.

1.20 Partial Disposition of Partnership Property. "Partial Disposition of Partnership Property" means any sale, exchange, or other disposition of property of the Partnership which does not constitute a Disposition of Partnership Property, including but not limited to an involuntary disposition giving rise to insurance or other proceeds.

1.21 Partners. "Partners" means the General Partner and the Limited Partner collectively; "Partner" refers to any one of the Partners.

1.22 Percentage of Completion. "Percentage of Completion" means that percentage to which the Project has been completed pursuant to the plans and specifications therefor approved by HUD and/or the Authority, as applicable, as may be amended from time to time with the consent of HUD and/or the Authority, as applicable, as certified by the Project's architect and approved by HUD as evidenced by approved construction draw requests.

1.23 Profits and Losses. "Profits" of the Partnership shall mean (i) every item of gross income allocable to a partner of a partnership governed by Subchapter K of the Internal Revenue Code of 1954, as amended, (ii) any item of income not includable in gross income for federal income

tax purposes, and (iii) taxable income for federal income tax purposes computed by excluding income described in clause (i); and "Losses" of the Partnership shall mean (iv) any deduction allocable to a partner of a partnership governed by Subchapter K of the Internal Revenue Code of 1954, as amended, (v) any expenditure which is neither deductible nor chargeable to capital account under Section 705(a)(2)(B) of the Internal Revenue Code of 1954, as amended, and (vi) net losses for federal income tax purposes computed by excluding deductions described in clause (iv).

1.24 Project. The "Project" means the housing apartment project consisting of 72 units (designated as Project No. RI43-H023-102) and attendant facilities to be situated upon the Property.

1.25 Property. The "Property" means the parcel or parcels of real property together with any existing improvements thereon as described in Exhibit 1 hereto, situated in East Providence, Rhode Island.

1.26 Regulatory Agreement. The "Regulatory Agreement" means the agreement or agreements so entitled, entered into by and between the Partnership and HUD and/or the Authority concerning the financing, ownership and/or operation of the Project.

1.27 Substitute Operating General Partner. The "Substitute Operating General Partner" means any person or other entity designated by the Limited Partner and admitted into the Partnership as a general partner having the rights set forth in this Agreement upon the happening of any of the events specified in Section 7.2 hereof and electing to become the Substitute Operating General Partner pursuant to Section 5.2.6 hereof.

## 2. CONTINUATION AND PURPOSE OF PARTNERSHIP.

2.1 Continuation. The parties hereto do hereby continue the existence of the Partnership, heretofore formed pursuant to the provisions of the Uniform Limited Partnership Act as enacted in the Governing Jurisdiction.

2.2 Name of Partnership. The name of the Partnership shall continue to be Redfern Grove Associates.

2.3 Recordation and Filing of Partnership Documents. The parties shall sign and acknowledge this Agreement and the Operating General Partner shall cause it to be filed and/or recorded as the Partnership's certificate of limited partnership, as required by law.

2.4 Purpose of Business. The purpose and business of the Partnership shall be to hold title to the Property; to develop and rehabilitate thereon the Project; to operate the Project; and to undertake such other activities related to the foregoing as may be necessary, advisable, or

convenient to the promotion or conduct of the business of the Partnership.

2.5 Term. The Partnership shall remain in existence until dissolved:

2.5.1 by mutual consent of all of the Partners;

2.5.2 as otherwise provided in this Agreement;

2.5.3 on December 31, 2030; or

2.5.4 by operation of law.

2.6 Place of Business. The principal place of business of the Partnership shall be at 30 Monticello, Pawtucket, Rhode Island, or such other location in the State of Rhode Island as may hereafter be determined by the Operating General Partner. The Operating General Partner shall notify the Limited Partner of any change in the principal place of business of the Partnership.

### 3. CAPITAL CONTRIBUTIONS.

3.1 General Partner's Contributions. The General Partner has previously made contributions to the capital of the Partnership, and for which the General Partner shall receive a credit to its capital account of \$30,004. The General Partner shall not have the right or obligation to make any additional capital contributions to the Partnership.

3.2 Limited Partner's Capital Contribution. Provided that the General Partner has not failed to fulfill any of its obligations contained in this Agreement or under any other agreements delivered by the General Partner, individually or in its capacity as the General Partner of the Partnership, to the Limited Partner prior to or concurrently with the delivery of this Agreement, the Limited Partner shall, subject to Sections 3.3, 3.5 and 7.4 hereof, contribute the Capital Contribution to the Partnership (subject to adjustment pursuant to Section 1.3 of the Investment Agreement), in cash, payable as follows:

3.2.1 \$93,370 cash contribution upon execution of this Agreement and admission of the Limited Partner to the Partnership as a limited partner.

3.2.2 \$92,760 cash contribution plus interest thereon as provided in the In-Trust Agreement upon the last to occur of:

3.2.2.1 receipt, if required, of clearance or approval from HUD and the Authority of the Limited Partner's investment in the Partnership; and

3.2.2.2 the contribution under Section 3.2.1 hereof;

3.2.2.3 Completion of the Project;

3.2.2.4 Final Acceptance; and

3.2.2.5 February 1, 1982

3.2.3 \$70,650 cash contribution plus interest thereon as provided in the In-Trust Agreement upon the last to occur of:

3.2.3.1 the contribution under Section 3.2.2 hereof;

3.2.3.2 Breakeven for the 90 day period immediately preceding the payment date; and

3.2.3.3 Occupancy of 95% of the units of the Project by bona fide tenants, not in default under their respective leases, in possession of their respective units, who have executed HUD-approved leases, who are being billed at not less than the Authority and HUD-approved rentals, no rental concessions having been made to achieve such occupancy ("Occupancy of a Percentage (%) of the Project's units"); and

3.2.3.4 February 1, 1983.

3.2.4 \$56,770 cash contribution plus interest thereon as provided in the In-Trust Agreement upon the last to occur of:

3.2.4.1 The contribution under Section 3.2.3 hereof;

3.2.4.2 Breakeven for the ninety-day period immediately preceding the payment date; and

3.2.4.3 February 1, 1984.

3.2.5 \$46,450 cash contribution plus interest thereon as provided in the In-Trust Agreement upon the last to occur of:

3.2.5.1 The contribution under Section 3.2.4 hereof;

3.2.5.2 Breakeven for the ninety-day period immediately preceding the payment date; and

3.2.5.3 February 1, 1985.

3.3 Conditions to Limited Partner's Capital Obligation. The Limited Partner shall be under no obligation to contribute to the Partnership any of the sums provided for in Section 3.2 hereof (as adjusted, if at all, pursuant to Section 1.3 of the Investment Agreement) except in accordance with the terms and conditions of the Investment Agreement. Further, the Limited Partner shall be under no obligation to make any contribution not due and payable within thirty-six months after the calendar date therefor as set forth in the applicable subsection of Section 3.2 hereof, except that any capital contribution not required by virtue of this provision shall not cause the next subsequent capital contribution to be waived pursuant to Sections 3.2.4 (provided that all conditions for the waived capital contribution shall have been satisfied). If the General Partner fails to deliver to the Limited Partner on a timely basis the reports required pursuant to Sections 11.2.1, 11.5, 11.6 or 11.7 hereof, the Limited Partner may delay its next capital contribution by three times the number of days such reports were late; provided, however, if the reason for the delay was that of the "Partnership Accountant" and not the General Partner or the Partnership the contributions will not be delayed due to the lateness of the report. If the General Partner fails to deliver to the Limited Partner on a timely basis the reports required pursuant to the other sections of Section 11 hereof, the Limited Partner may delay its next capital contribution by the number of days such reports were late up to an aggregate of 60 days.

3.4 No Interest on Capital. No interest shall be paid on capital contributions except as provided in the In-Trust Agreement or on balances of capital accounts.

3.5 Capital Withdrawals and Returns.

3.5.1 Except as set forth in Section 3.5.2 hereof, no Partner shall have the right to withdraw or reduce its contributions to the capital of the Partnership except in accordance with this Agreement. Except as otherwise provided herein, no Partner shall have the right to demand or receive property, other than cash, in return for its capital contribution or have priority over any other Partner, either as to the return of contributions of capital or as to Profits, Losses, or distributions.

