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SECRETARY OF STATE CCBA LIMITED PARTNERSHIP  
CORPORATION DIVISION  
AGREEMENT AND CERTIFICATE

THIS AGREEMENT AND CERTIFICATE of Limited Partnership entered into as of this 17th day of September, 1986 among CCBA Realty Corporation ("Realty"), a Massachusetts charitable corporation, as General Partner, with an office at 90 Tyler Street, Boston, Massachusetts 02110, the Chinese Consolidated Benevolent Association of New England ("CCBA"), a Massachusetts Charitable Corporation, as Class A Limited Partner, with an office at 90 Tyler Street, Boston, MA 02110, Perry/Jaymont Venture, a Massachusetts general partnership, ("Perry/Jaymont"), as Class B Limited Partner, with an address c/o Jaymont Properties Incorporated, 260 Franklin Street, Boston, MA 02110, and such Class C Limited Partners, if any, as the General Partner may from time to time admit in accordance with this Agreement. All Partners are collectively called "Partners."

ARTICLE I  
FORMATION

The Partners hereby form a limited partnership ("Partnership") pursuant to the provisions of Chapter 109 of the Massachusetts General Laws by executing this Agreement and Certificate of Limited Partnership ("Agreement"), and filing the same with the Massachusetts Secretary of State.

ARTICLE II  
DEFINITIONS

Affiliate - a person having the following relationship with a Partner:

- (a) any entity directly or indirectly controlling, controlled by or under common control with a Partner;
- (b) any entity in which a Partner is an officer, director, partner or trustee, or any person having such relationship with a Partner;
- (c) any entity in which a Partner owns or controls, or which owns or controls in a Partner, 10% or more of the outstanding voting securities; or
- (d) a spouse or lineal descendant or parent.
- (e) see also, Section 11.01(c).

Affordable Housing Project - a housing development approved by the Authority to be constructed in the general Chinatown neighborhood by the Partnership.

Approved - means, as to the applicable subject matter, either that an express consent has been obtained from each Partner or class of Partner whose consent to any matter is required or requested, or, with respect to all Limited Partners other than the Class B Limited Partner, that a deemed consent occurs because the Partner requesting the consent has given written notice to the partner whose consent is required requesting such consent and calling attention to this provision for deemed consent, and the partner whose consent is required has failed to notify the requesting Partner within 30 days thereafter expressly disapproving the matter (and setting forth reasonable grounds for disapproval). Any Partner may give any other Partner a power of attorney or proxy to give any consent.

Authority - Boston Redevelopment Authority.

Capital Account - as defined in Section 7.06.

Capital Gain or Capital Loss - an amount equal to the difference between the aggregate gain recognized by the Partnership for federal income tax purposes during each Fiscal Year as a result of sales or exchanges of Partnership assets (including assets which are not capital assets as defined by I.R.C. Section 1221) or other disposition, and the aggregate losses recognized by the Partnership for federal income tax purposes during such year from such sale or exchange or other disposition. Capital Gains and Capital Losses on the one hand and Net Income and Net Loss on the other are mutually exclusive categories of items.

Cash Flow - all cash revenue of the Partnership from operations other than Net Capital Proceeds less (i) all principal and interest payments on any indebtedness of the Partnership and all other sums paid to lenders to the Partnership (or paid to sinking funds established by the General Partners for debt which is not self-amortizing); (ii) all cash expenditures (including expenditures for capital improvements) incurred in the normal organization and operation of the Partnership's business; and (iii) any amounts placed in reasonable reserves by the General Partners. Deductions under the accelerated cost recovery system and other non-cash accounting deductions shall not be considered in determining Cash Flow.

Class A Limited Partner - CCBA

Class B Limited Partner - Perry/Jaymont

Class C Limited Partner(s) - (including subclasses thereof):  
Such persons as the General Partners may admit to the Partnership

from time to time, upon such terms and conditions as the General Partners may determine.

Defaulting Event - any of the following circumstances occurring by or to a Partner: a general assignment for the benefit of creditors; filing by the Partner of a voluntary petition of bankruptcy or for arrangement under the bankruptcy laws; filing against a Partner of a petition in bankruptcy, reorganization, arrangement, composition and the like which remains undissolved for 60 days; adjudication of the Partner as a bankrupt or insolvent; appointment (or seeking or acquiescing in appointment) of a receiver or trustee for all or any part of a Partner's property; filing by the Partner of any pleading admitting or failing to contest material insolvency allegations against the Partner; the Partner taking any other act, other than his death or legal incompetency, which would justify a decree of dissolution of this Partnership under the laws of Massachusetts; or withdrawal in breach of the covenant contained in Section 16.05.

Disabling Event - the death or legal incompetency of any individual Partner, or the cessation to exist of any Partner which is a legal entity.

Dissolving Event - the occurrence of any of the following events:

(a) the determination of the General Partner(s) and, if any, a Majority Interest of the Class C Limited Partner(s) to dissolve and liquidate the Partnership;

(b) the entry of a final judgment, order or decree of a court of competent jurisdiction not subject to further appeal adjudicating the Partnership bankrupt;

(c) the happening of a Disabling Event or Defaulting Event with respect to the sole remaining General Partner, unless the Partnership shall be continued by the Class A and/or C Limited Partner(s) as expressly provided below;

(d) the expiration of the Term of the Partnership; or

(e) a sale of all or substantially all of the assets for cash.

Final Permit Date - as defined in Section 7.01(c)(ii).

Fiscal Year - the calendar year.

General Partner - Realty

I.R.C. - the United States Internal Revenue Code of 1954, as now and hereafter amended.

Limited Partners - the Class A, Class B and if any, Class C Limited Partners collectively (unless explicit reference is made to one class or the other).

Majority Interest - shall mean the majority of the Participation Percentages as among a particular class or classes of Partners without consideration of the Participation Percentages of any other class or classes.

Net Capital Proceeds - means the net amount of any proceeds derived from: financings, refinancings, or the disposition of all or a portion of Property, or any insurance award paid on account of casualty; or eminent domain; or excess capital contributions above the capital needs of the Partnership; or any other nonrecurring capital transaction (in all cases to the extent not paid to a mortgagee or applied to repair, restore or improve Property or to provide reasonable reserves for the same by the General Partners in their sole discretion) after deduction of all expenses and charges incurred in connection therewith or of any portion actually applied to the payment of Partnership financing, refinancing and the like, or the amount applied to purchase, develop, construct, reconstruct, repair or otherwise improve Property, or to maintain reasonable reserves.

Net Income or Net Loss - an amount equal to the taxable income or loss of the Partnership for federal income tax purposes during each Fiscal Year as determined by generally accepted accounting practices. Net Income and Net Loss on the one hand and Capital Gains and Capital Losses on the other are mutually exclusive categories of items.

Participation Percentages - subject to the dilution provisions of 7.01(b) applicable to the General Partner(s) and Class A Limited Partner, 1% to the General Partner(s), 98.999% to the Class A Limited Partner(s) and .001% to the Class B Limited Partner.

Property - real and personal property and interests therein held by the Partnership from time to time related to the Affordable Housing Project, including interests in other partnerships held either as a general or limited partner.

Term - as defined in Section 6.01.

### ARTICLE III NAME

3.01 The name of the Partnership is:

"CCBA Limited Partnership"

ARTICLE IV  
PURPOSE

4.01 The business and purpose of the Partnership is to acquire, develop, operate, mortgage and lease the Property and to take any other actions in connection therewith, including but not limited to sale or other disposition of the Property or portions thereof. The Partnership may enter into any business arrangements with respect to the Property deemed prudent by the General Partner(s) in order to achieve successful operations for the Partnership.

ARTICLE V  
PRINCIPAL OFFICE

5.01 The principal office of the Partnership will be 90 Tyler Street, Boston, MA 02110 or at such other place as the General Partner(s) may select. The Partnership's agent for service of process and tax matters partner is the first named General Partner, whose address is the same.

ARTICLE VI  
TERM

6.01 The Term of the Partnership will begin on the date of the filing of the Certificate (this Agreement is such Certificate) for record, and end on December 31, 2050, unless sooner terminated by a Dissolving Event.

