

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, DC 20549

FORM 10-Q

(X) Quarterly Report Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

For the Quarterly Period Ended June 30, 1997

or

() Transition Report Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

For the Transition Period From _____ To _____

Commission File Number: 333-25279

Boston Properties, Inc.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of
incorporation or organization)

(IRS Employer ID NO.)
04-2473675

8 Arlington Street
Boston, Massachusetts

02116

(Address of Principal
executive offices)

(Zip Code)

Registrant's telephone number, including area code: 617-859-2600

Indicate by check mark whether the registrant (i) has filed all reports
required to be filed by Section 13 or 15(d) of the Securities Exchange Act of
1934 during the preceding 12 months (or for such shorter period that the
registrant was required to file such reports), and (2) has been subject to such
filing requirements for the past 90 days.

Yes No X

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Indicate the number of shares outstanding of each of the issuer's classes of
common stock, as of the latest practicable date.

Common Stock

38,693,541 Shares

(Class)

(Outstanding on July 30, 1997)

BOSTON PROPERTIES, INC.

FORM 10-Q

for the quarter ended June 30, 1997

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BOSTON PROPERTIES, INC. AND
BOSTON PROPERTIES PREDECESSOR GROUP
CONDENSED CONSOLIDATED AND COMBINED BALANCE SHEETS

	The Company	The Predecessor Group
	June 30, 1997	December 31, 1996
	(Unaudited)	
ASSETS	(in thousands)	
Real estate and equipment:	\$1,091,283	\$1,035,571
Less accumulated depreciation	(276,891)	(263,911)
	-----	-----
Total real estate and equipment	814,392	771,660
Cash and cash equivalents	136,685	8,998
Escrows	57,573	25,474
Tenant and other receivables	13,169	12,049
Accrued rental income	49,497	49,206
Deferred charges	27,842	24,722
Prepays expenses and other assets	8,232	4,402
Investment in joint venture	2,573	-
	-----	-----
Total assets	\$1,109,963	\$ 896,511
	=====	=====
LIABILITIES AND STOCKHOLDERS' AND OWNERS' EQUITY (DEFICIT)		
Liabilities:		
Mortgage notes payable	\$ 743,282	\$ 1,420,359
Unsecured Line of Credit	54,000	-
Notes payable - affiliate	9,990	22,117
Accounts payable and accrued expenses	25,909	13,795
Accounts payable - affiliate	4,100	-
Accrued interest payable	1,058	9,667
Rents received in advance, security deposits and other liabilities	12,031	7,205
	-----	-----
Total liabilities	850,370	1,473,143
Commitments and contingencies	-	-
Minority interest in Operating Partnership	76,165	-
Stockholders' equity:		
Preferred stock, \$.01 par value, 50,000,000 shares authorized, none issued or outstanding		
Common stock; \$.01 par value, 250,000,000 shares authorized, 38,693,541 issued and outstanding	387	-
Additional paid in capital	173,984	-
Retained earnings	9,057	-
	-----	-----
Owners' equity (deficit)	-	(576,632)
	-----	-----
Total stockholders' equity	183,428	(576,632)
	-----	-----
Total liabilities and stockholders' equity	\$1,109,963	\$ 896,511
	=====	=====

The accompanying notes are an integral part of these financial statements.

BOSTON PROPERTIES, INC. AND
BOSTON PROPERTIES PREDECESSOR GROUP
CONDENSED CONSOLIDATED AND COMBINED STATEMENTS OF OPERATIONS

	The Company	The Predecessor Group	
	----- Period June 23, 1997 to June 30, 1997 -----	----- Period January 1, 1997 to June 22, 1997 -----	----- Six Months Ended June 30, 1996 -----
	(Unaudited and in thousands, except per share amounts)		
	-----	-----	-----
Revenue:			
Rental:			
Base rent	\$ 4,459	\$ 80,122	\$ 86,524
Recoveries from tenants	487	10,283	11,289
Parking and other	55	3,397	1,462
	-----	-----	-----
Total rental revenue	5,001	93,802	99,275
Hotel Operating	-	31,185	29,872
Development and management services	116	3,685	3,164
Interest and other	246	1,146	1,592
	-----	-----	-----
Total revenue	5,363	129,818	133,903
	-----	-----	-----
Expenses:			
Rental:			
Operating	757	13,272	14,805
Real estate taxes	613	13,382	14,280
Hotel:			
Operating	-	20,512	19,886
Real estate taxes	-	1,514	1,454
General and administrative	247	5,116	5,187
Interest	1,371	53,324	54,475
Depreciation and amortization	846	17,054	17,777
	-----	-----	-----
Total expenses	3,834	124,174	127,864
	-----	-----	-----
Income before extraordinary gains and minority interests	1,529	5,644	6,039
Minority interest in property partnership	(9)	(235)	(192)
	-----	-----	-----
Income before minority interest in Operating Partnership	1,520	5,409	5,847
Minority interest in Operating Partnership	(446)	-	-
	-----	-----	-----
Income before extraordinary gains	1,074	5,409	5,847
Net extraordinary gains on early debt extinguishments, net of minority interest	7,983	-	-
	-----	-----	-----
Net income	\$ 9,057	\$ 5,409	\$ 5,847
	=====	=====	=====
Per share:			
Income before extraordinary gains	\$.03	-	-
Extraordinary item:			
Gains on early debt extinguishments	.20	-	-
Net income	\$.23	-	-
Weighted average number of common shares outstanding	38,694	-	-

The accompanying notes are an integral part of these financial statements.

BOSTON PROPERTIES, INC. AND
BOSTON PROPERTIES PREDECESSOR GROUP
CONDENSED CONSOLIDATED AND COMBINED STATEMENTS OF OPERATIONS

	The Company	The Predecessor Group	
	Period June 23, 1997 to June 30, 1997	Period April 1, 1997 to June 22, 1997	Three Months Ended June 30, 1996
	(Unaudited and in thousands, except per share amounts)		
Revenue:			
Rental:			
Base rent	\$ 4,459	\$ 38,211	\$ 40,078
Recoveries from tenants	487	4,781	5,631
Parking and other	55	2,407	660
	-----	-----	-----
Total rental revenue	5,001	45,399	46,369
Hotel Operating	-	18,406	18,389
Development and management services	116	1,872	1,594
Interest and other	246	702	852
	-----	-----	-----
Total revenue	5,363	66,379	67,204
Expenses			
Rental:			
Operating	757	6,165	7,657
Real estate taxes	613	6,485	7,122
Hotel:			
Operating	-	11,252	11,724
Real estate taxes	-	790	781
General and administrative	247	2,450	2,554
Interest	1,371	25,605	27,113
Depreciation and amortization	846	8,213	9,059
	-----	-----	-----
Total expenses	3,834	60,960	66,010
	-----	-----	-----
Income before extraordinary gains and minority interests	1,529	5,419	1,194
Minority interest in property partnership	(9)	(109)	(135)
	-----	-----	-----
Income before minority interest in Operating Partnership	1,520	5,310	1,059
Minority interest in Operating Partnership	(446)		
Income before extraordinary gains	1,074	5,310	1,059
Net extraordinary gains on early debt extinguishments, net of minority interest	7,983	-	-
	-----	-----	-----
Net income	\$ 9,057	\$ 5,310	\$ 1,059
	=====	=====	=====
Per share:			
Income before extraordinary gains item	\$.03	-	-
Extraordinary item:			
Gains on early debt extinguishments	\$.20	-	-
Net income	\$.23	-	-
Weighted average number of common shares outstanding	38,694		

The accompanying notes are an integral part of these financial statements.