3.5.2 Provided that the Operating General Partner is not in default of its obligations under the Agreement Concerning Completion, the Operating General Partner shall have the right to withdraw up to \$52,800 from available capital of the Partnership in order to reimburse itself for costs and expenses it paid on the Partnership's behalf or to repay loans the Operating General Partner made to the Partnership to enable the Partnership to pay certain costs and expenses.

3.6 Default.

3.6.1 In the event that the Limited Partner defaults in its

obligation to pay any capital contribution on or prior to the due date therefor set forth in Section 3.2 hereof and shall fail to correct such default within ten days from such due date, it shall be deemed to be in default hereunder. Upon such default, the General Partner, or its designee or designees shall have the option, exercisable as hereinafter provided, to purchase the Limited Partner's limited partnership interest (including any interest assigned to an additional General Partner pursuant to Section 7.2 hereof, which for the purposes of this Section 3.6 shall be considered as the interest of the Limited Partner), including all cash flow of the Partnership, net cash proceeds and Profits and Losses attributable to such interest or otherwise allocable to the Limited Partner from and after the date of purchase of such limited partnership interest by

3.6.1.1 paying the Limited Partner an amount, in cash, equal to

(i) 100% of the outstanding principal and any accrued interest upon all loans made to the Partnership by the Limited Partner, plus

(ii) 10% of the difference between (A) the amount contributed by the Limited Partner to the capital of the Partnership and (B) any cash distributions previously made by the Partnership to the Limited Partner, less

(iii) any expenses incurred by the General Partner in connection with the purchase of such interest (the "Purchase Price"), and

3.6.1.2 undertaking to make the additional contributions required to be made by the Limited Partner to the extent that such additional contributions were not made by the Limited Partner.

The purchase may be made by the General Partner, or its designee or designees, other than the Partnership, in such proportion as it may determine, by giving notice to the Limited Partner of its intent to exercise such right within 120 days after the default (if the Limited Partner has elected to extend the due date of the capital contribution pursuant to Section 3.6.2 hereof then the date of default shall be upon the expiration of the 120-day period described in said Section 3.6.2.). Upon the giving of the notice to purchase the interest of the Limited Partner pursuant to the provisions of this Section, the Limited Partner shall have no obligation to make the contribution which it failed to make and shall have no obligation to make any future contributions pursuant to Section 3.2 hereof. If the General Partner or its designee or designees purchase the defaulting Limited Partner's interest, the purchaser or purchasers shall consummate such purchase within the foregoing 120-day period and shall, within ten days after such purchase is consummated, pay

the capital contribution to the Partnership which the Limited Partner failed to make. In the event the General Partner elects to exercise its option hereunder and the General Partner or its designee or designees fails to consummate the purchase and make the capital contribution within the required period, the Limited Partner shall have the right to withdraw from the Partnership without any obligation or liability for its unpaid capital contribution as well as the balance of its capital contributions as and when due and to collect an amount equal to the Purchase Price from the General Partner and/or its designee or designees. If the General Partner fails to exercise this option to purchase the Limited Partner's limited partnership interest, and the Limited Partner fails to exercise its right to withdraw set forth in the next preceding sentence (if available to it), then the Partnership may proceed to collect the unpaid capital contribution of the Limited Partner as well as the balance of the Limited Partner's capital contributions as and when due, together with interest thereon at the rate of fifteen percent per annum and all costs and expenses of collection incurred by the Partnership (including reasonable fees and disbursements of counsel) from the Limited Partner.

3.6.2 Provided the Limited Partner shall have made the capital contribution due pursuant to Section 3.2.2 hereof, within fifteen days after receipt by the Limited Partner of notice that a capital contribution is due, the Limited Partner may, upon notice to the Operating General Partner, extend the due date of such capital contribution up to a period of 120 days during which time a third party or parties may (i) make all or a part of the unpaid contribution as well as the balance of the unpaid capital contributions as and when due, however nothing herein shall relieve the Limited Partner of its obligations or liability for unpaid capital contribution the balance of the capital contributions as and when due and (ii) receive up to 48% of the Limited Partner's right to participate in Partnership Profits, Losses and distributions of cash pursuant to Section 4 hereof, and such other rights of the Limited Partner in the Partnership as the Limited Partner shall choose to transfer; provided, however, the Limited Partner shall retain at least a majority of all of its rights in the Partnership. The Limited Partner shall have the right to so transfer said attributes of its Partnership interest provided that such transferee or transferees meet the suitability requirements applicable to the limited partners of the Limited Partner, and in addition such transfer shall be subject to the consent of the General Partner. If the General Partner does not reasonably consent to a transferee the Limited Partner shall be relieved from its obligation to make capital contributions to the extent such transferee would have obligated to do so. No such transferee shall be admitted as a substituted limited partner of the Partnership unless and until it complies with each and every requirement of Section 8.2.2 hereof. The right granted to the Limited Partner in this Section 3.6.2 may be exercised by the Limited Partner only once, and does not extend to any transferee of all or any part of the Limited Partner's interest in the Partnership. In the event a capital contribution due under this Agreement is not paid



in full within the aforesaid 120-day period, the Operating General Partner shall be entitled to exercise the rights provided in Section 3.6.1 hereof.

3.7 Waiver of Partition. The Partners hereby waive and forfeit all rights arising out of statute or operation of law, to seek, bring or maintain in any court an action for partition pertaining to any asset of the Partnership.

3.8 Special Rights of Withdrawal. If Final Acceptance has not occurred on or before December 1, 1981, the Limited Partner shall have the right, in its sole discretion, at any time after such date prior to the occurrence of Final Acceptance, to withdraw from the Partnership upon notice thereof to the Operating General Partner, whereupon the Operating General Partner shall refund to the Limited Partner the amount of the Limited Partner's contribution contributed to the Partnership prior to receipt of such notice. Upon withdrawal by the Limited Partner from the Partnership pursuant hereto, the Limited Partner shall have no further interest in Profits, Losses or distributions of the Partnership, nor shall it have any obligation to fund any or all of the Capital Contribution and the Operating General Partner shall file or record, as required by law, an amendment to the Partnership's certificate of limited partnership to evidence the withdrawal of the Limited Partner from the Partnership.

4. PROFITS, LOSSES AND DISTRIBUTIONS.

4.1 Allocation. Profits and Losses shall be allocated as follows:

4.1.1 All Profits other than Disposition Profits ("Operating Profits") shall be allocated as follows:

4.1.1.1 Operating Profits in an amount equal to all Excess Gross Rental Income for the period commencing on the date hereof until "substantial completion" as defined by HUD shall be allocated to the General Partner.

4.1.1.2 Subject to the provisions of Section 4.1.1.1 hereof, all Excess Gross Rental Income for any fiscal year or portion thereof, up to a maximum of \$15,150 shall be allocated 99% to the Limited Partner and 1% to the General Partner;

4.1.1.3 Subject to the provisions of Section 4.1.1.1 hereof in the event Excess Gross Rental Income for any such fiscal year or a portion thereof exceeds \$15,150 up to a maximum of \$10,000, shall be allocated to the General Partner.

4.1.1.4 All interest income, including without limitation, the interest on the Capital Contribution as provided in the In-Trust Agreement shall be allocated to the General Partner;

4.1.1.5 All other Operating Profits shall be allocated 99% to the Limited Partner and 1% to the General Partner.

4.1.2 Disposition Profits shall be allocated as follows:

4.1.2.1 Disposition Profits treated as ordinary income under Section 751(a)(1) of the Internal Revenue Code of 1954, as amended, which are attributable to the recapture of deductions taken with respect to assets described in Section 751(C) of the Internal Revenue Code of 1954, as amended, shall be allocated among the Partners in the same proportion as such deductions were allocated to them;

4.1.2.2 Disposition Profits next remaining after making the allocations required pursuant to Section 4.1.2.1 hereof shall be allocated as provided in Section 4.5.2 hereof;

4.1.2.3 Disposition Profits next remaining after making the allocations required pursuant to Sections 4.1.2.1 and 4.1.2.2 hereof, but not exceeding an amount equal to the sum of the negative capital account balances of all Partners with negative capital account balances (computed after the allocation of Disposition Profits pursuant to Sections 4.1.2.1 and 4.1.2.2 hereof have been made and in the case of the Limited Partner after distributions of cash pursuant to Sections 4.3.1 and 4.4.1 hereof) shall be allocated among such Partners in proportion to their respective negative capital account balances;

4.1.2.4 Disposition Profits remaining after making the allocations required pursuant to Sections 4.1.2.1, 4.1.2.2 and 4.1.2.3 shall be allocated 50% to the Limited Partner and 50% to the General Partner.