ARTICLE VII  
CAPITAL CONTRIBUTIONS

7.01 Initial Capital Contributions

(a) General Partner. For its services as such, the General Partner shall receive an agreed Capital Account value in the following amount: 1% of an amount of which the Class B Limited Partner's Capital Contribution constitutes .001%.

(b) Class A Limited Partner and Dilution. For contributing its rights and interests under a certain Letter of Intent attached as Appendix A, the Class A Limited Partner shall receive an agreed Capital Account value in the following amount: 98.999% of an amount of which the Class B Limited Partner's Capital Contribution constitutes .001%. The General Partner(s) may admit from time to time Class C Limited Partner(s) for aggregate capital contributions in such amounts and for such Participation Percentages as the General Partner(s) and Class A Limited Partner shall decide. Upon admission of Class C Limited Partner(s), the Participation Percentages of the Class A Limited Partner (but not of the

General Partner, the Class B Limited Partner or any then existing Class C Limited Partner) will be ratably reduced for all purposes hereunder by the aggregate Participation Percentage which have been established for such Class C Limited Partner(s). Until Class C Limited Partner(s) have been admitted to the full extent of the aggregate Participation Percentage established for such Class, the Class A Limited Partner will be deemed to hold the unadmitted interests ratably, but without the obligation to make any capital contribution on account of such interests.

(c) Capital Contribution by Class B Limited Partner: Limitation on Liability and Obligation of Class B Limited Partner. The Class B Limited Partner shall contribute to the capital of the Partnership, at the times and on the conditions set forth below, an amount equal to the Net Present Value (as defined below), (such amount being the "Class B Limited Partner's Capital Contribution") as follows:

(i) Upon (a) the approval by the Authority of the Development Impact Project Plan (as defined in the Letter of Intent attached as Appendix A) for the Office Project (as defined in such Letter of Intent); and (b) the grant to the Class B Limited Partner by the Boston Board of Appeal of all of the zoning relief described in such Development Impact Project Plan and the expiration, without appeal, of the statutory appeal period following the grant of such relief provided in St. 1956, c. 665, Section 11 (the "Final Zoning Approval Date"), the Class B Limited Partner will contribute to the capital of the Partnership as seed money for the cost of undertaking preliminary architectural and financial feasibility studies for the Affordable Housing Project an amount equal to five percent (5%) of the Net Present Value (the "First Installment").

(ii) On the Final Permit Date (as defined below), the Class B Limited Partner shall deposit with a Boston bank or other Boston financial institution willing to act as escrowee reasonably chosen by the General Partner(s) and consented to by the Class B Limited Partner (such consent not to be unreasonably withheld), pursuant to a written escrow agreement (the "Escrow Agreement") among the Partnership, the Class B Limited Partner, the Authority and the escrowee, an amount equal to the Net Present Value reduced by the amount of the First Installment. Such Escrow Agreement shall provide, subject to Section 7.01(d), for the release from time to time to the Partnership of such amount(s) as the General Partner(s) determine are required in connection with the development of the Affordable Housing Project. All amounts held under the Escrow Agreement shall be invested in accordance with the Escrow Agreement for the benefit

of the Partnership, and all interest earned shall belong to the Partnership, except as provided in Section 7.01(d). As used herein, "Final Permit Date" shall mean the date on which the appeal period provided in the Commonwealth of Massachusetts State Building Code to appeal from the issuance to the Class B Limited Partner of a full building permit for the Office Project shall have expired without appeal.

(iii) The precise amount of the Net Present Value to be contributed by the Class B Limited Partner as capital to the Partnership will be determined by the Authority in accordance with Article 26A of the Boston Zoning Code based upon the gross floor area, as defined in said Code, of the Office Project as shown in the contract documents submitted to the Department of Inspectional Services of the City of Boston and upon which the building permit for the Office Project is issued. Upon such determination, an amendment to this Partnership Agreement shall be filed with the Secretary of the Commonwealth specifying the Net Present Value and the amount theretofore contributed to the capital of the Partnership by the Class B Limited Partner. Prior to such determination, and for the purpose of calculating the First Installment, the parties will use a pro forma Net Present Value of \$1,382,228, calculated in accordance with said Article 26A and the Housing Creation Regulations adopted by the Authority pursuant thereto by applying a discount rate of 8.5% to payments which would have been made over a seven year period, commencing at an assumed Final Permit Date of January 31, 1987, in the aggregate amount of \$1,742,225, such amount being the Class B Limited Partner's present estimate of the so-called housing contribution grant which would have been payable with respect to the Office Project under Article 26A, Section 26A-3.2(a).

(iv) The sole obligation of the Class B Limited Partner shall be to contribute to the capital of the Partnership the Net Present Value at the times and upon the conditions set forth in this Section 7.01(c). Without limiting the generality of the foregoing, the Class B Limited Partner shall have no control of or responsibility for the development of the Affordable Housing Project or for the payment of any other or further amounts, or the provision of any credit or facility, to or on behalf of the Partnership.

(d) Termination of Obligation; Withdrawal of Class B Limited Partner. If any of the events hereafter described shall occur, the Class B Limited Partner shall have the right, exercisable by written notice to the General Partner(s) and to the escrowee (if the Escrow Agreement is then in effect) to

withdraw from the Partnership and to extinguish all further obligations under this Agreement to make capital contributions. The giving of such notice shall constitute instruction to the escrowee pursuant to the Escrow Agreement to refrain from any further release of amounts held pursuant to the Escrow Agreement, including any undisbursed interest earned on the sums held thereunder, to the Partnership. Such events shall be:

(i) the Final Zoning Approval Date not having occurred within four months after the date of formation of the Partnership, the Class B Limited Partner hereby agreeing to use reasonable efforts to cause such date to occur within such period.

(ii) the failure or refusal of the Authority to grant tentative designation to the Partnership as the redeveloper of disposition parcel R-1 in the South Cove Urban Renewal Area, or of such other parcel in such Urban Renewal Area or adjacent area as the Authority and the General Partner(s) shall determine to be a feasible location for the proposed Affordable Housing Project, within one year after the Final Permit Date;

(iii) the failure or inability of the Partnership to obtain a commitment for construction mortgage financing of the Affordable Housing Project within eighteen months after the Final Permit Date; or

(iv) the failure of the Partnership to close the construction mortgage financing for and commence construction of the Affordable Housing Project within two years after the Final Permit Date.

(e) Class C Limited Partner(s). As provided in Section 7.01(b), the General Partner(s) and Class A Limited Partner may admit additional persons for such capital contributions and Participation Percentages as the General Partner(s) and Class A Limited Partner shall decide. Each such Class C Limited Partner shall be deemed admitted to the Partnership effective as of the first day of the calendar month in which an amendment to this Agreement is executed and filed with the Secretary adding such Partner's name and Participation Percentage (which may be expressed as a unit or units of the aggregate Participation Percentage of the class). All Partners consent to the admission of Class C Limited Partners as described in this Section, and appoint each General Partner as their attorney-in-fact to effect such admission.

#### 7.02 Additional Capital Contributions

No Partner shall, after admission, be required to make any additional contributions of capital to the Partnership.



### 7.03 Partner Loans to the Partnership

(a) If additional funds are needed and cannot be obtained from commercial lending sources then the General Partner(s) may, but need not, lend such additional funds. All Partner's loans will be payable only out of the assets of the Partnership and will bear interest (adjusted quarterly) at 3% above the so-called prime lending rate announced from time to time by the First National Bank of Boston for loans to its most creditworthy customers at its Boston office.

(b) Loans for construction of improvements on the Property and permanent loans to pay construction loans will be obtained for the Partnership by the General Partners offering all or part of the Property as collateral. No Partner will be required to guaranty or become personally liable for any Partnership debt or obligation; and without the Approval of the General Partner(s) and Class A Limited Partner, no Partner may personally guaranty or otherwise become personally liable for repayment of any Partnership loan having a term of three years or longer.