BOSTON PROPERTIES, INC. AND
BOSTON PROPERTIES PREDECESSOR GROUP
CONDENSED CONSOLIDATED AND COMBINED STATEMENTS OF CASH FLOWS

	The Company	The Predecessor Group	
	June 23, 1997 to June 30, 1997	January 1, 1997 to June 22, 1997	Six Months Ended June 30, 1996
	(Unaudited and in thousands)		
Cash flows from operating activities:			
Net income	\$ 9,057	\$ 5,409	\$ 5,847
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation and amortization	846	17,054	17,777
Non-cash portion of interest expense	41	1,497	1,409
Extraordinary gain on early debt extinguishment	(11,298)	-	-
Minority interest in Operating Partnership	3,765	-	-
Change in operating assets and liabilities:			
Tenant receivables	1,244	(2,364)	(4,736)
Receivables	4,750	(4,750)	-
Prepaid expenses and other assets	(2,337)	(1,494)	518
Accrued rental income	(1)	(291)	1,004
Accounts payable and accrued expenses	7,698	4,416	1,345
Accrued interest payable	(10,630)	2,021	(928)
Rent received in advance, security deposits and other liabilities	1,099	3,728	707
Total adjustments	(4,823)	19,817	17,096
Net cash provided by operating activities	4,234	25,226	22,943
Cash flows from investing activities:			
Acquisition of or additions to real estate and equipment	(24,936)	(27,721)	(9,527)
Tenant leasing costs	-	(2,550)	(1,315)
Escrows	-	-	(5,704)
Investment in Joint Venture	-	(2,573)	-
Cash from contributed assets	10,510	-	-
Net cash used in investing activities	(14,426)	(32,844)	(16,546)
Cash flows from financing activities:			
Net proceeds from sale of common stock	839,209	-	-
Owners' contributions	-	9,330	15,404
Owners' distributions	-	(30,565)	(19,797)
Borrowings on mortgage notes and Unsecured Line of credit	54,000	-	-
Repayments on mortgage notes	(659,291)	(3,799)	(6,909)
Accounts payable - affiliate	(13,519)	17,619	-
Escrows	(31,966)	(136)	(12,017)
Costs related to debt extinguishment	(8,430)	-	-
Proceeds (repayments) from notes payable - affiliate	(28,843)	16,716	113
Payment of deferred financing and other costs	(4,283)	(35)	(852)
Net cash provided (used) by financing activities	146,877	9,130	(24,058)
Net increase (decrease) in cash	136,685	1,512	(17,661)
Cash and cash equivalents, beginning of period	0	8,998	25,867
Cash and cash equivalents, end of period	136,685	10,510	8,206
Supplemental disclosures:			
Cash paid for interest	11,895	50,917	54,102
Interest capitalized	38	1,111	108
Non-cash activities:			
Net liabilities assumed in connection with contribution of properties	592,452	-	-
Liabilities assumed in connection with acquisition of property	6,374	-	-
Reallocation of additional paid in capital to minority interest in Operating Partnership	664,856	-	-

The accompanying notes are an integral part of these financial statements.

BOSTON PROPERTIES, INC. AND
BOSTON PROPERTIES PREDECESSOR GROUP

NOTES TO CONDENSED CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS

1. Organization:

Boston Properties, Inc. (the "Company") a Delaware corporation, was formed to succeed to (i) the real estate development, redevelopment, ownership, acquisition, management, operating and leasing business associated with Boston Properties, Inc., a Massachusetts corporation founded in 1970, and (ii) various property partnerships under common control with the predecessor company (collectively, the "Boston Properties Predecessor Group" or the "Predecessor"). The Company intends to qualify as a real estate investment trust ("REIT") under the Internal Revenue Code of 1986, as amended.

On June 23, 1997, the Company commenced operations after completing an initial public offering of 36,110,000 common shares (including 4,710,000 shares issued as a result of the exercise of an over-allotment option by the underwriters) (the "Offering"). The 36,110,000 shares of common stock were issued at a price per share of \$25.00, generating gross proceeds of \$902,750,000. The aggregate proceeds to the Company, net of underwriters' discount and offering costs were approximately \$839,209,000.

The following transactions occurred simultaneously with the completion of the Offering, (collectively, the "Formation Transactions):

- . The Company became the sole general partner of Boston Properties Limited Partnership (the "Operating Partnership"). Upon completion of the Offering, the Company contributed substantially all of the net proceeds of the Offering in exchange for an approximately 70.66% interest in the Operating Partnership.
- . The Operating Partnership exercised various option and purchase agreements whereby it issued units in the Operating Partnership ("Units") representing an approximately 29.34% limited partnership interest, to the continuing investors in exchange for interests in certain properties.
- . The Company contributed substantially all of its Greater Washington, D.C. third-party management business to Boston Properties Management, Inc. (the "Development and Management Company"), a subsidiary of the Operating Partnership.
- . The Operating Partnership entered into a participating lease with ZL Hotel LLC. Marriott International, Inc. manages the Company's two hotel properties under the Marriott(R) name. Messrs. Zuckerman and Linde are the sole member-managers of ZL Hotel LLC and own a 9.8% economic interest in ZL Hotel LLC. ZL Hotel Corp. owns the remaining

BOSTON PROPERTIES, INC. AND
BOSTON PROPERTIES PREDECESSOR GROUP

NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS,
CONTINUED

90.2% economic interest in ZL Hotel LLC. Certain public charities own all the capital stock of ZL Hotel Corp.

- . The Company, through the Operating Partnership, entered into a \$300 million unsecured credit facility with BankBoston, N.A., as agent (the "Unsecured Line of Credit"). The Unsecured Line of Credit is a recourse obligation of the Operating Partnership and is guaranteed by the Company. The Company intends to use the Unsecured Line of Credit principally to fund growth opportunities and for working capital purposes. The Company's ability to borrow under the Unsecured Line of Credit is subject to the Company's ongoing compliance with a number of financial and other covenants.
- . The Operating Partnership utilized \$696,236,000 of the proceeds of the Offering, together with \$54,000,000 under the Unsecured Line of Credit, to repay \$707,071,000 of mortgage indebtedness (\$47,780,000 of which was paid on July 1, 1997), \$28,843,000 of indebtedness due to Messrs. Zuckerman and Linde related to development of properties in process and \$14,322,000 to fund the acquisition of an approximately 170,000 square foot office building in Quincy, Massachusetts.

The Properties

The Company owns a portfolio of 75 commercial real estate properties (74 and 72 properties at March 31, 1997 and December 31, 1996, respectively) (the "Properties") aggregating approximately 11.0 million square feet, 89% of which was developed or substantially redeveloped by the Company. The properties consist of 63 office properties with approximately 7.8 million net rentable square feet (including seven office properties under development containing approximately 810,000 net rentable square feet) and approximately 1.3 million additional square feet of structured parking for 4,222 vehicles, nine industrial properties with approximately 925,000 net rentable square feet, two hotels with a total of 833 rooms (consisting of approximately 750,000 square feet), and a parking garage with 1,170 spaces (consisting of approximately 330,000 square feet). In addition, the Company owns, has under contract, or has options to acquire six parcels of land totaling 47.4 acres, which will support approximately 1,009,000 square feet of development.