4.1.3 All Losses other than from the Disposition Losses shall be allocated 99% to the Limited Partner and 1% to the General Partner.

4.1.4 All Disposition Losses shall be allocated as follows:

4.1.4.1 Disposition Losses not exceeding an amount equal to the sum of the positive capital account balances of all Partners with positive capital account balances (computed after distributions of cash pursuant to Sections 4.3.1, 4.4.1 and 4.4.2 hereof) shall be allocated among such Partners in proportion to their respective positive capital account balances; and thereafter

4.1.4.2 Disposition Losses remaining after making the allocations required pursuant Section 4.1.4.1 hereof shall be allocated 50% to the Limited Partner 50% to the General Partner.

4.1.5 In the event of a distribution of "Net Refinancing Cash" (as hereinafter defined) under Section 4.3 hereof, then

4.1.5.1 To the extent that principal amortization payments are made from time to time with respect to the loan giving rise to the distribution, there shall be allocated to each Partner an amount of gross income equal to the amount of each such amortization payment multiplied by a fraction, the numerator of which shall be Net Refinancing Cash distributed to him and the denominator of which shall be the total Net Refinancing Cash distributed to all Partners in connection with such loan.

4.1.5.2 In the event of a Disposition or Partial Disposition of Partnership Property prior to the repayment in full of the loan giving rise to the distribution, Disposition Profits in an amount equal to the difference between the maximum amount of gross income which would have been allocated to the Partners under Section 4.1.5.1 hereof had the loan been repaid in full and the amount of gross income actually allocated to the Partners under Section 4.1.5.1 hereof shall be allocated among the Partners in the same proportion as they received distributions of the Net Refinancing Cash.

4.2 Distribution of Cash from Operations. Subject to Section 5.2.12 hereof, Cash from Operations shall be distributed to the Partners from time to time, but not less often than annually and with all distributions in respect of any one calendar year to be distributed not later than 90 days after the end of such year, as follows:

4.2.1 First, to the General Partner in an amount equal to the amount of Excess Gross Rental Income allocated to the General Partner pursuant to Section 4.1.1.1 hereof;

4.2.2 Second, to each of the Partners in amounts equal to the amounts of Excess Gross Rental Income allocated to such Partners pursuant to Section 4.1.1.2 hereof;

4.2.3 Third, to the Partners in amounts equal to the amounts of Excess Gross Rental Income allocated to the Partner pursuant to Section 4.1.1.3 hereof;

4.2.4 Then, to the General Partner in an amount equal to the interest income allocated to the General Partner pursuant to Section 4.1.1.4 hereof; and thereafter

4.2.5 99% to the Limited Partner and 1% to the General Partner.

The Operating General Partner shall distribute all Cash from Operations except that it shall have the right to retain, as an operational reserve (in addition to that required by HUD and/or the Authority, if any), such portion of Cash from Operations as the Operating General Partner can demonstrate will be needed by the Partnership for operating expenses during the next 12-month period. The funds in such operational reserve shall be segregated from other Partnership funds, and if not spent by the Partnership within twelve months after being set aside such funds shall be distributed to those Partners who would otherwise have been entitled to receive the distribution had such funds not been so set aside.

4.3 Distributions of Cash from Refinancing. Surplus cash resulting from a refinancing of the Mortgage Loan or the obtaining of additional

financing (after the funding of reserves for the Project) ("Net Re-financing Cash") shall be distributed to the Partners in the following priority:

4.3.1 To the Limited Partner until it has received cash pursuant to this Section 4.3.1 in an amount which, together with all prior distributions pursuant to Sections 4.3.1 and 4.4.1, equals 145% of the total capital contribution made or required to be made by the Limited Partner pursuant to this Agreement;

4.3.2 50% to the Limited Partner and 50% to the General Partner.

4.4 Distributions of Cash from Disposition or Partial Disposition of Partnership Property. Surplus cash resulting from a Disposition or Partial Disposition of Partnership Property, including but not limited to a dissolution and termination of the Partnership, shall be distributed to the Partners in the following order of priority:

4.4.1 To the Limited Partner until it has received cash pursuant to this Section 4.4.1 in an amount which, together with all prior distributions pursuant to this Section 4.4.1, equals 145% of the total capital contribution made or required to be made by the Limited Partner pursuant to this Agreement;

4.4.2 To the General Partner an amount equal to increases in costs of construction of the Project, not funded by cost savings or increases in the mortgage loan and paid for by the General Partner pursuant to paragraph A.2(a) of the Agreement Concerning Completion or out of the Limited Partner's capital contribution; and thereafter

4.4.3 To the Limited Partner and the General Partner in proportion to their respective positive capital account balances computed after the application of Section 4.1.2 or 4.1.4.

In the event that (i) Disposition Profits recognized in a taxable year with regard to a particular Disposition are less than the total amount of Disposition Profits to be recognized with regard to such Disposition and (ii) the total amount of Disposition Profits to be recognized with regard to such Disposition is definitely determinable in the year in which such Disposition profits are first recognized, then, solely for the purpose of determining distributions under this Section 4.4, the amount of Disposition Profits allocated under Section 4.1.2 shall be deemed to be the total amount of Disposition Profits to be recognized with regard to such Disposition in all taxable years, and allocations under Section 4.1.2 in subsequent years, with regard to such Disposition, shall be disregarded.

4.5 Capital Accounts. An adjusted capital account shall be maintained for each Partner. Except as otherwise provided herein, to each such account there shall be credited

4.5.1 the fair market value of all property contributed to the Partnership by the Partner less the principal amount of any indebtedness to which such property was subject or which was assumed by the Partnership (the "Net Fair Market Value");

4.5.2 the amount of money contributed by the Partner to the Partnership;

4.5.3 Partnership Profits or Excess Gross Rental Income allocated to the Partner; and

4.5.4 the Partner's distributive share of any tax-exempt Partnership income.

To each account there shall be debited

4.5.5 the Net Fair Market Value of property distributed to the Partner;

4.5.6 the amount of money distributed to the Partner;

4.5.7 Partnership Losses allocated to the Partner; and

4.5.8 the Partner's share of Partnership expenditures not deductible in computing its taxable income and not properly chargeable to capital account.

4.6 Division of Allocations and Distributions to General Partner. Profits, Losses and distributions allocable or distributable to the General Partner shall be allocated or distributed as follows:

Operating General Partner 99%; and

Corporation 1%.

5. RIGHTS, POWERS AND OBLIGATIONS OF THE PARTNERSHIP AND THE PARTNERS.

5.1 The Partnership. Subject to the specific limitations set forth in this Agreement, the Operating General Partner is hereby authorized on behalf of the Partnership:

5.1.1 To acquire any property, real or personal, in fee or under lease, and any interest therein or appurtenant thereto, which may be necessary or appropriate for accomplishment of the purposes and objectives of the Partnership.

5.1.2 To develop land acquired by the Partnership with off-site and on-site improvements, and to construct, rehabilitate, maintain, operate, and manage the housing units and other facilities relating thereto which together constitute the Project.

5.1.3 To assist and further the provision of housing and to provide dwelling accommodations for persons displaced from urban renewal areas or as a result of governmental action.

5.1.4 To borrow funds, execute and issue mortgage notes and other evidences of indebtedness and secure the same by mortgage, deed of trust, pledge, or other lien; provided, however, that the Operating General Partner shall have no power or authority to modify or amend the Mortgage Loan with the result that

5.1.4.1 it shall be other than a non-recourse mortgage within the meaning of Treasury Regulation Section 1.752-1(e), or

5.1.4.2 it shall adversely affect the business or financial condition of the Partnership, the Project or the Property.

5.1.5 To apply for and obtain from HUD and/or the Authority and/or other Federal or State agencies contracts for leasing, interest subsidies, tax abatement and tax limitation, as well as other supplemental payments and subsidies; provided, however, that the Operating General Partner shall have no power or authority to amend or modify any such contracts if it shall adversely affect the business or financial condition of the Partnership, the Project or the Property.