### 7.04 Waiver of Right of Partition

Each Partner waives any right it may have to cause the Partnership's property to be partitioned or divided among the Partners, or to file a complaint or institute any proceeding at law or in equity to cause the Partnership's property to be partitioned or otherwise divided among the Partners.

### 7.05 Interest on Capital and Return of Capital

No Partner shall be entitled to receive any interest on its Capital Account, nor shall any Partner have the right to demand or to receive the return of all or any part of its Capital Account except as expressly provided herein.

### 7.06 Capital Accounts

A separate capital account shall be maintained for each Partner (which will devolve upon the successor to a Partner). Each Partner's Capital Account, as of a particular date, shall be determined as follows: (a) it shall be increased by: (i) the agreed Capital Account value and cash amounts contributed as such contribution is made, and (ii) any additional capital hereafter contributed, and (iii) the Partner's share of both Net Income and Capital Gain (including any income exempt from tax) as allocated pursuant to this Agreement; and (b) it shall be decreased by (i) the Partner's share of Net Loss and Capital Loss as allocated pursuant to this Agreement and the Partner's distributive share of expenditures of the Partnership which are non-deductible and which are not properly capitalized under the I.R.C., and (ii) the cash and agreed value of any property distributed to the Partner

pursuant to this Agreement net of liabilities assumed or taken subject to. Adjustments of Capital Accounts under this section shall not affect the limited liability of any Limited Partner. The Capital Accounts shall be maintained according to generally accepted accounting principles.

ARTICLE VIII  
ALLOCATION OF NET INCOME, NET LOSS,  
CAPITAL GAIN AND CAPITAL LOSS

8.01 Net Income

Net Income shall be allocated among the Partners each Fiscal Year in the same proportion as they have actually received distributions of Cash Flow under Section 9.02, provided, however, that the General Partner(s) shall be allocated at least 1% of the Net Income in each Fiscal Year (ratably according to their Participation Percentage). In the event there is Net Income in a Fiscal Year in which no distributions of Cash Flow have been made, then any Net Income shall be allocated among the Partners ratably according to their Participation Percentages.

8.02 Net Loss and Tax Credits

- (a) Net Loss shall be allocated among the Partners according to their Participation Percentages.
- (b) Income tax credits shall be allocated among the Partners according to their Participation Percentages.

8.03 Capital Gains and Losses

(a) Capital Gain (including gain arising from forgiveness of Partnership indebtedness) shall be allocated among the Partners as follows:

- (i) First, an amount of such Gain equal to any negative balance then existing in that Partner's Capital Account calculated as of the date of the event giving rise to such Gain before taking into account any distribution of Net Capital Proceeds under Section 9.03; but if there is insufficient Gain to eliminate the negative Capital Accounts of all Partners, then such Gain shall be allocated in proportion to the respective amounts of all negative Capital Accounts; and

(ii) Finally, as to any balance of Gain remaining, to the Partners according to their Participation Percentages.

(b) Capital Losses shall be allocated among the Partners as follows:

(i) First, an amount of such Loss equal to any positive balance then existing in that Partner's Capital Account calculated as of the date of the event giving rise to such Loss. If there is insufficient Loss to eliminate the positive Capital Accounts of all Partners, then such Loss shall be allocated in proportion to the respective amounts of all positive capital accounts; and

(ii) Finally, as to any balance of Loss remaining, among the Partners according to their Participation Percentages.

(c) The provisions of this Agreement and this Section in particular are intended to comply with the I.R.C. and Regulations concerning special partnership allocations and shall be construed in a manner consistent with such regulations.

(d) Notwithstanding (a) and (b) above, Capital Gain and Capital Losses with respect to property (other than cash) contributed to the Partnership by any Partner shall be allocated so as to comply with Section 704(c) of the I.R.C. and regulations thereunder.

#### ARTICLE IX DISTRIBUTIONS

##### 9.01 Cash Distributions

The Partnership intends to make distributions as funds are available, be it from operations, refinancings or any other source. The amount and time of any such distributions, however, shall be made only when the General Partner(s) in their discretion have provided for Partnership expenses, have repaid any loans by Partners, and have established adequate reserves. The General Partners may establish reserves out of available Cash Flow or Net Capital Proceeds for a Fiscal Year to the extent the General Partners, acting in good faith, reasonably believe such reserves to be necessary to permit the Partnership to pay its projected cash obligations and contingencies for succeeding Fiscal Years as they come due without being required to liquidate assets or incur debt.

##### 9.02 Distributions of Cash Flow

(a) Subject to Section 9.01, available Cash Flow shall be distributed and paid to the Partners according to their Participation Percentages.

### 9.03 Distributions of Net Capital Proceeds

Subject to Section 9.01, Net Capital Proceeds, (except for distributions upon dissolution under Section 10.02), shall be distributed in the following priority: To the Partners in accordance with their Participation Percentages; provided, however, that if the event making proceeds available for distribution under this Section causes Capital Gain or Capital Loss to be allocated under this Agreement and immediately after such allocations any Partner has a positive balance in his Capital Account, then in an amount equal to the positive balance in the Partner's Capital Account; but, if there are insufficient proceeds to eliminate the positive Capital Accounts of all Partners, then the available proceeds shall be distributed in proportion to the respective amounts of all positive Capital Accounts.

## ARTICLE X LIQUIDATION AND DISSOLUTION

### 10.01 Dissolving Events

On the date of a Dissolving Event, the Partnership shall dissolve, its books shall be closed and the Net Income, Net Loss, Capital Gain and Capital Loss shall be computed as of that date. Assets of the Partnership shall be distributed or sold in an orderly manner thereafter, avoiding any forced sale by the General Partner(s) (or a Liquidating Agent appointed by a Majority Interest of the Limited Partners if no General Partner is then serving). Except due to their bad faith acts, gross negligence or willful misconduct, the General Partner(s) (or Liquidating Agent) will not be personally liable for liquidating distributions. For the period after a Dissolving Event, the Partners shall continue to share Net Income, Net Loss, Capital Loss and Capital Gain as provided herein; however, distributions shall be made only as provided in this Article. As promptly as possible after such Dissolving Event, the General Partner(s) (or Liquidating Agent) shall effect a distribution of the assets of the Partnership as set forth in Section 10.02. If the General Partner(s) (or Liquidating Agent) and a Majority Interest of the Class A and/or C Limited Partners (acting by Approval) determine that an in-kind distribution of one or more assets is desirable or appropriate, all Limited Partners shall be compelled to accept such distribution.

### 10.02 Distribution of Property

Distributions of Property of the Partnership pursuant to Section 10.01 after a Dissolving Event shall be made in the following order:

(a) To the payment and discharge of all of the Partnership's debts, liabilities and obligations to creditors other than Partners;

(b) To the setting up of any reserves which the General Partner(s) (or Liquidating Agent) may deem necessary for any anticipated, contingent or unforeseen liabilities or obligations of the Partnership arising out of the conduct of its business, which reserves will be held in escrow. At the expiration of such period as the General Partner(s) (or Liquidating Agent) deem advisable, any balance of any such reserves not required to discharge such liabilities or obligations shall be distributed as provided in this Section;

(c) To the payment and discharge of all of the Partnership's expenses, debts, liabilities and obligations, including Partner's loans and amounts owing under Section 12.07, if any, to the Partners (other than in respect of their interests in the Partnership), such to be paid ratably if assets are insufficient to discharge all such obligations;

(d) To the Partners in the amount of the positive balances of their respective Capital Accounts (after adjustment of such Capital Accounts to reflect any Capital Gain or Loss from liquidation of Partnership assets and subject to Section 16.01(e)); and

(e) Finally, to the Partners according to their Participation Percentages.

#### 10.03 Date of Termination

The Partnership shall be terminated when all liquidation proceeds have been applied as required in this Article and a certificate of cancellation of this Partnership shall have been filed in all offices where the Certificate of this Partnership has been filed. Retention of a reserve for a reasonable time in escrow shall not delay such date of termination.