2. Basis of Presentation and Summary of Significant Accounting Policies:

The consolidated financial statements of the Company include all the accounts of the Company, its majority-owned Operating Partnership and subsidiaries. The financial statements reflect the properties acquired at their historical basis of accounting to the extent of the acquisition of interests from the Predecessor's owners who continued as investors. The remaining interests acquired for cash from those owners of the Predecessor who decided to sell their interests have been accounted for as a purchase and the excess of the purchase price over the related historical cost basis was allocated to real estate. The combined financial statements of the Boston Properties Predecessor Group include interests in properties and the third party commercial real estate development, project management and property management business of Boston Properties, Inc. The accompanying condensed combined financial statements for the Boston Properties Predecessor Group have been presented on a combined basis due to the common ownership and management; therefore, its

BOSTON PROPERTIES, INC. AND
BOSTON PROPERTIES PREDECESSOR GROUP

NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS,
CONTINUED

combined financial statements are presented for comparative purposes. All significant intercompany balances and transactions have been eliminated.

The accompanying interim financial statements are unaudited; however, the financial statements have been prepared in accordance with generally accepted accounting principles for interim financial information and in conjunction with the rules and regulations of the Securities and Exchange Commission. Accordingly, they do not include all of the disclosures required by generally accepted accounting principles for complete financial statements. In the opinion of management, all adjustments (consisting solely of normal recurring matters) necessary for a fair presentation of the financial statements for these interim periods have been included. The results of operations for the interim periods are not necessarily indicative of the results to be obtained for the full fiscal year. These financial statements should be read in conjunction with the Company's prospectus dated June 17, 1997 and the combined financial statements and notes thereto of the Boston Properties Predecessor Group included therein.

Offering Costs

Underwriting commissions and offering costs incurred in connection with the Offering have been reflected as a reduction of additional paid-in capital.

Income Taxes

The Company has elected to be taxed as a REIT under the Internal Revenue Code commencing with its taxable period ending December 31, 1997. As a result, the Company will generally not be subject to federal income tax on its taxable income at corporate rates to the extent it distributes annually at least 95% of its taxable income to its shareholders and complies with certain other requirements. Accordingly, no provision has been made for federal income taxes in the accompanying consolidated financial statements. Certain subsidiaries are subject to federal and state income tax on their taxable income at regular corporate rates.

Earnings per Share

Earnings per share is calculated based on the weighted average number of common shares outstanding. The assumed exercise of outstanding stock options, using the treasury stock method, is not dilutive and, therefore, such amounts are not presented.

BOSTON PROPERTIES, INC. AND
BOSTON PROPERTIES PREDECESSOR GROUP

NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS,
CONTINUED

3. Minority Interest in Operating Partnership:

Minority interest in the Operating Partnership relates to the interest in the Operating Partnership that is not owned by the Company which, at June 30, 1997, amounted to 29.34%.

In conjunction with the formation of the Company, persons contributing interests in properties to the Operating Partnership received Units. Beginning fourteen months after the completion of the Offering, the Operating Partnership will, at the request of any Unitholder, be obligated to redeem each Unit held by such Unitholder for, at the option of the Operating Partnership, (i) cash equal to the fair market value of one share of the Company's common stock at the time of redemption, or (ii) one share of the Company's common stock. Such redemptions will cause the Company's percentage ownership in the Operating Partnership to increase.

4. Extinguishment of Indebtedness:

Certain mortgage indebtedness aggregating \$707,071,000 was repaid in conjunction with the Offering. \$659,291,000 of this mortgage indebtedness was repaid at June 23, 1997. These repayments, along with the payment of certain related prepayment penalties, the write-off of the related previously capitalized deferred financing costs and the extinguishment of the excess of the mortgage note payable balance over the principal payment required for the 599 Lexington Avenue property necessitated by this increasing rate loan being accounted for using the effective interest method, generated a gain of \$7,983,000, (net of minority interest share of \$3,315,000), which has been reflected as an extraordinary gain to the Company in the period ended June 30, 1997.

Due to lender requirements, \$47,909,000 of the offering proceeds was placed in escrow at June 23, 1997 and used to retire \$47,780,000 of mortgage indebtedness, and related costs on July 1, 1997. These repayments generated a loss of \$58,000 (net of minority interest share of \$24,000) which will be reflected as an extraordinary loss in the Statement of Operations of the Company for the quarter ended September 30, 1997.

5. Stock Option and Incentive Plan:

The Company has established a stock option and incentive plan for the purpose of attracting and retaining qualified executives and rewarding them for superior performance in achieving the Company's business goals and enhancing stockholder value. In conjunction with the Offering, the Company granted options with respect to 2,290,000 common shares to directors, officers and employees. All of such options were issued at an exercise price of \$25.00. The term of each of such options is 10 years from the date of grant. In general, one-third of each of the options granted to officers and Mr. Zuckerman are exercisable on each of the third, fourth, and fifth anniversary of the date of grant, respectively.

One-third of the options granted to employees who are not officers will be exercisable on each of the first, second and third anniversary of the date of grant, respectively. Other than the options granted to Mr. Zuckerman, one-half of the options granted to non-employee directors will be exercisable on each of the first and second anniversary of the date of grant, respectively.

As of June 30, 1997, the Company had granted options with respect to 2,290,000 common shares and an additional 2,464,750 common shares were reserved for issuance under the Company's stock option and incentive plan.

BOSTON PROPERTIES, INC. AND
BOSTON PROPERTIES PREDECESSOR GROUP

NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS,
CONTINUED

6. Unaudited Pro Forma Condensed Consolidated Financial Information:

The accompanying unaudited pro forma information for the three month and six month periods ended March 31, 1997 and June 30, 1997 are presented as if the Formation Transactions discussed in Note 1 had occurred on January 1, 1997. This pro forma information is based upon the historical consolidated financial statements of the Company and the Boston Properties Predecessor Group and should be read in conjunction with the consolidated and combined financial statements and the notes thereto.

This unaudited pro forma condensed consolidated information does not purport to represent what the actual results of operations of the Company would have been assuming such Formation Transactions had been completed as set forth above, nor do they purport to predict the results of operations of future periods.

	Three months ended June 30, 1997 ----	Three months ended June 30, 1996 ----	Six months ended June 30, 1997 ----	Six months ended June 30, 1996 ----
	(in thousands except per share data)			
Total Revenue	\$60,635	\$55,675	\$114,831	\$114,476
Income	13,479	9,746	23,023	23,349
Net income per share of common stock	\$0.35	\$0.25	\$0.59	\$0.60
Weighted average number of shares of common shares outstanding	38,694	38,694	38,694	38,694

BOSTON PROPERTIES, INC. AND
BOSTON PROPERTIES PREDECESSOR GROUP

Item 2 - Management's Discussion and Analysis of Financial Condition and Results

of Operations

The following discussion should be read in conjunction with the financial statements and notes thereto appearing elsewhere in this report.

Overview

Management's Discussion and Analysis of Financial Condition and Results of Operations include certain forward-looking statements about the Company's business, revenues, expenditures and operating and capital requirement. In addition, forward-looking statements may be included in various other Company documents to be issued in the future and in various oral statements by Company representatives to security analysts and investors from time to time. Any such statements are subject to risks that could cause the actual results or needs to vary materially. The risks and uncertainties associated with the forward-looking information include the strength of the commercial office and industrial real estate markets in which the Company operates, competitive market conditions, general economic growth, interest rates and capital market conditions. The Company discusses such risks in detail in its prospectus dated June 17, 1997.