5.1.6 To sell, lease, or otherwise dispose of the Project (except as otherwise provided in Section 7.1 hereof).

5.1.7 To apply for and obtain a contract or contracts of mortgage insurance.

5.1.8 To enter into and perform the Regulatory Agreement and to enter into or execute such other agreements and documents as are required by HUD and/or the Authority and any other governmental agency making or insuring the Mortgage Loan or otherwise subsidizing the Project in connection with the Project; and to require any incoming partner, as a

condition to receiving an interest in the Partnership, to agree to be bound by the Mortgage Note, Mortgage, and Regulatory Agreement and any other documents required in connection with the Mortgage Loan to the same extent and on the same terms as the Partners.

5.1.9 To execute a deed and other documents required in order to convey title to the Limited Partner, without consideration, in the event foreclosure upon the Project or the Property or both is imminent, with such conveyance to occur only at such time as it is reasonably apparent to the General Partner or Operating General Partner that such foreclosure cannot be reasonably avoided by the Partnership.

5.1.10 To do any and all things necessary and proper for the accomplishment of the objects herein enumerated, or necessary or incidental to the protection and benefit of the Partnership.

## 5.2 The Operating General Partner.

5.2.1 Management of the Partnership's Business. The Operating General Partner shall manage and conduct the business of the Partnership. It may take any and all actions with respect to the Project and the Partnership without limitation, except to the extent specifically limited by this Agreement or by law. The Operating General Partner shall determine:

5.2.1.1 All matters relating to the management, operating conduct, assets and property of the Partnership; and

5.2.1.2 All matters not expressly provided for by this Agreement.

5.2.2 Compliance by Partnership with Laws and Regulations. The Operating General Partner shall promptly take any and all action which may be necessary or appropriate to perfect and maintain the Partnership as a limited partnership under state law, and to develop, maintain, and operate the Project in accordance with the provisions of this Agreement and the Regulatory Agreement, and applicable Federal, state, and local laws and regulations.

5.2.3 Fiduciary Duties. The Operating General Partner shall at all times exercise its responsibilities in a fiduciary capacity, and in a manner consistent with the objectives of the Partnership.

5.2.4 Tax Actions. The Operating General Partner shall, with the approval of the independent certified public accountants of the Limited Partner, do all acts, make all elections, and take whatever steps are required to maximize the Federal, state and local income tax advan-



tages available to the Partnership and shall defend all tax audits and litigations with respect thereto.

5.2.5 Affiliated Persons. Other than the rental supervision and construction supervision contracts with the Operating General Partner which the Partnership and the Operating General Partner shall enter into concurrently herewith, and the Agreement Concerning Completion and the management contract with Housing Management Company, there is no existing contract between the Partnership and an Affiliated Person. The Operating General Partner may, subject to the provisions of this Section and Section 5.2.12 hereof, contract with Affiliated Persons on terms reasonably competitive with those which may be obtained in the open market for property or services required by the Partnership. Any such contract or contracts hereafter entered into with Affiliated Persons shall be fully disclosed to the Limited Partner within 30 days after the end of each calendar year.

5.2.6 Management by Substitute Operating General Partner. Upon the admission of an additional or successor General Partner pursuant to Section 7.2 hereof, such additional or successor General Partner shall, at the option of such additional or successor General Partner,

5.2.6.1 be the Substitute Operating General Partner and

5.2.6.2 have the full, exclusive, and complete right to manage and conduct the business of the Partnership.

5.2.7 Action by Operating General Partner. With respect to each written contract or agreement entered into by the Partnership with any third party, each such contract or agreement entered into by the Operating General Partner or the Substitute Operating General Partner on behalf of the Partnership shall provide that such third party acknowledges that he is dealing with a limited partnership whose only general partner is the General Partner and that in any subsequent action against the Partnership by such party he will proceed only against the Partnership and/or the General Partner and their successors and assigns.

5.2.8 Outside Activities. The Operating General Partner shall devote such time and attention to the Partnership business as may be necessary for the proper performance of its duties. It may, however, engage or hold interests in other business ventures of every kind and description, in which the Partnership and the Limited Partner shall have no interest.

5.2.9 Indemnification of General Partner. The General Partner (and the Substitute Operating General Partner, if any) shall be entitled to indemnity from the Partnership for any act performed by it in good faith within the scope of the authority conferred upon it by this Agree-

ment, except for acts of malfeasance, gross negligence, or misrepresentation, provided that any indemnity under this Section shall be paid out of and to the extent of Partnership assets only.

5.2.10 Liability of General Partner. The General Partner (and the Substitute Operating General Partner, if any) shall not be liable, responsible or accountable in damages or otherwise to the Partnership or the Limited Partner for any act performed by the General Partner within the scope of the authority conferred upon it by this Agreement, except for acts of malfeasance, negligence, or misrepresentation.

5.2.11 Insurance. The Operating General Partner shall cause the Partnership, at the Partnership's expense, to obtain and maintain at all times, such insurance, in such amounts, on such terms and with such carriers, as is customary for a project similar to the Project, but which at a minimum shall include the following insurance policies to be issued by a qualified insurance company or companies rated at least A+AAAA by Best's Insurance Guide:

5.2.11.1 All-risk property insurance with a 100% replacement cost endorsement.

5.2.11.2 Comprehensive general liability insurance with minimum coverage of \$1,000,000 single limit, including extensions of coverage for contractual liability, and, if available, incidental malpractice liability and host liquor liability.

5.2.11.3 Worker's compensation insurance as required by law.

The Operating General Partner shall deliver to the Limited Partner copies of such policies and a certificate or certificates of the insurance carrier or carriers from which such policies have been obtained, in form and substance satisfactory to the Limited Partner, to the effect that the foregoing insurance has been obtained and is in force and shall provide that each such policy requires the insurance carrier to notify the Limited Partner at least 60 days prior to any proposed cancellation of such policy.

5.2.12 Management Agent. The Operating General Partner shall have the responsibility for managing the Project and obtaining a management agent (the "Management Agent"), the choice of which shall be subject to the reasonable control of the Limited Partner; the Management Agent shall initially be Housing Management Company. The Operating General Partner shall cause the Partnership to enter into an agreement with the Management Agent which agreement shall be subject to the approval, if required, of HUD and/or the Authority and/or any other governmental

agency or financing entity involved in the Project. A copy of such agreement shall be promptly provided to the Limited Partner. The management agreement may be with an Affiliated Person as Management Agent. If the management agreement is not with an Affiliated Person such Management Agent shall provide a fidelity bond, naming the Partnership as insured, in an amount equal to two months' scheduled gross income of the Project.

If at any time after Completion of the Project

5.2.12.1 the Project shall be subject to a substantial building code violation or violations which shall not have been cured within a reasonable time after notice from the Limited Partner, or

5.2.12.2 the Partnership over any 24 consecutive months after Completion of the Project does not achieve Breakeven, or

5.2.12.3 the General Partner is in default under the Agreement Concerning Completion, the Operating General Partner shall forthwith give to the Limited Partner notice of such event, and thereafter the Partnership shall forthwith terminate its management agreement with the Management Agent, unless the consent of the Limited Partner is obtained to the retention of the Management Agent as the manager of the Project. If such consent is not obtained, the Operating General Partner shall immediately proceed to select a substitute Management Agent for the Project, which Management Agent shall be a firm regularly engaged in the business of providing services as a management agent of the type contemplated by this Section with an office in Providence, Rhode Island and which firm shall not be an Affiliated Person if an Affiliated Person was previously required to withdraw. The Operating General Partner shall have the duty to manage the Project during any period in which there is no Management Agent. In all cases, no management fee shall be payable to any person unless the management contract with such person shall provide for termination of the same upon the occurrence of any of the events described in this Section 5.2.12 and in any event upon 30 days' notice.

5.2.13 Section 167(k) and Section 191 Compliance. In the event rehabilitation expenditures are contemplated, the Operating General Partner shall take all reasonable steps necessary to cause the Partnership to be in full compliance with the continuing requirements of Section 167(k) and Section 191 of the Internal Revenue Code of 1954, as amended, and the regulations promulgated thereunder.