### ARTICLE XI LIABILITY OF PARTNERS

#### 11.01 Limitation of Liability of General Partner(s)

(a) The General Partner(s) shall not be personally liable to the Limited Partners for the return of capital, the repayment of any loans or advances to the Partnership by a Partner, or the payment of interest thereon.

(b) A General Partner(s) and the Affiliates of a General Partner shall have no liability to the Partnership or to any Partner for any loss suffered by the Partnership which

arises out of any action or inaction of the General Partner(s) or their Affiliates if the General Partner(s) or their Affiliates, in good faith, determined that such course of conduct was in the best interest of the Partnership and such course of conduct did not constitute negligence or misconduct of the General Partner(s) or their Affiliates. Each General Partner and its Affiliates shall be indemnified by the Partnership, out of its assets only, against any losses, judgments, liabilities, expenses and amounts paid in settlement of any claims sustained by them in connection with the Partnership, provided that the same were not the result of negligence or misconduct on the part of the General Partner or its Affiliates.

Notwithstanding the above, a General Partner and its Affiliates and any person acting as broker-dealer shall not be indemnified for any losses, liabilities or expenses arising from or out of an alleged violation of federal or state securities laws unless (1) there has been a successful adjudication on the merits of each count involving alleged securities law violations as to the particular indemnitee, or (2) such claims have been dismissed with prejudice on the merits by a court of competent jurisdiction as to the particular indemnitee or (3) a court of competent jurisdiction approves a settlement of the claims against a particular indemnitee.

In any claim for indemnification for federal or state securities securities law violations, the party seeking indemnification shall place before the court the position of the Securities and Exchange Commission and the Massachusetts Securities Division with respect to the issue of indemnification for securities law violations.

The Partnership shall not incur the cost of that portion of any insurance, other than public liability insurance, which insures any liability the indemnification of which is herein prohibited.

(c) For purposes of this Section, the term "Affiliate" shall mean the following in addition to those persons described in the definition in Article II: any person performing services on behalf of the Partnership who: (1) directly or indirectly controls, is controlled by, or is under common control with the General Partner; or (2) owns or controls 10% or more of the outstanding voting securities of the General Partner; or (3) is an officer, director, partner or trustee of the General Partner; or (4) if the General Partner is an officer, director, partner or trustee, is any company for which the General Partner acts in any such capacity.

ARTICLE XII  
MANAGEMENT OF PARTNERSHIP

12.01 Powers and Duties of General Partner(s)

Subject to Sections 12.02, the General Partner(s) shall have exclusive responsibility for the management of the Partnership's affairs, shall devote such time and effort to the Partnership as shall be reasonably required for its welfare and success (it being understood such will not be full time) and shall have full and complete power and authority to take such action for and on behalf and at the expense of the Partnership as they deem necessary or appropriate in connection with the acquisition, financing and refinancing, leasing, operating, sale or exchange of Property and the obtaining of public liability insurance insuring the Partnership, General Partner(s) and any Affiliates furnishing services to the Partnership. The General Partner(s) only shall have the power to execute, *inter alia*, any and all leases, deeds, deeds of trust, mortgages, notes or other conveyances of any of the personal or real property (intangible or tangible) that may now or hereafter be owned by the Partnership. A General Partner may give such Partner's power of attorney to another General Partner to act on such Partner's behalf as a General Partner for the Partnership. As to third parties, the act of any single General Partner (including without limitation the execution, acknowledgement and delivery of any deed, mortgage, lease or notice of lease, release, grant of easement, or contract or other instrument, right or interest in or agreement respecting the Partnership or the Property) shall be deemed to be the action of the Partnership, and no person dealing with a General Partner as such shall be required to see to the application of any money or property paid or delivered to such General Partner. A certificate signed by a General Partner as to any action by the General Partner(s), any class of Limited Partners, or any or all of them, or as to any other fact or matter affecting or related to the Partnership or the Property [other than facts or matters relating to the Class B Limited Partner's Capital Contribution and the Escrow Agreement described in Section 7.01 (c), the right to withdraw in Section 7.01(d) and the restrictions on amendment set forth in Section 18.09] may be treated as conclusive evidence of the matters certified by any third person receiving the same.

12.02 Limitations on Authority of General Partners

The General Partner(s) shall have all the rights and powers and be subject to all the restrictions and liabilities of a Partner in a Partnership without Limited Partners, except that the General Partner(s) shall not have the authority to:

- (a) do any act in contravention of this Agreement;
- (b) do any act which would make it impossible to carry on the ordinary business of the Partnership; provided however,

that all General Partner(s) can decide to sell all or substantially all of the Property and the Limited Partners, by executing this Agreement, give their specific consent in advance to any such sale even though following such sale the Partnership may discontinue its business;

(c) admit a person as a General Partner except as provided in this Agreement or with the Approval of the Limited Partners;

(d) admit additional Limited Partners except as provided in this Agreement or with the Approval of a Majority Interest of each of the Class A, Class B and if any, Class C Limited Partners.

#### 12.03 Compensation; Self-Dealing

(a) The General Partner(s) shall receive no compensation from the Partnership for services as General Partner.

(b) All of the Partnership's expenses shall, to the extent practical under the circumstances, be billed directly to and paid by the Partnership. In the event that any General Partner elects to advance any funds on behalf of the Partnership and in payment of Partnership expenses, the Partnership shall reimburse the General Partner for such advances as though the same were a Partner's loan.

(c) The Partnership may employ or contract with any Affiliate to perform services for the Partnership or for any other purpose related to the Partnership's business. The relationship of an Affiliate shall not prohibit the General Partners from contracting with, employing or otherwise dealing with an Affiliate on a commercially reasonable basis. The General Partners' good faith decision as to the terms of any such arrangement shall be conclusive and binding on the Partnership and the Partners. No contract or other act of the Partnership with an Affiliate shall be voidable or affected in any manner by the fact that a Partner is directly or indirectly interested therein, nor shall any Affiliate be accountable to the Partnership or to the other Partners with respect to any benefits or profits directly or indirectly realized by such an Affiliate as a result of such transaction. In all transactions with an Affiliate, the relation shall be disclosed by the General Partners in advance.

#### 12.04 No Participation of Limited Partners

No Limited Partners of any class shall participate in the control of the Partnership's affairs, and none shall have any right or authority to act for or to bind the Partnership.



## 12.05 Other Ventures

Each Partner, in such Partner's individual capacity, through an Affiliate or otherwise, shall be free to engage in, to conduct, or to participate in any business or activity whatsoever, including, without limitation, the acquisition, development, management and exploitation of real property, without accountability, liability or obligation whatsoever to the Partnership or to any other Partner, even if such business or activity competes with or is enhanced by the business of the Partnership. Neither the Partnership nor the other Partners shall have any right by virtue of this Agreement to any profits of such other ventures even if such ventures would, but for this Section, be deemed an opportunity of the Partnership.

## ARTICLE XIII POWER OF ATTORNEY

### 13.01 Grant of Power

Each Limited Partner of all classes, by executing this Agreement (or subscribing in writing hereto), does irrevocably make, constitute and appoint each General Partner (and each Partner of any class designated as attorney-in-fact under any other provision of this Agreement) separately and their respective successors and assigns, each with full power of substitution and as a durable power of attorney, as such Partner's true and lawful attorney and agent with full power and authority in such Partner's name, place and stead:

(a) to execute, swear to, acknowledge, deliver, file and record:

(i) this Agreement and/or any other instruments or certificates which may be required to be filed by the Partnership or the Partners under the laws of Massachusetts and/or under the applicable laws of any other jurisdiction to the extent any General Partner deems such filing to be necessary or desirable;

(ii) any and all amendments or modifications to this Agreement or to any other instrument described above, including without limitation the admission of additional and substituted Partners to the Partnership other than amendments requiring approval of the Class B or C Limited Partners pursuant to Section 18.09;

(iii) all certificates, conveyances and other instruments which may be required to effectuate the dissolution and termination of the Partnership pursuant to the provisions of this Agreement;

(iv) all certificates and other instruments and all amendments thereto which any General Partner deems appropriate or necessary to qualify or continue the qualification of the Partnership in the jurisdictions in the United States where the Partnership may do business or own property, in order to maintain the limited liability of the Limited Partners of the Partnership or to comply with all applicable laws of such jurisdiction; and

(v) appropriate instruments of fictitious or assumed names.