BOSTON PROPERTIES, INC. AND
BOSTON PROPERTIES PREDECESSOR GROUP

RESULTS OF OPERATIONS

Comparison of the six months ended June 30, 1997 to the six months ended June 30, 1996

For discussion purposes, the results of operations for the six months ended June 30, 1997 combine the operating results of the Boston Properties Predecessor Group for the period January 1, 1997 to June 22, 1997 and the operating results of the Company for the period June 23, 1997 to June 30, 1997. The results of operations for the six months ended June 30, 1996 represent solely the operating results of the Predecessor. Consequently, the comparison of the periods provides only limited information regarding the operations of the Company.

Rental revenue decreased \$0.5 million or 0.5% to \$98.8 million from \$99.3 million for the six months ended June 30, 1997 compared to the six months ended June 30, 1996. Rental revenue for the six months ended June 30, 1996 includes a \$7.5 million non-recurring lease termination fee received from a tenant at the 599 Lexington Avenue property. Rental revenue for the six months ended June 30, 1997 includes rental revenue from the hotel leases for the eight-day period June 23, 1997 to June 30, 1997.

Hotel operating revenue increased \$1.3 million or 4.4% to \$31.2 million from \$29.9 million for the six months ended June 30, 1997 compared to the six months ended June 30, 1996. Hotel operating revenue for the six months ended June 30, 1997 only includes revenue from January 1, 1997 to June 22, 1997 as a result of the Operating Partnership entering into a participating lease at the time of the Offering to operate the hotel properties with ZL Hotel LLC.

Third party management and development fee income increased \$637,000 or 20.1% to \$3.8 million from \$3.2 million for the six months ended June 30, 1997 compared to the six months ended June 30, 1996 primarily as a result of increased fees on existing projects.

Interest income decreased \$200,000 or 13% to \$1.4 million from \$1.6 million for the six months ended June 30, 1997 compared to the six months ended June 30, 1996, primarily due to a reduction in cash reserves partially offset by interest income earned on net proceeds of the Offering for the eight-day period of June 23, 1997 to June 30, 1997.

Property expenses decreased \$1.1 million or 3.6% to \$28.0 million from \$29.1 million for the six months ended June 30, 1997 compared to the six months ended June 30, 1996 primarily as a result of reductions in real estate taxes, utilities, and snow removal costs.

Hotel operating expenses increased \$686,000 or 3.2% to \$22.0 million from \$21.3 million for the six months ended June 30, 1997 compared to the six months ended June 30, 1996. Hotel expenses for the six months ended June 30, 1997 only includes expenses from January 1, 1997 to June 22, 1997.

General and administrative expenses increased \$176,000 or 3.4% to \$5.4 million from \$5.2 million for the six months ended June 30, 1997 compared to the six months ended June 30, 1996.

BOSTON PROPERTIES, INC. AND
BOSTON PROPERTIES PREDECESSOR GROUP

Interest expense increased \$220,000 or 0.4% to \$54.7 million from \$54.5 million for the six months ended June 30, 1997 and the six months ended June 30, 1996. An increase in interest expense due to increased indebtedness for the period January 1, 1997 to June 22, 1997 was offset by a reduction in interest expense for the eight-day period June 23, 1997 to June 30, 1997 as a result of the payoff of mortgage indebtedness.

Depreciation and amortization expense increased \$123,000 or 0.7% to \$17.9 million from \$17.7 million for the six months ended June 30, 1997 compared to the six months ended June 30, 1996.

As a result of the foregoing, net income before extraordinary items and minority interests increased \$1.1 million to \$7.2 million from \$6.0 million for the six months ended June 30, 1997 compared to the six months ended June 30, 1996.

Comparison of Three months ended June 30, 1997 to the Three Months ended June 30, 1996:

For discussion purposes, the results of operations for the three months ended June 30, 1997 combine the operating results of the Boston Properties Predecessor Group for the period April 1, 1997 to June 22, 1997 and the operating results of the Company for the period June 23, 1997 to June 30, 1997. The results of operations for the three months ended June 30, 1996 represent solely the operating results of the Predecessor. Consequently, the comparison of the periods provides only limited information regarding the operations of the Company.

Rental revenue increased \$4.0 million or 8.7% to \$50.4 million from \$46.4 million for the three months ended June 30, 1997 compared to the three months ended June 30, 1996. The increase is due to increased occupancy at 91 Hartwell Avenue and Democracy Center. Also, rental revenue for the three months ended June 30, 1997 includes rental revenue from the hotel leases for the eight day period June 23, 1997 to June 30, 1997.

Hotel operating revenue increased \$17,000 or less than 0.1% at approximately \$18.4 million for each of the three months ended June 30, 1997 and the three months ended June 30, 1996. Hotel revenue for the three months ended June 30, 1997 only includes revenue from January 1, 1997 to June 22, 1997.

Third party management and development fee income increased \$394,000 or 24.7% to \$2.0 million from \$1.6 million for the three months ended June 30, 1997 compared to the three months ended June 30, 1996 primarily as a result of increased fees on existing projects.

Interest income increased \$96,000 or 11.3% to \$948,000 from \$852,000 for the three months ended June 30, 1997 compared to the three months ended June 30, 1996 primarily due to interest income earned on net proceeds of the Offering for the period June 23, 1997 to June 30, 1997 partially offset by a reduction in cash reserves.

Property expenses decreased \$759,000 or 5.1% to \$14.0 million from \$14.8 million for the three months ended June 30, 1997 compared to the three months ended June 30, 1996 primarily as a result of reductions in real estate taxes and utilities.

Hotel operating expenses decreased \$463,000 or 3.7% to \$12.0 million from \$12.5 million for the three months ended June 30, 1997 compared to the three months ended June 30, 1996. Hotel expenses for the three months ended June 30, 1997 only includes expenses from January 1, 1997 to June 22, 1997.

General and administrative expenses increased \$143,000 or 5.6% to \$2.7 million from \$2.6 million for the three months ended June 30, 1997 compared to the three months ended June 30, 1996.

Interest expense decreased \$137,000 or 0.5% to \$27.0 million from \$27.1 million for the three months ended June 30, 1997 compared to the three months ended June 30, 1996. An increase in interest expense due to increased indebtedness for the period January 1, 1997 to June 22, 1997 was partially offset by a reduction in interest expense for the eight day period June 23, 1997 to June 30, 1997 as a result of the payoff of mortgage indebtedness.

Depreciation and amortization expense remained unchanged at \$9.1 million for the three months ended June 30, 1997 and June 30, 1996.

As a result of the foregoing, net income before extraordinary items and minority interest increased \$5.7 million to \$6.8 million from \$1.1 million for the three months ended June 30, 1997 compared to the three months ended June 30, 1996.

Liquidity and Capital Resources

Upon completion of the Offering, the Company received approximately \$839.2 million in net proceeds. The Company used these funds as follows: (i) approximately \$707.1 million to repay certain mortgage indebtedness; (ii) approximately \$2.7 million for related prepayment penalties; (iii) (\$47.8 million of which was paid on July 1, 1997) approximately \$2.7 million for other related prepayment costs; (iv) approximately \$10.4 million to pay transfer taxes; (v) approximately \$1.6 million to establish the Unsecured Line of Credit.