### 5.3 The Limited Partner.

5.3.1 The Limited Partner shall not take part in the management of the Partnership's business or transact any business for the Partner-

ship nor have any power to sign for or to bind the Partnership or to subject the Partnership to any liability or obligation.

5.3.2 The Limited Partner shall not be personally liable in excess of its capital contributions which have become payable pursuant to the terms of this Agreement.

5.4 The Regulatory Agreement. The Regulatory Agreement shall be binding upon the Partnership, its successors and assigns so long as a mortgage on the property of the Partnership which is insured or held by HUD, or held by the Authority, is outstanding and/or HUD or the Authority is otherwise subsidizing the Project. The Partnership shall comply in every respect with the Regulatory Agreement and all applicable federal, state, and local statutes and regulations. Any requirements imposed upon the Partnership under the Regulatory Agreement or any other agreement with HUD and/or the Authority or any other governmental agency making or insuring the Mortgage Loan or otherwise subsidizing the Project, if inconsistent with any of the provisions of this Agreement, shall be controlling and shall govern the rights and obligations of the parties hereto. Any incoming partner of the Partnership shall accept his interest in the Partnership subject to the Mortgage Note, Mortgage, Regulatory Agreement and other documents required by HUD and/or the Authority if the Regulatory Agreement is then in effect. Upon any dissolution of the Partnership no title or right to possession or control of the Property and no right to collect the rent therefrom shall pass to any person who is not bound by the Regulatory Agreement in a manner satisfactory to HUD and/or the Authority, if the Regulatory Agreement is then in effect.

#### 6. PAYMENTS TO GENERAL PARTNER.

6.1 Management Fees. The Operating General Partner shall be paid management fees as hereinafter set forth for the day-to-day management of the Partnership activities and the Project, including but not limited to, the rendition of accounting and bookkeeping services, preparation and submission of reports for relevant governmental agencies and others, communications with federal, state and city agencies, supervision of community relations, supervision of the Partnership's compliance with all contractual obligations, supervision of the Partnership's payment of all financial obligations, and securing a qualified general contractor and a qualified operations manager, for which a salary shall be paid by the Partnership to the Operating General Partner without regard to partnership income, as a guaranteed payment, payable as follows:

6.1.1 \$35,000 shall be earned by the Operating General Partner in calendar year 1981 for services rendered during that calendar year, payable upon receipt by the Partnership of the contribution described in Section 3.2.1 hereof.

6.1.2 \$12,000 shall be earned by the Operating General Partner in calendar year 1982 for services rendered during that calendar year, payable upon receipt by the Partnership of the contribution described in Section 3.2.2 hereof.

6.2 Reimbursement for General Partner's Expenses. In addition to the foregoing fees, the Operating General Partner shall be entitled to reimbursement for certain expenses incurred by it on behalf of the Partnership as follows:

6.2.1 Up to \$12,000 shall be paid to the Operating General Partner as a reimbursement for out-of-pocket expenses for office rent and other miscellaneous expenses relating to the Partnership payable as follows:

6.2.1.1 Up to \$4,000 shall be paid in, and for such expenses incurred during, the calendar year 1981, but in no event prior to the receipt by the Partnership of the contribution described in Section 3.2.1.

6.2.1.2 Up to \$4,000 shall be paid in, and for such expenses incurred during, the calendar year 1982, but in no event prior to the receipt by the Partnership of the contribution described in Section 3.2.2.

6.2.1.3 Up to \$4,000 shall be paid in, and for such expenses incurred during, the calendar year 1983, but in no event prior to the receipt by the Partnership of the contribution described in Section 3.2.3.

6.2.2 The Operating General Partner shall be paid the sum of up to \$8,000 as a reimbursement for out-of-pocket expenses relating to professional fees paid on behalf of the Partnership, payable as follows:

6.2.2.1 Up to \$4,000 shall be paid in, and for such expenses incurred during, the calendar year 1981, but in no event prior to the receipt by the Partnership of the contribution described in Section 3.2.1.

6.2.2.2 Up to \$4,000 shall be paid in, and for such expenses incurred during, the calendar year 1982, but in no event prior to the receipt by the Partnership of the contribution described in Section 3.2.2.

6.3 No Reimbursement of General Partner. The General Partner shall be entitled to receive payments from the Partnership only as specifically provided for by Sections 4.2, 4.3, 4.4, 5.2.9, 5.2.12, 6.1, 6.2, 7.3 and 10.2 hereof and pursuant to the contracts referred to in Section

5.2.5 hereof, and shall receive no other compensation for services rendered to the Partnership and no other reimbursement for expenses (including overhead) of the General Partner.

7. RELATIONSHIP OF GENERAL AND LIMITED PARTNERS.

7.1 Limitations on Sale of Partnership Assets by General Partner. The General Partner may not, without the prior written consent of the Limited Partner, sell (except as set forth in this Section 7.1) or lease (except to individual tenants in the ordinary course of business) or otherwise transfer or dispose of

7.1.1 the Project or the Property, or

7.1.2 all or substantially all of the Partnership's other assets.

The General Partner shall have the right to sell the Project or the Property at any time after seventeen years after the Project has first been placed into service within the meaning of Treasury Reg. 1.167(a)-(11)(e)(1) upon compliance with all of the following: (i) the price and terms of sale reflect fair market value and the Limited Partner is given notice of the intended sale at least twenty days prior to the Partnership being obligated to any such sale, (ii) the Limited Partner shall receive out of the proceeds of such sale the entire cash distribution it is entitled to receive pursuant to Section 4.4.1 hereof, and (iii) that portion of the sale proceeds distributed to the Limited Partner shall be sufficient to pay the entire tax liability of each partner in the Limited Partner, assuming that each investor is in the 50% tax bracket, which is attributable to the sale of the Property.

7.2 Net Worth of Operating General Partner; Additional General Partner. The Operating General Partner agrees to maintain at all times during the term of the Partnership sufficient net worth so as to satisfy then applicable federal tax laws and Internal Revenue Service regulations and rulings prescribing minimum net worth requirements for general partners in order to maintain the Partnership as a partnership for federal tax purposes. If

7.2.1 the General Partner or the Partnership shall be in material default in the performance of any of their respective obligations so as to seriously impair the operations or prospects of the Partnership and/or the Project, or

7.2.2 the net worth of the General Partner endangers the status of the Partnership as a partnership for Federal tax purposes, or

7.2.3 the Operating General Partner shall retire or cease to exist,

the Limited Partner may designate an additional or successor general partner, who shall be admitted with whatever partnership interest he or it shall have or acquire from the Limited Partner and that of the Operating General Partner (in the event of mandatory retirement pursuant to Section 8.3 hereof) and who shall, at the option of such additional or successor general partner, be the Substitute Operating General Partner, but the Operating General Partner shall continue with its interest in Profits, Losses and distributions as General Partner (except in the event of mandatory retirement pursuant to Section 8.3 hereof.)

7.3 Loans from the Partners. In the event of a material default under this Agreement, under any requirement imposed upon the Partnership by the Mortgage Loan or Regulatory Agreement or otherwise that would materially adversely affect the Partnership or the Project, the General Partner (to the extent not otherwise obligated to provide the funds therefor), the Other Limited Partners and the Limited Partner have the right, but not the obligation, to advance funds by way of loan to the Partnership for the purpose of curing any such default, for which each Partner who advances funds shall receive a promissory note of the Partnership bearing interest at a rate of the lesser of the maximum rate permitted under the laws of the State of Rhode Island, or the prime lending rate of the Bank of America, Los Angeles, California main branch to its most creditworthy customers on an unsecured basis and with principal and all accrued but unpaid interest payable prior to any distributions pursuant to Sections 4.2, 4.3, 4.4, or the incentive management fee pursuant to Section 5.2.12 hereof. Any such loans made by the Limited Partner shall, at the Limited Partner's sole option, be repaid as to principal and interest by reduction, in whole or in part as the case may be, of the amount of any forthcoming capital contribution or contributions payable by the Limited Partner pursuant to Section 3.2 hereof.

## 8. TRANSFERABILITY AND ASSIGNABILITY OF PARTNERS' INTERESTS.

8.1 General Partner. Except as otherwise expressly provided herein, the General Partner shall not sell, assign, transfer, mortgage, pledge, or otherwise encumber or dispose of its interest in the Partnership or any part or portion thereof. Any such attempted sale, assignment, transfer, mortgage or charge in violation hereof shall be void.