(b) to perform any other ministerial act on behalf of the Partnership or the Limited Partners as may be required or advisable under the law of any jurisdiction to which the Partnership is subject; and

(c) to take any other actions as attorney-in-fact under any other provisions of this Agreement so providing.

#### 13.02 Irrevocable

It is expressly agreed by the Limited Partners that this Power of Attorney is irrevocable and coupled with an interest, shall survive the death or legal incompetency of the Limited Partners, and shall survive any assignment by any Limited Partner of the whole or any portion of such Partner's interest in the Partnership. Any substituted or successor Limited Partner shall be deemed to have granted these same rights to each General Partner.

#### 13.03 Agrees to be Bound

Each Limited Partner hereby agrees to be bound by any representations made by any General Partner acting in good faith pursuant to this Power of Attorney, and hereby waives any and all defenses which may be available to contest, negate or disaffirm the action of any General Partner taken in good faith under this Power of Attorney. Actions taken pursuant to this Power of Attorney will be self-operative; nevertheless each Limited Partner agrees to execute, acknowledge and deliver any instrument from time to time requested by the General Partner(s) in confirmation of such actions.

### ARTICLE XIV BANKING

#### 14.01 Banking

The funds of the Partnership shall be kept in a separate account or accounts in the name of the Partnership in such banks

or other depositories as may be determined by the General Partner(s).

ARTICLE XV  
ACCOUNTING AND TAX ELECTIONS

15.01 Books of Account

The Partnership books of account shall be maintained at such locations and by such person or persons as may be designated by the General Partner(s), and each Partner shall upon reasonable notice to the General Partner(s) have access thereto during normal business hours.

15.02 Method of Accounting

The Partnership books of account shall be maintained and kept and income, gains, losses and allocations shall be accounted for in accordance with generally accepted methods of accounting adopted by the General Partner(s).

15.03 Financial and Operating Statements

Annual statements (audited if requested in advance of the Fiscal Year in question by a General Partner or by a Majority Interest of the Limited Partners) showing income and expenses of the Partnership, the Capital Accounts of the Partners, and any distributions involving the return of Partners' capital contributions shall be prepared at the end of the Fiscal Year by an independent public accountant chosen from time to time by the General Partner(s) and be furnished to each Partner. Within 90 days after the end of each Fiscal Year (or as soon thereafter as practical), the Partnership shall furnish to each Partner a report setting forth in sufficient detail such information as shall enable such Partner (or representatives) to prepare local, state and federal income tax returns. Within 60 days after the end of each quarter, the Partnership shall furnish to each Partner an unaudited statement summarizing the business results of the Partnership for such quarter.

15.04 Tax Elections

The Partnership may, but shall not be obligated to, make or revoke any election provided for in Subchapter K of the I.R.C., and any other provisions of Federal or state tax laws now or hereafter pertaining to partners and partnerships. Every Partner shall, upon request, supply to the Partnership any information required to give effect to any such election or revocation of election. The Partnership shall, upon the request of any Partner, make the election under Section 754 of the Code for optional adjustment to basis of Partnership property, unless the General Partners can demonstrate that making such election would

materially adversely affect the holders of Partnership interests possessing Participation Percentages in excess of 50%.

15.05 Tax Disclosures by Partners; Distribution Holdbacks

Each Partner shall make timely and full disclosure of all information (including furnishing reports, certifications and the like) from time to time necessary for the Partnership and other Partners to comply with Federal, state and local income tax laws as now in effect or hereafter amended, including without limitation the Foreign Investment in Real Property Tax Act. If the General Partners or the Partnership is required to withhold any portion of payments to a Partner by such tax laws (or if the General Partners deem it appropriate to secure the Partnership or the other Partners against any possible liability due to failure of a Partner to comply with such tax laws), then the General Partners may withhold such amounts and make such payments to taxing authorities as are necessary to ensure compliance with such tax laws. Any funds withheld and not so paid shall be distributed upon the General Partner(s)' determination of compliance with such tax laws for the period in question. All amounts withheld from distributions under this section shall nonetheless be deemed distributed to the Partner in question for all other purposes under this Agreement.

ARTICLE XVI  
TRANSFER OF PARTNERSHIP INTERESTS

16.01 Transfer of Limited Partner's Interest

(a) No Class A, Class B or if any, Class C Limited Partner may sell, assign or transfer such Partner's interest in the Partnership (i) except to another Partner, or by bequest or intestacy, or to any spouse, natural or adopted issue of legal age of a Partner or spouse, or parent, or to a trust solely for the benefit of any of the foregoing (subject only to a gift over in default of issue) or to any institution of a type described in Section 501(c)(3) of the I.R.C., or to the Authority, (ii) in violation of subsection (c), or (iii) to any person not mentioned in clause (i) without first having made a Right of Refusal offer (as described in (c) below) to the Class A Limited Partner. A sale or exchange (but not transfers by gift or upon death or among the beneficial owners [including transfers between the general partners of the Class B Limited Partner] or to persons described in subsection (b) of this section) of more than 50% in the aggregate of the partnership interests, common stock or beneficial interests of a partner, corporation or trust which is a Limited Partner will be deemed an assignment hereunder.

(b) Any Partner required to make a Right of Refusal offer shall comply with the following procedures before

selling, assigning or otherwise transferring all or any part of such Partner's interest in the Partnership. The Partner desiring to transfer its interest shall give written notice to the Partner(s) having Right of Refusal rights accompanying such notice with a true and complete copy of the instrument of assignment which the offeror Partner proposes to enter into. Such notice will be deemed to be an offer to sell, assign or otherwise transfer such Partnership interest to the offeree Partner(s) upon the same terms, and such instrument shall set forth all of the material terms of the proposed assignment and shall be complete and in such form that the offeree Partner(s) may accept the offer by deleting the name of the proposed assignee, substituting the offeree'(s) own name, and unconditionally executing and delivering such instrument to the offeror Partner with such consideration as may be required under the terms of the assignment. If the offeree Partner(s) desires to accept the offer, it shall do so within one month following receipt thereof; and failure so to accept within such time shall be conclusively deemed to be a decision not to accept the offer. If the offer is not accepted, the offeror Partner(s) will be at liberty to conclude the proposed assignment upon the same terms within the following six months (but if such terms are materially changed, then the Right of Refusal offer procedures set forth above shall be repeated. If an offeree Partner accepts the offer, then the assignment shall be concluded in accordance with the terms of assignment. If more than one Partner having offeree rights accepts a Right of Refusal offer, then such Partners shall acquire the interest ratably based on their respective Participation Percentages; and if more than one class of Partners have offeree rights, then the assignment shall be made to the Partner(s) accepting the offer in any class having priority.

(c) No transfer of a Partnership interest contemplated herein shall occur (a) if the result would be a termination of the Partnership under Section 708 of the I.R.C., (b) if such transfer fails to comply with applicable federal and state securities laws or (c) if the result would entitle any lender to the Partnership to accelerate payment of any Partnership indebtedness. The General Partner may in its reasonable judgment require a private ruling of the Internal Revenue Service to the effect that the proposed transaction will not result in a termination of the Partnership and/or an opinion of counsel that the transfer will not result in a violation of securities laws (the would-be transferor to pay all costs associated with such ruling and opinion).

(d) If the General Partner(s) deem it to be in the best interests of the Partnership, they may elect to treat an assignee who has not become a substitute Limited Partner as a substitute Limited Partner in the place and stead of such

person's assignor to the extent of the Partnership interests assigned.