The Company closed on the \$300 million Unsecured Line of Credit with BankBoston, N.A., as agent. Upon completion of the Offering, \$54.0 million was drawn on the

Unsecured Line of Credit and was used as follows: (i) \$28.8 million to repay notes due Messrs. Zuckerman and Linde (the "Development Loan") in respect of loans advanced by them to the entities that, prior to the Offering, owned the Development Properties and certain parcels of land, to the fund the development of the Development Properties and the acquisition of such parcels of land; and (ii) approximately \$14.3 million (net of \$6.9 million of assumed debt) was used to acquire the Newport Office Park property.

The Unsecured Line of Credit, at the Company's election, bears interest at a floating rate based on a spread over LIBOR ranging from 90 basis points to 110 basis points, depending upon the Company's applicable leverage ratio, or the Line of Credit Bank's prime rate. The Company's ability to borrow under the Unsecured Line of Credit is subject to the Company's ongoing compliance with a number of financial and other covenants. The Unsecured Line of Credit requires: the Company to maintain a ratio of unsecured indebtedness to unencumbered property value of not more than 60%; that the unencumbered properties must generate sufficient net operating income to maintain a debt service coverage ratio of at least 1.4 to 1; a total indebtedness to total asset value ratio of not more than 55%; that the ratio of EBITDA to debt service plus estimated capital expenditures and preferred dividends be at least 1.75 to 1; and certain other customary covenants and performance requirements.

BOSTON PROPERTIES, INC. AND
BOSTON PROPERTIES PREDECESSOR GROUP

The Company's consolidated indebtedness at July 1, 1997 was \$748.9 million at a weighted average interest rate of 7.58%. Based on the Company's total market capitalization at July 1, 1997 of approximately \$2.21 billion, the Company's consolidated debt represents 34% of its total market capitalization.

Properties	Interest Rate	Principal	Maturity Date

(Thousands)			
599 Lexington Avenue	7.00%	\$225,000	July 19, 2005 (1)
Two Independence Square	7.90 (2)	121,906	February 27, 2003
One Independence Square	7.90 (2)	77,937	August 21, 2001
2300 N Street	6.88	66,000	August 3, 2003
Capital Gallery	8.24	60,364	August 15, 2006
Burlington Mall Road (3)	8.33	37,000	October 1, 2001
Ten Cambridge Center (4)	7.57	40,000	March 29, 2000
191 Spring Street	8.50	23,822	September 1, 2006
Bedford Business Park	8.50	23,281	December 10, 2008
Montvale Center	8.59	7,945	December 1, 2006
Newport Office Park	8.13	6,894	July 1, 2001
Hilltop Business Center	7.00 (5)	4,700	December 15, 1998

		694,849	

Unsecured Line of Credit	6.69 (6)	54,000	June 22, 2000
Note Payable-affiliate	6.69 (6)	9,990	Demand

Total		\$758,839	
		=====	

- (1) At maturity the lender has the option to purchase a 33.33% interest in this Property in exchange for the cancellation of the principal balance of approximately \$225 million.
- (2) The interest rate increases to 8.5% on March 25, 1998 and remains at such rate through the loan expiration.
- (3) Includes outstanding indebtedness secured by 91 Hartwell Avenue and 92 and 100 Hayden Avenue.
- (4) Includes outstanding indebtedness secured by the Cambridge North Garage.
- (5) This is a floating interest rate equal to LIBOR + 1.50%
- (6) This is a floating interest rate currently equal to LIBOR + 1.00%

The Company expects to meet its short-term liquidity requirements generally through its initial working capital and net cash provided by operations. The Company's operating properties and hotels require periodic investments of capital for tenant-related capital expenditures and for general capital improvements. For the six months ended June 30, 1997, the Company's recurring capital expenditures totaled \$7.3 million.

BOSTON PROPERTIES, INC. AND
BOSTON PROPERTIES PREDECESSOR GROUP

The Company expects to meet its long-term liquidity requirements for the funding of property development, property acquisitions and other non-recurring capital improvements through long-term secured and unsecured indebtedness (including the Unsecured Line of Credit) and the issuance of additional equity securities of the Company.

The Company will have commitments to fund to completion, development projects that are currently in process. Commitments under these arrangements totaled \$35 million as of June 30, 1997. The Company expects to fund these commitments initially using the Unsecured Line of Credit. In addition, the Company has options to acquire land that require minimum deposits that the Company will fund using the Unsecured Line of Credit.

Funds from Operations

Management believes Funds from Operations is helpful to investors as a measure of the performance of an equity REIT because, along with cash flows from operating activities, financing activities and investing activities, it provides investors with an understanding of the ability of the Company to incur and service debt and make capital expenditures. The Company computes Funds from Operations in accordance with standards established by the White Paper on Funds from Operations approved by the Board of Governors of NAREIT in 1995, which may differ from the methodology for calculating Funds from Operations utilized by other equity REITs, and, accordingly, may not be comparable to such other REITs. The White Paper defines Funds from Operations as net income (loss) (computed in accordance with GAAP), excluding gains (or losses) from debt restructuring and sales of property, plus real estate related depreciation and amortization and after adjustments for unconsolidated partnerships and joint ventures. Further, Funds from Operations does not represent amounts available for management's discretionary use because of needed capital replacement or expansion, debt service obligations, or other commitments and uncertainties. Funds from Operations should not be considered as an alternative to net income (determined in accordance with GAAP) as an indication of the Company's financial performance or to cash flows from operating activities (determined in accordance with GAAP) as a measure of the Company's liquidity, nor is it indicative of funds available to fund the Company's cash needs, including its ability to make distributions. The Company believes that in order to facilitate a clear understanding of the combined historical operating results of the Boston Properties Predecessor Group and the Company, Funds from Operations should be examined in conjunction with net income as presented in the consolidated and combined financial statements.

The following table presents the Company's Funds from Operations for the period from June 23, 1997 to June 30, 1997 and for the pro forma three and six month periods ended June 30, 1997:

BOSTON PROPERTIES, INC. AND
BOSTON PROPERTIES PREDECESSOR GROUP

	Company June 23, 1997 to June 30, 1997 -----	Pro Forma Three months ended June 30, 1997 ---- (in thousands)	Pro Forma Six months ended June 30, 1997 ----
Income before minority interest and extraordinary item	\$1,576	\$19,193	\$32,827
Add:			
Real estate depreciation and amortization	835	9,104	17,989
Less:			
Minority property partnership's share of Funds from Operations	(9)	(103)	(251)
Non-recurring item - significant lease termination fee	-	-	-
	-----	-----	-----
Funds from Operations	\$2,402	\$28,194	\$50,565
	=====	=====	=====
Company's share (70.66%)	\$1,697	\$19,922	\$35,729
	=====	=====	=====

Inflation

The majority of the Company's tenant leases require tenants to pay most operating expenses, including real estate taxes and insurance, and increases in common area maintenance expenses, which reduces the Company's exposure to increases in costs and operating expenses resulting from inflation.

Recently Issued Accounting Pronouncements

Financial Accounting Standards Board Statement No. 128 ("FAS No. 128") "Earnings Per Share" is effective for financial statements issued for periods ending after December 15, 1997, including interim periods. The Company intends to adopt the requirements of this pronouncement in its financial statements for the year ended December 31, 1997. FAS No. 128 specifies the computation, presentation and disclosure requirements for net income per share. FAS No. 128 also requires the presentation of diluted net income per share which the Company was not previously required to present under generally accepted accounting principles.