### 8.2 Limited Partner.

8.2.1 Unless the Limited Partner has first obtained the written consent of the Operating General Partner (which consent may be withheld at the sole discretion of the Operating General Partner); the Limited Partner

may not assign the whole or any part of its interest in the Partnership as a Limited Partner or any attribute of such interest, to any person, firm, or entity; provided, however, that the foregoing shall not limit in any way the Limited Partner's rights pursuant to Section 3.5 hereof or to designate a Substitute Operating General Partner or to transfer a portion of its interest in the Partnership to the Substitute Operating General Partner pursuant to Section 7.2 hereof.

8.2.2 The admission of an assignee of the Limited Partner as a substituted limited partner shall be further conditioned upon:

8.2.2.1 The assignee's being lawfully empowered to become a limited partner of the Partnership.

8.2.2.2 The written consent thereto of HUD and/or the Authority and/or any other governmental agency making or insuring the

8.2.2.3 The assignment instrument being in form and substance reasonably satisfactory to the Operating General Partner.

8.2.2.4 The assignor and assignee named therein executing and acknowledging such other instrument or instruments as the Operating General Partner reasonably may deem necessary or desirable to effectuate such admission.

8.2.2.5 The assignee's written acceptance and adoption of all of the terms and conditions of this Agreement, as the same may have been amended, and written acceptance of all of the conditions of the Regulatory Agreement.

8.2.2.6 The assignee's paying or obligating itself to pay, as the Operating General Partner may determine, all reasonable expenses incurred in connection with such admission, including but not limited to, the cost of preparing, filing, and publishing any amendment to the Partnership's certificate of limited partnership, as from time to time amended, to effectuate such admission; and

8.2.2.7 The assignee's paying or obligating itself to pay when due all capital contributions owed or to be owed to the Partnership relating to the Partnership interest acquired by the assignee.

8.3 Mandatory Retirement of General Partner. Upon the occurrence of any of the events hereinafter described, the Operating General Partner shall each tender its resignation in writing to the Limited Partner, which resignation shall become effective only if accepted in writing by the Limited Partner within 30 days after the date of such resignation:



8.3.1 Any material breach of any of the General Partner's duties or obligations under this Agreement, the Investment Agreement, or any other agreement delivered concurrently with this Agreement which has continued uncured for a period of ten days;

8.3.2 Any material breach, not waived or cured, of the Mortgage or Mortgage Note, the Regulatory Agreement or any other agreement given with respect to the financing of the Project;

8.3.3 Termination, withdrawal or reduction of any governmental subsidy relating to the Project, unless a comparable subsidy has been obtained or after 17 years after completion of the Project the Operating General Partners can demonstrate that withdrawal or termination of the subsidy is in the Partnership's and the Limited Partner's best interest.

8.3.4 Failure of the net worth of all of the persons or entities comprising the Operating General Partner to meet both the test for ruling purposes of a sole corporate general partner, under Internal Revenue Service Rev. Proc. 72-13, and the then-current such test, if any, applicable to the Operating General Partner at any time during the term hereof.

8.3.5 Failure of the Project to be treated as residential rental property within the meaning of Treasury Regulation 1.167(j)-3.

If the Operating General Partner resigns pursuant to this Section, or suffers an event of default, then shall transfer all of the voting stock of the Corporation to the Limited Partner or its designee (but in no event shall the Limited Partner own directly or indirectly more than 20% of the stock of the Corporation or any affiliate thereof as defined in Section 1504(a) of the Internal Revenue Code of 1954, as amended), and the Operating General Partner shall transfer all of its interest in the Partnership to a successor Operating General Partner or, if none is selected by 100% in interest of the limited partners of the Partnership, to the Partnership; upon such resignation, the Operating General Partner shall have any further right to or interest in any fees set forth in Section 6 hereof nor if the Management Agent is an Affiliated Person the incentive management fee under Section 5.2.12 hereof, which were not earned and payable prior to the effective date of such resignation. In the event the Operating General Partner resigns pursuant to this Section, it shall deliver to the Limited Partner prior to the effective date of such resignation an operating manual for the Project containing the information described in Section 2.4.1.8 of the Investment Agreement.

8.4 Acquisition of General Partner Interest Following Dissolution.  
In the event of a dissolution of the Partnership pursuant to Section

10.1.1 hereof, the Limited Partner shall have the right to purchase the entire Partnership interest of each and all of the persons constituting the General Partner for an aggregate amount of \$1,000.

8.6 Withdrawal of Withdrawing Limited Partner. The Withdrawing Limited Partner hereby withdraws from the Partnership.

9. ALLOCATION OF INCOME AND EXPENSE.

9.1 Manner of Allocation. Each item of income, gain, expense or loss of the Partnership and any tax credits shall, for purposes of the Internal Revenue Code of 1954, as amended, for each taxable year be deemed to be allocated among the Partners in the same manner as Profits and Losses are divided among the Partners during that taxable year pursuant to Section 4.1 hereof, except as may be otherwise specifically provided in Section 4 hereof. The Limited Partner shall participate in Profits and Losses and distributions as provided in Sections 4.1, 4.2, 4.3 and 4.4 hereof from and after the first day of the calendar month in which this Agreement is executed.

9.2 Transferee Limited Partner.

If the Limited Partner transfers its interest in the Partnership pursuant to the terms and conditions of this Agreement, the net Profits or net Losses for the fiscal year during which the transfer occurs shall be allocated between the Limited Partner and the transferee as they shall agree, in accordance with applicable federal tax laws and regulations; provided that if the Partnership does not receive notice of the manner in which such parties have agreed such Profits or Losses are to be allocated between them on or before January 31 of the year following the year in which the transfer occurs, then all of such Profits or Losses shall be allocated as between the Limited Partner and its transferee as of the date of admission to the Partnership of the transferee.

9.3 An Election to Adjust Tax Basis. In the event of the transfer of a Partnership interest or upon the death of an individual limited partner, or in the event of the distribution of Partnership property to any limited partner, the Partnership may file an election, in accordance with applicable Treasury Regulations, to cause the basis of the Partnership property to be adjusted for Federal income tax purposes as provided by Sections 734, 743 and 754 of the Internal Revenue Code of 1954, as amended.

10. TERMINATION - DISTRIBUTIONS.

10.1 Termination. The Partnership shall terminate upon the happening of any of the following events:

10.1.1 The retirement, death, informal composition of its creditors, the making of an assignment for the benefit of creditors of, or the filing of a petition under any provision of the Bankruptcy Act of the United States by or against (unless such petition shall have been dismissed within 30 days after filing), or the insolvency, dissolution, or other cessation to exist as a legal entity of any general partner of the Partnership, unless each of the remaining persons or entities, if any, then constituting the General Partner elects to continue the business of the Partnership. In the event such remaining persons or entities do not elect to continue the business of the Partnership within 30 days after receipt of notice by the Partnership of such event otherwise causing a dissolution, the Partnership shall dissolve. Upon the happening to the Operating General Partner of any of the events described in the first sentence of this Section 10.1.1, the Operating General Partner shall transfer all of the stock of the Corporation to the Limited Partner or its designee (but in no event shall the Limited Partner in the aggregate own directly or indirectly more than 20% of the stock of the Corporation or any affiliate thereof as defined in Section 1504(a) of the Internal Revenue Code of 1954, as amended); or

10.1.2 The determination by the General Partner and 100% in interest of the limited partners that the Partnership should be dissolved, in accordance with state law.

10.2 Sale of Project - Distributions Upon Dissolution and Termination. If upon the occurrence of any of the events set forth in Section 10.1 hereof, the remaining general partner(s) of the Partnership do not elect to continue the business of the Partnership, then the Partnership shall dissolve and terminate and the Operating General Partner shall take full account of the Partnership assets and liabilities and the assets shall be liquidated as promptly as is consistent with the obtaining of the fair market value thereof. In the event there is a surplus available for distribution, such surplus, together with assets distributed in kind, shall be applied and distributed to the Partners in accordance with Section 4.4 hereof.