(e) At (i) the time when the Class B Limited Partner no longer has any rights to withdraw as provided in Section 7.01(d), or (ii) the time when the Class A Limited Partner files with the Partnership and Class B Limited Partner a determination of the Internal Revenue Service showing the Class A Limited Partner to be exempt from Federal income taxes pursuant to I.R.C. Section 501(c)(3), or any successor or related provision exempting said Partner from the payment of federal income taxes, whichever (i) or (ii) occurs later, the Class B Limited Partner waives any return of capital or payment on account of its Capital Account, it being the intent of the Class B Limited Partner that said Capital Account be transferred at such time to the Class A Limited Partner unconditionally as a gift.

#### 16.02 Transfer of General Partner's Interest

Except as provided in Section 17.01, a General Partner shall not sell, assign, or transfer all or any part of its interest in the Partnership held as a General Partner without first having obtained the Approval of the Class A Limited Partners (and the other General Partner(s), if any, and until the Class B Limited Partner no longer has any rights to withdraw as provided in Section 7.01 (d), also the Class B Limited Partner) to any such proposed disposition.

#### 16.03 Pledge of Interest

A Partner may not pledge, hypothecate, collaterally assign or otherwise subject its interest in the Partnership or any part thereof to a security interest.

#### 16.04 Substitute Limited Partners

(a) No assignee shall have the right to become a substitute Limited Partner or successor in place of the assignor unless all of the following conditions are first satisfied:

(i) The provisions of this Article have been complied with and a duly executed and acknowledged written instrument of assignment and the General Partner(s) written consent thereto, which may be given or withheld in the General Partner(s) sole discretion, shall have been filed with the Partnership (the General Partner(s) hereby agreeing that such consent shall be given if the Authority becomes an assignee); and

(ii) the assignor and assignee have executed and acknowledged such other instruments as the General

Partner(s) deem necessary or desirable to effect such substitution, including the written acceptance and adoption by the assignee of the provisions of this Agreement and execution and delivery to the General Partner(s) of a special power of attorney, the form and content of which are described herein;

(b) By executing or adopting this Agreement, each Partner hereby consents to the admission of substitute Limited Partners by the General Partner(s) and to any assignee becoming a substitute Partner as provided herein.

(c) The General Partners shall cause the Agreement or any separate Certificate to be amended to reflect any substitution of Partners at least once in each calendar quarter.

(d) An assignee whose assignment has been consented to (or is not required to be consented to) shall succeed to the Capital Account (or portion thereof) of the assignor and be entitled to receive the distributions and allocations attributable to the assigned interest after the "effective date" of such assignment; however, the Partnership and the General Partner(s) shall be entitled to treat the assignor of such interest as the absolute owner thereof in all respects, and shall incur no liability for allocations or distributions which are made in good faith to such assignor until such time as the written instrument of assignment has been received by the Partnership and the "effective date" has passed. The "effective date" of an assignment of such interest, (of which assignment the Partnership has actual notice) shall be the last day of the month in which the assignment takes effect.

#### 16.05 Withdrawal of Partners

Except as provided in Section 7.01(d) with respect to Class B Limited Partner, each Partner agrees not to withdraw from the Partnership, except as the result of a permitted transfer of his entire interest in the Partnership as provided in this Article, and agrees that such Partner will carry out such Partner's duties and responsibilities hereunder until the Partnership is terminated, liquidated and dissolved or until a permitted transfer of all such interest occurs. A Partner withdrawing in violation of this Section shall not be entitled to any value of such Partner's Partnership interest.

#### 16.06 Disabling Event or Defaulting Event to a General Partner

(a) If a General Partner, other than the sole remaining General Partner, suffers a Disabling Event or Defaulting Event, then the Partnership shall continue and the interest in the Partnership of the General Partner suffering such event shall automatically be converted into the interest of a

special Limited Partner effective as of the date of the happening of such event (and, if applicable, the General Partner's successor in interest shall become a special Limited Partner) with the same financial interests.

(b) If a Disabling Event or Defaulting Event occurs to the sole remaining General Partner, the Partnership shall continue without interruption for the period of 90 days following the happening of a Disabling Event or Defaulting Event to the sole remaining General Partner (and such Partner's interest shall automatically be converted into the interest of a special Limited Partner). During such period, the legal representative of the sole remaining General Partner (e.g., trustee, administrator, executor or court-appointed representative) shall, upon his or her written acceptance, become the interim General Partner. The approval of the Class A Limited Partner(s), acting by Majority Interest, for themselves and as attorney-in-fact for all other Limited Partners for such purpose, may appoint one or more successor General Partners within said 90-day period. If a new General Partner(s) is so appointed, the Partnership shall continue. Any successor General Partner(s) so appointed shall have the same rights, duties and obligations as the former General Partner(s), but the amount of any financial interest in the Partnership allocated to any successor General Partner(s) shall be determined by the Class A Limited Partner(s) (acting as attorney-in-fact for all other Limited Partners) by reduction of the interests of all Partners, except the Class B Limited Partner, ratably based on their Participation Percentages. In such case such Class A Limited Partner(s) shall (acting as attorney-in-fact) amend this Agreement accordingly.

(c) All Partners consent to the provisions of this Section, to the end that the Partnership shall continue notwithstanding a Disabling Event or Defaulting Event by a General Partner, and such continuation by the sole surviving General Partner or a new General Partner selected by the Class A Limited Partner(s) shall be deemed to have been agreed to by all the Partners.

16.07 Disabling Event or Defaulting Event of a Limited Partner

The Disabling Event or Defaulting Event of a Limited Partner shall not terminate the Partnership, and if such Partner's interest in the Partnership passes to a successor in interest permitted by this Agreement, then such successor shall succeed to its predecessor's entire financial interest in the Partnership, and upon satisfaction of the conditions of this Agreement shall become a Partner, with the same interest in the Partnership and the same obligations and rights as the predecessor Partner. Such successor shall promptly on demand of the Partnership execute and deliver to the Partnership all documents that may be necessary or



appropriate, in the opinion of counsel for the Partnership, to reflect such person's admission to the Partnership as a substitute Limited Partner and such person's agreement to be bound by all of the terms of this Agreement.

#### ARTICLE XVII

17.01 Individual General Partner. If the General Partner(s), deems it expedient for purposes of assuring the continued federal income tax status of the Partnership as a partnership, it may, acting on its own behalf and as attorney-in-fact for all other Partners, designate and admit as General Partner an individual willing to serve as a General Partner. In such case it will assign some portion of its Participation Percentage to such individual. All decisions required or permitted to be taken by the General Partners hereunder shall be made by the General Partner holding the greater Participation Percentage.

#### ARTICLE XVIII MISCELLANEOUS

##### 18.01 Binding Effect

This Agreement shall inure to the benefit of and shall be binding upon the Partners, their legal representatives, heirs permitted transferees, successors and assigns.

##### 18.02 Construction

This Agreement shall be interpreted and construed in accordance with the laws of Massachusetts.

##### 18.03 Duplicate Originals

For the convenience of the Partners, any number of counterparts may be executed, and each counterpart shall be deemed to be an original document.

##### 18.04 Usage

Whenever the singular is used in this Agreement and when required by the context, the same shall include the plural and vice versa, and the word "person" shall include a corporation, trust, partnership or other form of association.

##### 18.05 Notices

Any notice, election or other communication provided for or required by this Agreement shall be in writing and shall be deemed to have been given when: (1) delivered by "hand"; or (2) 3 days after being deposited in the United States Mail with return

receipt requested and postage prepaid or (3) 2 days after deposit with a special courier, delivery prepaid (e.g. Federal Express) or (4) 1 day after telex (provided a telex number appears by the recipient's name on the signature page hereof or is otherwise given). To be effective all such communications must be properly addressed or telexed to the appropriate person at the address or telex number or such other address or telex number as has been furnished in writing to all Partners and the Partnership. Each notice to a General Partner shall be copied to Daniel A. Taylor, Esquire, Hill & Barlow, 225 Franklin Street, Boston, Massachusetts 02110.

#### 18.06 Severability

If any term or provision shall be invalid or ineffective for any reason whatsoever, such invalidity or ineffectiveness shall not effect the validity of the remainder.

#### 18.07 Titles and Captions

The titles and captions of the articles and sections have been inserted as a matter of convenience for reference only and shall not control or affect the meaning or construction of any of the terms.