Financial Accounting Standards Board Statement No. 129 ("FAS No. 129") "Disclosure of Information about Capital Structure" is effective for financial statements issued for periods ending after December 31, 1997. FAS No. 129 establishes standards for disclosure of information about securities, liquidation preference of preferred stock and redeemable stock.

Financial Accounting Standards Board Statement No. 130 ("FAS No. 130") "Reporting Comprehensive Income" is effective for fiscal years beginning after December 15, 1997, although earlier application is permitted. The Company intends to adopt the requirements of this pronouncement in its financial statements for the year ended December 31, 1998. FAS No. 130 establishes standards for reporting and display of comprehensive income and its components in a full set of general-purpose financial statements. FAS No. 130 requires that all components of comprehensive income shall be reported in the financial statements in the period in which they are recognized. Furthermore, a total amount for comprehensive income shall be displayed in the financial statement where the components of other comprehensive income are reported. The Company was not previously required to present comprehensive income or the components thereof in its financial statements under generally accepted accounting principals.

Financial Accounting Standards Board Statement No. 131 ("FAS No. 131") "Disclosure about segments of an Enterprise and Related Information" is effective for financial statements issued for periods beginning after December 15, 1997. FAS No. 131 requires disclosures about segments of an enterprise and related information regarding the different types of business activities in which an enterprise engages and the different economic environments in which it operates.

The Company does not believe that the implementation of FAS No. 128, FAS No. 129, FAS No. 130 or FAS No. 131 will have a material impact on its financial statements.

BOSTON PROPERTIES, INC. AND
BOSTON PROPERTIES PREDECESSOR GROUP

NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS,
CONTINUED

Part II. Other Information

Item 6 - Exhibits

(a) Exhibits

EXHIBIT NO. -----	DESCRIPTION -----	PAGE ----
3.1	--Amended and Restated Certificate of Incorporation of the Company	
3.2	--Amended and Restated Bylaws of the Company	
+4.1	--Form of Shareholder Rights Agreement dated as of June , 1997 between the Company and BankBoston, N.A., as Rights Agent	
+4.2	--Form of Certificate of Designation for Series E Junior Participating Cumulative Preferred Stock, par value \$.01 per share	
+4.3	--Form of Common Stock Certificate	
10.1	--Amended and Restated Agreement of Limited Partnership of the Operating Partnership	
+10.2	--1997 Stock Option and Incentive Plan	
+10.3	--Form of Noncompetition Agreement between the Company and Mortimer B. Zuckerman	
+10.4	--Form of Employment and Noncompetition Agreement between the Company and Edward H. Linde	
+10.5	--Form of Employment Agreement between the Company and certain executive officers	
+10.6	--Form of Indemnification Agreement between the Company and each of its directors and executive officers	
+10.7	--Omnibus Option Agreement by and among Boston Properties Limited Partnership (the "Operating Partnership") and the Grantors named therein dated as of April 9, 1997	
+10.8	--Revolving Credit Agreement with BankBoston, N.A.	
+10.9	--Form of Registration Rights Agreement among the Company and the persons named therein	
+10.10	--Form of Lease Agreement dated as of June , 1997 between Edward H. Linde and Mortimer B. Zuckerman, as Trustees of Downtown Boston Properties Trust, and ZL Hotel LLC	
+10.11	--Form of Lease Agreement dated as of June , 1997 between Edward H. Linde and Mortimer B. Zuckerman, as Trustees of Two Cambridge Center Trust, and ZL Hotel LLC	
+10.12	--Option Agreement between Boston Properties Limited Partnership and Square 36 Properties Limited Partnership dated April 15, 1997	
+10.13	--Form of Certificate of Incorporation of Boston Properties Management, Inc.	
+10.14	--Form of By-laws of Boston Properties Management, Inc.	
+10.15	--Form of Limited Liability Agreement of ZL Hotel LLC	
+10.16	--Form of Option Agreement to Acquire the Property known as Sumner Square	
+10.17	--Loan Modification Agreement between Lexreal Associates and Mitsui Seimei America Corporation relating to loan secured by 599 Lexington Avenue	
+10.18	--Loan Modification and Extension Agreement by and between Southwest Market Limited Partnership, a District of Columbia limited partnership, Mortimer B. Zuckerman and Edward H. Linde and the Sumitomo Bank, Limited, for One Independence Square, dated as of September 26, 1994	
+10.19	--Loan Modification and Extension Agreement by and among Southwest Market Limited Partnership, a District of Columbia limited partnership, Mortimer B. Zuckerman and Edward H. Linde and the Sumitomo Bank, Limited, for Two Independence Square, dated as of September 26, 1994	
+10.20	--Construction Loan Agreement by and between the Sumitomo Bank, Limited and Southwest Market Limited Partnership, dated as of August 21, 1990	
+10.21	--Construction Loan Agreement by and between the Sumitomo Bank, Limited and Southwest Market Limited Partnership for Two Independence Square, dated as of February 22, 1991	
+10.22	--Consent and Loan Modification Agreement regarding One Independence Square between the Sumitomo Bank, Limited and Southwest Market Limited Partnership dated as of June , 1997	
+10.23	--Consent and Loan Modification Agreement regarding Two Independence Square between the Sumitomo Bank, Limited and Southwest Market Limited Partnership dated as of June , 1997	
+10.24	--Form of Amended and Restated Loan Agreement between Square 36 Office Joint Venture and the Sanwa Bank Limited dated as of June , 1997	
+10.25	--Indemnification Agreement between Boston Properties Limited Partnership and Mortimer B. Zuckerman and Edward H. Linde	
+10.26	--Compensation Agreement between the Company and Robert	

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+ Incorporated herein by reference to the Company's Registration Statement on
Form S-11 (File No. 333-25279).

Pursuant to the requirements of the Securities Exchange Act of 1934, the
registrant has duly caused this report to be signed on its behalf by the
undersigned thereunto duly authorized.

BOSTON PROPERTIES, INC.

Date: August 14, 1997

/s/ David G. Gaw

David G. Gaw,
Chief Financial Officer
(duly authorized officer and
principal financial officer)

10-Q EXHIBIT INDEX

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+10.26	--Compensation Agreement between the Company and Robert Selsam, dated as of August 10, 1995, relating to 90 Church Street	
27.1	--Financial Data Schedule	

- - - - -
+ Incorporated herein by reference to the Company's Registration Statement on Form S-11 (File No. 333-25279).

AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
BOSTON PROPERTIES, INC.

Boston Properties, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certifies as follows:

1. The name of the Corporation is Boston Properties, Inc. The date of the filing of its original Certificate of Incorporation with the Secretary of State of the State of Delaware was March 24, 1997 (the "Original Certificate of Incorporation").

2. This Amended and Restated Certificate of Incorporation (the "Certificate"), which amends, restates and integrates the provisions of the Original Certificate of Incorporation filed with the Secretary of State of the State of Delaware on March 24, 1997, was duly adopted by the Board of Directors of the Corporation in accordance with the provisions of Sections 141(f), 242 and 245 of the General Corporation Law of the State of Delaware, as amended from time to time (the "DGCL"), and was duly adopted by the written consent of the stockholders of the Corporation in accordance with the applicable provisions of Sections 242 and 245 of the DGCL.

3. The text of the Original Certificate of Incorporation, as amended to date, is hereby amended and restated in its entirety to provide as herein set forth in full.