## 11. BOOKS OF ACCOUNT AND REPORTS.

### 11.1 Books of Account.

11.1.1 The Operating General Partner, at the expense of the Partnership, shall at all times keep and maintain complete and accurate books, records, and accounts of the Partnership, in accordance with practices generally used in the real estate industry applied in a consistent manner and as reported in the Partnership return of income for federal income tax purposes, and in a manner and form acceptable to the C.P.A. firm appointed to prepare the Partnership audited financial statements, tax returns and cost certification for the Project, which

firm shall be Peat Marwick Mitchell (the "Partnership Accountant"). The Operating General Partner shall cause to be provided, at the expense of the Partnership, to the Limited Partner

11.1.1.1 by November 15th of each year an estimate of Profits and Losses for the year ending December 31st, and

11.1.1.2 by the fortieth day following each calendar quarter an unaudited balance sheet and statement of profit and loss of the Partnership.

11.1.2 The books, records, and accounts of the Partnership shall be kept at the principal office of the Partnership. All of the Partners and their duly authorized representatives shall have the right to audit, examine, and make copies of the same during business hours.

11.1.3 The Partnership's books shall be kept on an accrual basis. No later than 90 days after the end of the fiscal year, the Operating General Partner shall furnish the Limited Partner with a statement of profits and losses of the Partnership, a detailed balance sheet of the Partnership, and a statement showing the amounts credited to or charged against the capital accounts of all of the Partners pursuant to this Agreement, all in conformity with HUD and/or Authority requirements. The Operating General Partner, at the expense of the Partnership, will cause to be provided to the Limited Partner audited financial statements of the Partnership within 90 days after the end of the fiscal year.

## 11.2 Reports to Limited Partner.

11.2.1 The Operating General Partner shall, within 5 days after the close of any calendar month during which any of the following specified events occurs, notify the Limited Partner of receipt of any notice of default under the Mortgage Loan, notice of breach of the Regulatory Agreement, non-payment of taxes, notice of filing of any lien against the Project or the Property, or notice or knowledge of non-compliance with any federal, state, or local law, ordinance, or regulation, commencement or termination of any lawsuit against the Partnership (except individual suits by tenants in the ordinary course of business involving sums less than one month's rent) or any of its property, notice of cancellation or non-renewal of any insurance, notice of cancellation or non-renewal of any subsidy agreement, knowledge of any extraordinary item charges or credits or any other material charges or credits to income of an unusual nature or any material provisions for loss, or any other circumstance which, either in amount or time or otherwise materially affects the business of the Partnership or the interests of the Partners.

11.2.2 During the period of initial occupancy of the Project

until Occupancy of 95% of the Project's units (as defined in Section 3.2.5.4), the Operating General Partner shall deliver to the Limited Partner, within seven days after the end of each two week period a report showing occupancy of the Project.

11.2.3 During the period of occupancy and operation of the Project following the period set forth in subsection 11.2.2 hereof, the Operating General Partner shall deliver to the Limited Partner within 30 days after the end of each calendar month an operating report showing rental occupancy of the Project, cash receipts and accrued expenses.

11.2.4 Throughout the term of this Agreement, the Operating General Partner shall, within 5 days after the close of any calendar month during which the event occurs, furnish the Limited Partner with notice of any fact causing a breach of any of the representations and warranties contained in Article 3 of the Investment Agreement or any provision of this Agreement.

11.2.5 Upon request of the Limited Partner, the Operating General Partner shall deliver to the Limited Partner a copy of its balance sheet as of the end of the most recent calendar year.

11.2.6 Throughout the term of this Agreement the Operating General Partner shall deliver to the Limited Partner at reasonable intervals reports updating the documents to be delivered pursuant to Section 2.2.1.3 of the Investment Agreement, and to the extent then applicable shall deliver to the Limited Partner copies of the following:

11.2.6.1 Monthly construction requisitions;

11.2.6.2 Occupancy approvals;

11.2.6.3 Photographs of completed Project buildings;

11.2.6.4 Cost certification of owner and builder;

11.2.6.5 All proposed change orders and all approved change orders, provided, no consequence shall occur to the General Partner if Limited Partners not provided in the change order of less than \$1,000.

11.2.6.6 Monthly statements of cash receipts and disbursements within 15 days after the end of each month comparing the actual operations to the budget for the current month and the year-to-date, including: (i) bank reconciliation; (ii) listing of accounts payable; (iii) computation of surplus cash; and (iv) aging of accounts receivable;

11.2.6.7 Copies of all reports provided to HUD, subject to Section 11.5 hereof;

11.2.6.8 Copy of HUD -- and/or Authority -- approved rental schedule as presently in force;

11.2.6.9 Copy of annual physical inspection reports provided to HUD and/or the Authority;

11.2.6.10 An annual operating budget by no later than December 1 as to the following calendar year.

11.3 Fiscal Year. The fiscal year of the Partnership shall be the calendar year.

11.4 Bank Accounts. The funds of the Partnership shall be deposited in the name of the Partnership in bank accounts insured by the Federal Deposit Insurance Corporation (the "FDIC"). Each Partner may at any time fully examine the Partnership's bank balances, statements, and accounts. All deposits, including security deposits and funds required by HUD and/or any other governmental agency making or insuring the Mortgage Loan or otherwise subsidizing the Project to be escrowed, and other funds not currently needed in the operation of the Partnership business shall, to the extent permitted by applicable requirements of HUD and/or any other governmental agency making or insuring the Mortgage Loan or otherwise subsidizing the Project, be deposited in the name of the Partnership in such interest-bearing bank accounts insured by the FDIC or invested in such short-term obligations (maturing within one year) issued or guaranteed by the United States Government as shall be selected by the Operating General Partner.

11.5 Tax Returns. The Operating General Partner shall cause to be prepared at Partnership expense by the Partnership Accountant, the required federal, state, and local tax returns, and shall direct the Partnership's accountants to deliver draft tax returns for review by the Partnership prior to preparation of the final tax returns; copies of such drafts shall be provided to the Limited Partner by the Operating General Partner. Based upon the fiscal year of the Partnership, said returns shall be prepared in such a way as to maximize tax benefits to the Partners and in accordance with methods set forth by the Limited Partner, and the Operating General Partner shall cause the final form of such returns to be submitted to the Partners not more than 60 days after the close of each fiscal year.

11.6 Reports to HUD and/or Authority. The Operating General Partner shall cause to be provided to the Limited Partner at least 20 days prior to its submission to HUD and/or the Authority, a copy of the Partnership's annual report or audit to HUD and/or the Authority.

11.7 Financial Statements. The Operating General Partner shall provide the Limited Partner and the Other Limited Partners with a copy of financial statements of the Operating General Partner, within 90 days after the close of each calendar year during the term hereof, with respect to such prior year. The Operating General Partner shall advise the Limited Partner immediately of any adverse change in its financial condition of 20% or more, and upon such advice shall provide the Limited Partner with its current interim financial statements.

11.8 Failure to Provide Reports. The parties hereto agree that, because of the reporting requirements of the Limited Partner, a failure to provide any of the reports, statements, returns or copies referred to in Sections 11.2.1, 11.5, 11.6 and 11.7 on a timely basis shall be deemed to be a material default under this Agreement by the General Partner, and time is of the essence for this purpose.

## 12. DEATH/INCOMPETENCY OF LIMITED PARTNER.

The Partnership shall not be terminated or dissolved upon the death or legal incompetency of a limited partner, or, in the case of a limited partner that is a partnership, joint venture, association, corporation, or trust, the dissolution of such limited partner. The personal representative, guardian, or other successor in interest of the limited partner, as the case may be, shall be substituted as a limited partner in the Partnership, with all of the rights, powers, duties and obligations of such deceased, legally incompetent, or dissolved limited partner when approved by the Partnership and, if required, HUD and/or the Authority.

## 13. GENERAL PROVISIONS.

13.1 Amendments. This Agreement may be amended upon the written consent or vote of a majority in interest (measured by each Partner's share of operating losses) of the General Partner and the Limited Partner both the General Partner and the Limited Partner voting as one class, and upon receipt of the approval of HUD and/or the Authority, if required. Upon amendment of this Agreement, the Partnership's certificate of limited partnership shall also be amended, if required by law, to reflect the change.