#### 18.08 Investment Representation

By execution, each Limited Partner warrants and represents that the Partnership interest acquired is only for such Partner's own account for investment, that such Partner has no present intention of selling, distributing or otherwise disposing of all or any part of such interest, that no United States securities laws, other than the laws of the state (i) in which the Property is located and (ii) stated in writing to the Partnership as such Partner's state of residence apply to this investment by virtue of such Partner's residence. If any Limited Partner is not a resident of the United States, such Partner represents that no securities or other laws of such Partner's jurisdiction of residence apply to this investment. Each Limited Partner acknowledges that the Partnership has no present intention of selling or otherwise disposing of its interest in the Property, and agrees that except as permitted hereby, such Partner will not sell or offer to sell all or any portion of his interest in the Partnership, nor will such Partner take any other action which would require the registration or approval of the Partnership interests or any sale offering under any federal or state securities law. Each Limited Partner by execution acknowledges that in reliance on such warranties, representations and agreements, its Limited Partnership interests and the sale thereof have not been registered under any state or federal securities statute. Each person executing this Agreement further warrants and represents that such person has full authority and capacity so to enter into this Partnership.

#### 18.09 Amendments

This Agreement may be amended only by a written document signed by the General Partner(s) acting on their own behalf and as attorney-in-fact for the Class A, Class B and if any, Class C Limited Partners; provided, however, that if there are any Class C Limited Partner(s) and if such amendment would increase the amount of the capital contribution payable by or decrease the aggregate Participation Percentage allocated to the Class C Limited Partner(s), then such amendment must also be Approved by a Majority Interest of the Class C Limited Partner(s); and if such amendment would alter Section 7.01(c) 7.01(d), 16.01(e) or the Participation Percentage allocated to the Class B Limited Partner or the right of such Partner freely to assign to the Authority, then such amendment must also be Approved by the Class B Limited Partner. The Partners understand that certain modifications to this Agreement may be required in connection with approval by the Authority of a Housing Creation Agreement relating to the Affordable Housing Project. The Partners will cooperate in good faith to effect such modifications so long as they are consistent with the Letter of Intent attached as Appendix A.

#### 18.10 Other

None of the provisions of this Agreement shall inure to the benefit of or be enforceable by any creditors or other third parties having claims against the Partnership. There are no warranties and representations by any Partner concerning the Partnership, its business or the Property unless the same are expressly set forth as such in this Agreement. A submission of a form of this Agreement does not constitute an offer to any person to become a Partner; an offer will only be made by a writing styled as such duly signed by a person desiring to become a Partner; and in no event will the Partnership be bound until it has accepted in writing and delivered such offer. This Agreement sets forth the entire Agreement among the parties and may be modified or amended only by a written document signed by all General Partners and in compliance with Section 18.09.

#### 18.11 Other Affordable Housing

CCBA by its execution hereof agrees and declares that it will hold in trust all funds distributed hereunder as Cash Flow, as Net Capital Proceeds or otherwise as a return of or on account of its Capital Account after deducting funds, if any, expended by CCBA or Realty with respect to the Partnership or the Affordable Housing Project, and such funds held in trust by CCBA will be expended primarily for the development and operation of affordable housing in the general Chinatown neighborhood.

The undersigned certify, sign, swear to and seal this Agreement as of the date first above written.

GENERAL PARTNER:

CCBA Realty Corporation

By: *David M. ...*  
(~~vice~~) President

By: \_\_\_\_\_  
(Assistant) Treasurer



LETTER OF INTENT

This Letter of Intent sets forth the understandings between the Perry/Jaymont Venture ("Perry/Jaymont"), a Joint Venture comprised of A.W. Perry, Inc., a Massachusetts corporation, and Jaymont (U.S.A.) Incorporated, a Delaware corporation, with a principal place of business c/o Jaymont Properties Incorporated, 260 Franklin Street, Boston, Massachusetts 02110, and the Chinese Consolidated Benevolent Association of New England ("CCBA"), a Massachusetts charitable corporation, with a principal office 90 Tyler Street, Boston, Massachusetts 02111 with respect to the formation of a Massachusetts limited partnership for the purpose of building housing in the Chinatown section of the City of Boston.

## PRELIMINARY STATEMENT

Perry/Jaymont is the developer of a proposed office building, to be known and numbered as 125 Summer Street (the "Office Project"), to be constructed on a site containing approximately 31,100 square feet of land consisting of the properties at 115-117 Summer Street, 119-121 Summer Street, 123-129 Summer Street, 131-135 Summer Street, 137-141 Summer Street, 13-23 South Street, 16-20 Lincoln Street, 22-24 Lincoln Street, 26-32 Lincoln Street and the vacant land at 34-38 Lincoln Street. The Office Project will consist of a 22-story office building, containing approximately 448,445 square feet of gross floor area as defined in the Boston Zoning Code, with ground floor retail and service use and accessory parking on five below grade levels for approximately 300-400 vehicles. The Office Project is a Development Impact Project within the meaning of Article 26A of the Boston Zoning Code and is therefore required to make a Development Impact Project Contribution. Subject to certain provisions set forth below, Perry/Jaymont has elected to satisfy the Development Impact Project Contribution required pursuant to said Article 26A by means of the Housing Creation Option. In accordance with Section 3(b) of the Housing Creation Regulations adopted by the Boston Redevelopment Authority (the "Authority") pursuant to Section 26A-2.3.(a), Perry/Jaymont has proposed to pursue the Housing Creation Option by the formation of the partnership described herein, on the terms and conditions, among others, set forth herein, for the purpose of creating Affordable Housing in a housing development (the "Affordable Housing Project") to be constructed in the general Chinatown neighborhood.

Section 1. Definitions. Capitalized terms used herein which are defined in Article 26A of the Boston Zoning Code or in the Housing Creation Regulations shall have the meanings ascribed to them therein.

Section 2. Intent to Form Housing Creation Partnership. Perry/Jaymont and CCBA agree to form a single purpose Massachusetts limited partnership (the "Housing Creation Partnership") the sole purpose of which shall be to become the designated redeveloper of disposition parcel R-1 in the South Cove Urban Renewal Area, or of such other parcel in such Urban Renewal Area as the Authority and the Housing Creation Partnership shall determine to be a feasible location for the proposed Affordable Housing Project, and to develop, own and operate thereon the Affordable Housing Project. The initial partners of the Housing Creation Partnership shall be:

(a) General Partner(s):

(i) CCBA or any wholly owned subsidiary of CCBA

and

(ii) if so designated by CCBA, such individual or group of individuals or entity designated by CCBA who or which possess the expertise and financial capacity to undertake the Affordable Housing Project (the "Developer"). In accordance with the Housing Creation Regulations, the identity of the Developer shall be subject to the approval of the Authority, but Perry/Jaymont shall have no right of approval of the Developer selected by CCBA.

(b) Class A Limited Partners (including subclasses thereof): Such persons as the General Partners may admit to the Housing Creation Partnership from time to time, upon such terms and conditions as the General Partners may determine.

(c) Class B Limited Partner: Perry/Jaymont or an entity designated by Perry/Jaymont which is wholly owned by Perry/Jaymont provided that if such designated entity shall become the Class B Limited Partner, the obligation of such entity to make the capital contribution in the amounts and at the times set forth in Section 4 hereof shall be unconditionally guaranteed by Perry/Jaymont.

So long as the provisions of Section 4 of this Letter of Intent are reflected in all respects in the Partnership Agreement, as hereinafter defined, from time to time, the Partnership Agreement may contain such terms and conditions, and may be amended and restated upon such terms and conditions, as the General Partner(s) may determine.