ARTICLE I

NAME

The name of the corporation is Boston Properties, Inc.

ARTICLE II

REGISTERED OFFICE

The address of the registered office of the Corporation in the State of Delaware is 1209 Orange Street, in the City of Wilmington, County of New Castle. The name of its registered agent at such address is The Corporation Trust Company.

ARTICLE III

PURPOSES

The nature of business or purposes to be conducted or promoted by the Corporation is to engage in any lawful act for which corporations may be organized under the DGCL.

ARTICLE IV

CAPITAL STOCK

The total number of shares of all classes of capital stock which the Corporation shall have the authority to issue is 450,000,000 shares, of which (a) 250,000,000 shares shall be common stock, par value \$.01 per share (the "Common Stock"), (b) 150,000,000 shares shall be excess stock, par value \$.01 per share (the "Excess Stock"), and (c) 50,000,000 shares shall be preferred stock, par value \$.01 per share (the "Preferred Stock"). As set forth in this Article IV, the Board of Directors is authorized from time to time to establish and designate one or more series of Preferred Stock, to fix and determine the variations in the relative rights and preferences as between the different series of Preferred Stock in the manner hereinafter set forth in this Article IV, and to fix or alter the number of shares comprising any such series and the designations thereof to the extent permitted by law. The rights, preferences, voting powers and the qualifications, limitations and restrictions of the authorized stock shall be as follows:

A. Common Stock. Subject to all of the rights, powers and

preferences of the Preferred Stock and except as provided by law or in this Article IV (or in any certificate of designation of any series of Preferred Stock):

1. The holders of shares of Common Stock shall be entitled to vote for the election of directors and on all other matters requiring stockholder action, and each holder of shares of Common Stock shall be entitled to one vote for each share of Common Stock held by such stockholder.

2. Holders of Common Stock shall be entitled to receive such dividends and other distributions in cash, stock or property of the Corporation as may be declared and paid or set apart for payment upon the Common Stock and, if any Excess Stock is then outstanding, the Excess Stock out of any assets or funds of the Corporation legally available therefor, but only when and as declared by the Board of Directors or any authorized committee thereof from time to time, and shall share ratably with the holders of Excess Stock in any such dividend or distribution.

3. Upon the voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the net assets of the Corporation available for distribution to the holders of Common Stock, and, if any Excess Stock is then outstanding, Excess Stock shall be distributed pro rata to such holders in proportion to the number of shares of Common Stock and Excess Stock held by each.

B. Preferred Stock.

1. Subject to any limitations prescribed by law, the Board of Directors is expressly authorized to provide for the issuance of the shares of Preferred Stock in one or more series of such stock, and by filing a certificate pursuant to applicable law of the State of

Delaware, to establish or change from time to time the number of shares to be included in each such series, and to fix the designations, powers, preferences and the relative, participating, optional or other special rights of the shares of each series and any qualifications, limitations and restrictions thereof. Any action by the Board of Directors under this Section (B)(1) of Article IV shall require the affirmative vote of a majority of the directors then in office (or, if a committee shall be acting on behalf of the Board of Directors, a majority of the members of such committee then in office, which committee was established by the affirmative vote of a majority of the directors then in office). The Board of Directors shall have the right to determine or fix one or more of the following with respect to each series of Preferred Stock to the extent permitted by law:

(a) The annual or other periodic dividend rate or amount of dividends to be paid on the shares of such series, the dividend payment dates, the date from which dividends on all shares of such series issued shall be cumulative, if applicable, and the extent of participation and other rights, if any;

(b) Whether the shares of such series shall be redeemable and, if so, the redemption price or prices, if any, for such series and other terms and conditions on which such series may be retired and redeemed;

(c) The distinctive serial designation and maximum number of shares of such series issuable;

(d) The right to vote, if any, with holders of shares of any other class or series, either generally or as a condition to specified corporate action;

(e) The amount payable upon shares of such series and the preferences applicable thereto in the event of a voluntary or involuntary liquidation, dissolution or winding up of the Corporation;

(f) The rights, if any, of the holders of shares of such series to convert such shares into other classes of stock of the Corporation or into any other securities, or to exchange such shares for other securities, and, if so, the conversion price or prices, or the rate or rates of exchange, and the adjustments thereof, if any, at which such conversion or exchange may be made and any other terms and conditions of any such conversion or exchange;

(g) The price or other consideration for which the shares of such series shall be issued;

(h) Whether the shares of such series which are redeemed or converted shall have the status of authorized but unissued shares of Preferred Stock (or series thereof) and whether such shares may be reissued as shares of the same or any other class or series of stock; and

(i) Such other powers, preferences, rights, qualifications, limitations and restrictions thereof as the Board of Directors may deem advisable and as are not prohibited by law.

All shares of Preferred Stock of any one series shall be identical with each other in all respects except, if so determined by the Board of Directors, as to the dates from which dividends thereon shall be cumulative; and all shares of Preferred Stock shall be of equal rank with each other, regardless of series, and shall be identical with each other in all respects except as provided herein or in the resolution or resolutions providing for the issue of a particular series. In the event that dividends on all shares of Preferred Stock for any regular dividend period are not paid in full, all such shares shall participate ratably in any partial payment of dividends for such period in proportion to the full amounts of dividends for such period to which they are respectively entitled.

C. Restrictions on Ownership And Transfer of Equity Stock.

1. Definitions. For purposes of this Article IV, the following terms

shall have the meanings set forth below:

"Beneficial Ownership," when used with respect to ownership of

shares of Equity Stock by any Person, shall mean all shares of Equity Stock which are (i) directly owned by such Person, (ii) indirectly owned by such Person (if such Person is an "individual" as defined in Section 542(a)(2) of the Code) taking into account the constructive ownership rules of Section 544 of the Code, as modified by Section 856(h)(1)(B) of the Code, or (iii) beneficially owned by such Person pursuant to Rule 13d-3 under the Securities Exchange Act of 1934, as amended, provided that (x) in determining the number of shares Beneficially Owned by a Person or group, no share shall be counted more than once although applicable to two or more of clauses (i), (ii) and (iii) of this definition or (in the case of a group) although Beneficially Owned by more than one Person in such group, (y) when applying this definition of Beneficial Ownership to a Related Party, clause (iii) of this definition and clause (b) of the definition of "Person" shall be disregarded and (z) for purposes of applying clause (iii) of this definition, the Beneficial Ownership of shares of Common Stock of the Company owned by a "group" as that term is used for purposes of Section 13(d)(3) of the Exchange Act shall in no event include any such shares Beneficially Owned by L-Related Parties or Z-Related Parties who are members of such "group." (Whenever a Person Beneficially Owns shares of Equity Stock that are not actually outstanding (e.g., shares issuable upon the exercise of an option or convertible security) ("Option Shares"), then, whenever this Certificate requires a determination of the percentage of outstanding shares of a class of Equity Stock Beneficially Owned by that Person, the Option Shares Beneficially Owned by that Person shall also be deemed to be outstanding.)

"Beneficiary" shall mean, with respect to any Trust, one or more

organizations described in each of Section 170(b)(1)(A) (other than clauses (vii) and (viii) thereof) and Section 170(c)(2) of the Code that are named by the Corporation as the beneficiary or

beneficiaries of such Trust, in accordance with the provisions of Section (D)(4) of this Article IV.

"Code" shall mean the Internal Revenue Code of 1986, as amended.