13.2 Notices. Any and all notices or other communications required or permitted by this Agreement or by law to be served upon or given to a party hereto by any other party hereto shall be in writing, and shall be deemed duly served and given three business days after being sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

13.2.1 If to the Partnership, the Operating General Partner, the Corporation to the Corporation's residence address, as follows:

c/o Roland O. Ferland and A. Austin Ferland  
30 Monticello Road  
Pawtucket, Rhode Island

13.2.2 If to the Limited Partner, to its residence address, as follows:

Real Estate Associates Limited II  
1901 Avenue of the Stars  
Suite 1200  
Los Angeles, California 90067

The Partnership, the Operating General Partner, the Corporation, or the Limited Partner may change its address for the purpose of this Section by giving written notice of such change to the other parties in the manner provided in this Section.

13.3 Governing Law. This Agreement shall be governed by the laws of the Governing Jurisdiction.

13.4 Headings. The headings of the articles and sections of this Agreement are inserted for convenience only and are not to be deemed to constitute a part of this Agreement.

13.5 Further and Additional Documents and Reports. Each of the parties hereto agrees to execute, acknowledge, and verify, if required to do so, any and all further or additional documents as may be reasonably necessary to fully effectuate the terms of this Agreement. Should the reporting requirements of any state or federal governmental body or agency, to which the Limited Partner or its general partners are subject, be changed at any time during the continuance of the Partnership so as to require that the Limited Partner receive additional or more detailed reports or financial statements from the General Partner, or receive such reports as are now required hereunder within a shorter time period, the General Partner agrees to provide all such reports as and when required after reasonable notice from the Limited Partner relating to such change.

13.6 Counterparts. This Agreement may be executed in counterparts, which taken together shall constitute a single document. Each executed copy of this Agreement shall be considered an original.

13.7 Binding on Successors and Assigns. Except as otherwise specifically provided herein, this Agreement shall be binding upon and inure to the benefit of the executors, administrators, successors, and assigns of the respective Partners.



13.8 No Waiver. The waiver of any breach of any term, covenant, or condition of this Agreement by any of the parties hereto shall not constitute a continuing waiver or waiver of any subsequent breach, either of the same or of any other additional or different term, covenant, or condition of this Agreement.

13.9 Severability. Whenever possible, each provision of this Agreement and all related documents shall be interpreted in such a manner as to be valid under applicable law, but if any such provision is invalid or prohibited under said applicable law such provision shall be ineffective to the extent of such invalidity or prohibition without invalidating the remainder of such provision or the remaining provisions of the affected document.

13.10 Attorneys' Fees. The parties hereto agree that in the event any party to this Agreement shall be required to initiate legal proceedings to enforce performance of any term or condition of this Agreement, including but not limited to, the payment of monies or the enjoining of any action prohibited hereunder, the prevailing party shall be entitled to recover such sums, in addition to any other damages or compensation received, as will reimburse such prevailing party for attorneys' fees and court costs incurred on account thereof.

13.11 Conflict With Agreements. In the event that any provision of this Agreement in any way tends to contradict, modify, or any way change any term of the Regulatory Agreement or any other agreement entered into between the Partnership and HUD and/or the Authority and/or any other governmental agency making or insuring the Mortgage Loan or otherwise subsidizing the Project, the terms of the Regulatory Agreement or such other agreement entered into between the Partnership and HUD and/or the Authority and/or such other agency shall prevail and govern so long as the Regulatory Agreement or such other agreement is in effect and by its terms requires such result; or if any provision hereof in any way tends to limit HUD and/or the Authority and/or such other agency in the subsidizing of the Project, or the regulations and restrictions thereunder, this Agreement shall be deemed amended so as to comply with the requirements of HUD and/or such other agency. This Section 13.11 shall automatically become void as to HUD and such other agency, respectively, at such time as the Mortgage Loan upon the Project is no longer held or insured by HUD or HUD is no longer subsidizing the Project and at the time such other agency is no longer subsidizing the Project.

13.12 Project Inspections. Each of the Partners and their duly authorized representatives shall have the right to visit the site of the Project and to make inspections of the progress and quality of construction and management of the Project and inquiries of the General Partner, the Partnership and their representatives as to the foregoing.

13.13 Creditors. None of the provisions of this Agreement shall be for the benefit of or enforceable by any of the creditors of the Partnership or of the General Partner.

13.14 Consent. If at any time there is more than one limited partner in the Partnership, the term "consent of the Limited Partner" when used herein shall be interpreted to mean the consent of the majority in interest (measured by each Partner's share of operating Losses) of the limited partners (including the Other Limited Partners) except where a specified vote is required, in which event such specified vote shall be required.

13.15 Remedies. Except as provided in Section 3.6 hereof, the rights and remedies of any of the parties hereunder shall not be mutually exclusive, and the exercise of one or more of the provisions hereof shall not preclude the exercise of any other provision hereof. Each of the parties confirms that damages at law may be an inadequate remedy for breach or threat of breach of any provision hereof. The respective rights and obligations hereunder shall be enforceable by specific performance, injunction, or other equitable remedy, but nothing herein contained is intended to limit or affect any rights at law or by statute or otherwise of any party aggrieved as against the other parties for a breach or threat of breach of any provision hereof, it being the intention by this Section to make clear the agreement of the parties hereunder that this Agreement shall be enforceable in equity as well as at law or otherwise.

13.16 Exculpation. The Partnership, the Other Limited Partners, and the General Partner, and creditors of either of them, shall look only to the assets of the Limited Partner for the performance of any and all obligations of the Limited Partner hereunder, it being understood and agreed that no general partner or limited partner of the Limited Partner shall have any personal liability under the terms of this Agreement or any agreement entered into in connection herewith.

13.17 Operating General Partner, General Partner The terms "Operating General Partner" and "General Partner" include, where the context requires or permits, all or any of the general partners, or any person or entity who becomes a successor or additional general partner pursuant to this Agreement. The term "Limited Partner" shall include any person or entity becoming an assignee or substitute Limited Partner pursuant to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Amended and Restated Agreement and Certificate of Limited Partnership as of the day and year first above written:

GENERAL PARTNER:

Roland O. Ferland  
Roland O. Ferland

A. Austin Ferland  
A. Austin Ferland

Pedfern, Inc.,  
a Rhode Island corporation

By Roland O. Ferland  
Its President

LIMITED PARTNER:

Real Estate Associates Limited II,  
a California limited Partnership  
by its corporate general partner  
National Partnership Investments  
Corp., a California corporation

By [Signature]  
Its General Vice President

WITHDRAWING LIMITED PARTNER:

The Chandler Plantations Group Ltd.,  
a Rhode Island corporation

By James A. O'Leary  
Its President

State of Rhode Island )  
 ) SS.  
County of Providence )

On February 13, 1981, before me, the undersigned, a notary public in and for said county and state, personally appeared Roland O. Ferland and A. Austin Ferland, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same.

WITNESS my hand and official seal.

[SEAL]

James A. O'Leary

State of RHODE ISLAND )  
 ) SS.  
County of PROVIDENCE )

On FEBRUARY 13, 1981, before me, the undersigned, a notary public in and for said county and state, personally appeared JAMES A. O'LEARY, known to me to be the PRESIDENT of The Chandler Plantations Group, Ltd., the corporation that executed the within instrument, and acknowledged that such corporation executed the same.

[SEAL]

James M. Keith

State of Rhode Island )  
County of Providence ) SS.

On February 13, 1981, before me, the undersigned, a notary public in and for said county and state, personally appeared ROLAND O. REDFERN, known to me to be the PRESIDENT of Redfern, Inc., the corporation that executed the within instrument, and acknowledged that such corporation executed the same.

[SEAL]

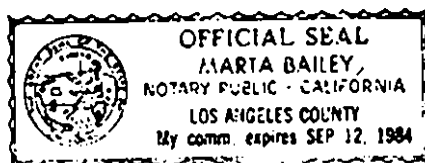
James A. Olney

State of California )  
County of Los Angeles ) SS.

On February 9, 1981, before me, the undersigned, a notary public in and for said county and state, personally appeared Leonard A. Cresley, known to me to be the Secretary of National Partnership Investments Corp., the corporation that executed the within instrument and known to me to be one of the general partners of Real Estate Associates Limited II, the partnership that executed the within instrument, and acknowledged to me that such corporation executed the same as such partner and that such partnership executed the same.

[SEAL]

Marta Bailey



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