Section 3. Interests in Housing Creation Partnership. The interests in the profits and losses of the Housing Creation Partnership, including in the profits and losses and cash proceeds arising from the sale or refinancing of the Affordable Housing Project, shall be allocated .001% to the Class B Limited Partner and 99.999% to the General Partner(s) and Class A Limited Partners. To the extent permitted by the Authority in connection with its approval of the Housing Creation Partnership or the execution of the Housing Creation Agreement, Perry/Jaymont agrees that the Agreement and Certificate of Limited Partnership (the "Partnership Agreement") of the Housing Creation Partnership shall not provide for any return of capital to Perry/Jaymont upon the sale of the Affordable Housing Project, upon the dissolution of the Housing Creation Partnership, or upon any other event. To the extent permitted by the Authority, the Partnership Agreement will provide that Perry/Jaymont will receive an initial capital account equal to the cash amounts it contributes to the capital of the Housing Creation Partnership; and that the class comprised of the General Partner(s) and Class A Limited Partners will receive an imputed capital account equal to the ratio which the interests of the General Partner(s) and the Class A Limited Partners in the Housing Creation Partnership bears to the interest of Perry/Jaymont therein. If and to the extent required by the Authority, the interest of Perry/Jaymont in the Housing Creation Partnership shall be assignable, without the consent of the General Partners, to the Authority or its designee.

Section 4. Capital Contribution by Class B Limited Partner; Limitation on Liability and Obligation of Class B Limited Partner. The Partnership Agreement shall provide that Perry/Jaymont shall contribute to the capital of the Housing Creation Partnership, at the times and on the conditions set forth herein, an amount equal to the Net Present Value as follows:

(a) Upon the (i) the approval by the Authority of the Development Impact Project Plan for the Office Project; and (ii) the grant to Perry/Jaymont by the Boston Board of Appeal of all of the zoning relief described in such Development Impact Project plan and the expiration, without appeal, of the statutory appeal



period following the grant of such relief provided in St. 1956, c. 665, Section 11 (the "Final Zoning Approval Date") Perry/Jaymont will contribute to the capital of the Housing Creation Partnership as seed money for the cost of undertaking preliminary architectural and financial feasibility studies for the Affordable Housing Project an amount equal to five percent (5%) of the Net Present Value (the "First Installment").

(b) On the Final Permit Date, as hereinafter defined, Perry/Jaymont shall deposit with a third party escrowee, pursuant to a written escrow agreement (the "Escrow Agreement") among Perry/Jaymont, the Housing Creation Partnership, the Authority and the escrowee, an amount equal to the Net Present Value reduced by the amount of the First Installment. Such Escrow Agreement shall provide for the release from time to time to the Housing Creation Partnership, as additional installments of capital contributed to the Housing Creation Partnership by Perry/Jaymont, of such amount as the General Partner(s) may determine are required in connection with the development of the Affordable Housing Project. All amounts held in such escrow shall be invested in accordance with the escrow agreement for the benefit of the Housing Creation Partnership except as provided in Section 5 below. As used herein, the term "Final Permit Date" shall mean the date on which the appeal period provided in the Commonwealth of Massachusetts State Building Code to appeal from the issuance to Perry/Jaymont of a full building permit for the Office Project shall have expired without appeal.

(c) The precise amount of the Net Present Value to be contributed by Perry/Jaymont as capital to the Housing Creation Partnership will be determined by the Authority in accordance with said Article 26A based upon the gross floor area, as defined in the Boston Zoning Code, of the Office Project as shown in the contract documents submitted to the Department of Inspectional Services and upon which the building permit for the Office Project is issued. Upon such determination an amendment to the Partnership Agreement of the Housing Creation Partnership shall be filed with the Secretary of the Commonwealth specifying the Net Present Value and all amount theretofore contributed to the capital of the Housing Creation Partnership by Perry/Jaymont. Prior to such determination, and for the purpose of calculating the First Installment, the parties will use a pro forma Net Present Value of \$1,382,228, calculated in accordance with the Housing Creation Regulations by applying a discount rate of 8.5% to payments which would have been made over a seven year period, commencing at an assumed Final Permit Date of January 31, 1987, in

the aggregate amount of \$1,742,225 which is Perry/Jaymont's present estimate of the Housing Contribution Grant which would have been payable with respect to the Office Project under Section 26A-3.2.(a).

(d) The sole obligation of Perry/Jaymont as Class B Limited Partner of the Housing Creation Partnership shall be to contribute to the capital of the Housing Creation Partnership the Net Present Value at the times and upon the conditions set forth in this Section 4. Without limiting the generality of the foregoing, Perry/Jaymont shall have no control of or responsibility for the development of the Affordable Housing Project or for the payment of any other or further amounts, or the provision of any credit or facility, to or on behalf of the Housing Creation Partnership.

Section 5. Termination of Obligation: Withdrawal of Class B Limited Partner. The Partnership Agreement of the Housing Creation Partnership and the Escrow Agreement shall provide that if any of the events hereinafter described shall occur, Perry/Jaymont shall have the right, exercisable by notice in writing to the General Partner(s) and to the Escrowee (if the Escrow Agreement is then in effect) at any time from and after the occurrence of any such event, to withdraw from the Housing Creation Partnership as Class B Limited Partner and to extinguish all further obligations of Perry/Jaymont under the Partnership Agreement of the Housing Creation Partnership to make capital contributions thereto. The giving of such notice shall constitute an instruction to the escrowee pursuant to the Escrow Agreement to refrain from any further release of amounts held pursuant to the Escrow Agreement, including any undischursed interest earned on the sums held thereunder, to the Housing Creation Partnership. Such events shall include:

(a) the Final Zoning Approval Date shall not have occurred within four months after the date of the date of formation of the Housing Creation Partnership, Perry/Jaymont hereby agreeing to use reasonable efforts to cause such date to occur within such period.

(b) the failure or refusal of the Authority to grant tentative designation to the Housing Creation Partnership as the redeveloper of disposition parcel R-1 in the South Cove Urban Renewal Area, or of such other parcel in such Urban Renewal Area or adjacent area as the Authority and the Housing Creation Partnership shall determine to be a feasible location for the proposed Affordable Housing Project within one year after the Final Permit Date;

(c) the failure or inability of the Housing Creation Partnership to obtain a commitment for financing of the Affordable Housing Project within eighteen months after the Final Permit Date; or

(d) the failure of the Housing Creation Partnership to close the construction mortgage financing for and commence construction of the Affordable Housing Project within two years after the Final Permit Date.

Section 6. Extent of Agreement. The execution of this Letter of Intent does not create any partnership relationship between Perry/Jaymont and CCBA, but only evidences the intent of the parties to negotiate in good faith to agree on the terms of the Partnership Agreement incorporating the terms and conditions set forth herein. Without limiting the generality of the foregoing, no joint venture, general partnership or limited partnership is implied or created by the submission, execution or delivery of this Letter of Intent. If Perry/Jaymont and CCBA are unable so to reach agreement on terms of the Partnership Agreement for the Housing Creation Partnership within two months after the approval by the Authority of the Development Impact Project Plan for the Office Project, this Letter of Intent shall terminate and be of no continuing force or effect.

EXECUTED this 17th day of July, 1986.

PERRY/JAYMONT VENTURE

By: Richard E. Eichhorn  
General Partner

By: Richard E. Eichhorn  
Richard E. Eichhorn,  
Vice President

CHINESE CONSOLIDATED BENEVOLENT  
ASSOCIATION OF NEW ENGLAND

By: Davis Woo  
Davis Woo, President

CCBA Limited Partnership

Confirmation Agreement

This Agreement ratifies and confirms that the Agreement and Certificate of Limited Partnership of CCBA Limited Partnership entered into as of September 17, 1986 is and remains in full force and effect.

Executed as of this 2nd day of October, 1986.

GENERAL PARTNER:

CCBA Realty Corporation

By: *Davis Woo*  
Davis Woo, President

CLASS A LIMITED PARTNER:

CHINESE CONSOLIDATED  
BENEVOLENT ASSOCIATION OF  
NEW ENGLAND

By: *Davis Woo*  
Davis Woo, President

CLASS B LIMITED PARTNER:

PERRY/JAYMONT VENTURE  
Jaymont (U.S.A.)  
Incorporated

By: *W. E. White*  
General Partner

~~XXXXXXXXXXXX~~  
125 Summer Street Corporation

By: *J. MacArthur*  
President