"Constructive Ownership" shall mean ownership of shares of Equity

Stock by a Person who is or would be treated as a direct or indirect owner of such shares of Equity Stock through the application of Section 318 of the Code, as modified by Section 856(d)(5) of the Code. The terms "Constructive Owner,"

"Constructively Owns" and "Constructively Owned" shall have correlative

meanings.

"Equity Stock" shall mean a particular class (other than Excess Stock)

or series of capital stock of the Corporation. The use of the term "Equity Stock" or any term defined by reference to the term "Equity Stock" shall refer to the particular class or series of capital stock which is appropriate under the context.

"Initial Public Offering" shall mean the closing of the initial sale

of shares of Common Stock to the public pursuant to the Corporation's first effective registration statement for such Common Stock filed under the Securities Act of 1933, as amended.

"L-Related Party" shall mean each of Edward H. Linde, his heirs,

legatees and devisees, and any other Person who Beneficially Owns shares of Equity Stock which shares are also deemed to be Beneficially Owned by Edward H. Linde or his heirs, legatees or devisees.

"Look-Through Entity" shall mean a Person that is either (i) a trust

described in Section 401(a) of the Code and exempt from tax under Section 501(a) of the Code as modified by Section 856(h)(3) of the Code or (ii) registered under the Investment Company Act of 1940.

"Look-Through Ownership Limit" shall mean, with respect to a class or

series of Equity Stock, 15% of the number of outstanding shares of such Equity Stock.

"Market Price" of Equity Stock on any date shall mean the average of

the Closing Price for shares of such Equity Stock for the five consecutive Trading Days ending on such date. The "Closing Price" on any date shall mean

the last sale price, regular way, or, in case no such sale takes place on such day, the average of the closing bid and asked prices, regular way, in either case as reported in the principal consolidated transaction reporting system with respect to securities listed or admitted to trading on the New York Stock Exchange or, if the shares of Equity Stock are not listed or admitted to trading on the New York Stock Exchange, as reported in the principal consolidated transaction reporting system with respect to securities listed on the principal national securities exchange on which the shares of Equity Stock are listed or admitted to trading or, if the shares of Equity Stock are not listed or admitted to trading on any national securities exchange, the last quoted price, or if not so quoted, the average of the high bid and low asked prices in the over-the-counter market, as reported by the Nasdaq Stock Market, Inc. or, if such system is no longer in use, the principal

other automated quotation system that may then be in use or, if the shares of Equity Stock are not quoted by any such organization, the average of the closing bid and asked prices as furnished by a professional market maker selected by the Board of Directors making a market in the shares of Equity Stock.

"Non-Transfer Event" shall mean an event other than a purported

Transfer that would cause (a) any Person (other than a Related Party or a Look-Through Entity) to Beneficially Own shares of Equity Stock in excess of the Ownership Limit, (b) any L-Related Party or Z-Related Party to Beneficially Own shares of Equity Stock which, when aggregated with all shares of Equity Stock Beneficially Owned by all other L-Related Parties or Z-Related Parties, respectively, are in excess of the Related Party Limit, or (c) any Look-Through Entity to Beneficially Own shares of Equity Stock in excess of the Look-Through Ownership Limit. Non-Transfer Events include but are not limited to (i) the granting of any option or entering into any agreement for the sale, transfer or other disposition of shares (or of Beneficial Ownership of shares) of Equity Stock or (ii) the sale, transfer, assignment or other disposition of interests in any Person or of any securities or rights convertible into or exchangeable for shares of Equity Stock or for interests in any Person that results in changes in Beneficial Ownership of shares of Equity Stock.

"Operating Partnership" shall mean Boston Properties Limited

Partnership, a Delaware limited partnership.

"Ownership Limit" shall mean, with respect to a class or series of

Equity Stock, 6.6% of the number of outstanding shares of such Equity Stock.

"Permitted Transferee" shall mean any Person designated as a Permitted

Transferee in accordance with the provisions of Section (D)(8) of this Article IV.

"Person" shall mean (a) an individual or any corporation, partnership,

estate, trust, association, private foundation, joint stock company or any other entity and (b) a "group" as that term is used for purposes of Section 13(d)(3) of the Exchange Act; but shall not include an underwriter that participates in a public offering of Equity Stock for a period of 90 days following purchase by such underwriter of such Equity Stock.

"Prohibited Owner" shall mean, with respect to any purported Transfer

or Non-Transfer Event, any Person who is prevented from becoming or remaining the owner of record title to shares of Equity Stock by the provisions of Section (D)(1) of this Article IV.

"Related Party" shall mean any L-Related Party or any Z-Related Party.

"Related Party Limit" shall mean, with respect to a class or series of

Equity Stock, 15% of the number of outstanding shares of such Equity Stock applied (i) in the aggregate, to all Persons who are Z-Related Parties and (ii) in the aggregate, to all Persons who are L-Related Parties.

"Restriction Termination Date" shall mean the first day on which the

Board of Directors, in accordance with Article VI hereof, determines that it is
no longer in the best interests of the Corporation to attempt to, or continue
to, qualify under the Code as a real estate investment trust (a "REIT").

"Trading Day" shall mean a day on which the principal national

securities exchange on which any of the shares of Equity Stock are listed or
admitted to trading is open for the transaction of business or, if none of the
shares of Equity Stock are listed or admitted to trading on any national
securities exchange, any day other than a Saturday, a Sunday or a day on which
banking institutions in the State of New York are authorized or obligated by law
or executive order to close.

"Transfer" (as a noun) shall mean any sale, transfer, gift,

assignment, devise or other disposition of shares (or of Beneficial Ownership of
shares) of Equity Stock, whether voluntary or involuntary, whether of record,
constructively or beneficially and whether by operation of law or otherwise.
"Transfer" (as a verb) shall have the correlative meaning.

"Trust" shall mean any separate trust created and administered in

accordance with the terms of Section (D) of this Article IV, for the exclusive
benefit of any Beneficiary.

"Trustee" shall mean any Person or entity, unaffiliated with both the

Corporation and any Prohibited Owner (and, if different than the Prohibited
Owner, the Person who would have had Beneficial Ownership of the Shares that
would have been owned of record by the Prohibited Owner), designated by the
Corporation to act as trustee of any Trust, or any successor trustee thereof.

"Z-Related Party" shall mean each of Mortimer B. Zuckerman, his heirs,

legatees and devisees, and any other Person who Beneficially Owns shares of
Equity Stock which shares are also deemed to be Beneficially Owned by Mortimer
B. Zuckerman or his heirs, legatees or devisees.

2. Restriction on Ownership and Transfer.

(a) (I) Except as provided in Section (C)(4) of this Article IV,
from and after the date of the Initial Public Offering and until the Restriction
Termination Date, (i) no Person (other than a Related Party or a Look-Through
Entity) shall Beneficially Own shares of Equity Stock in excess of the Ownership
Limit, the L-Related Parties in the aggregate and the Z-Related Parties in the
aggregate shall not Beneficially Own shares of Equity Stock in excess of the
Related Party Limit, and no Look-Through Entity shall Beneficially Own shares of
Equity Stock in excess of the Look-Through Ownership Limit.

(II) Except as provided in Section (C)(4) of this Article IV, from
and after the date of the Initial Public Offering and until the Restriction
Termination Date, any purported Transfer (whether or not the result of a
transaction entered into through the facilities

of the New York Stock Exchange or any other national securities exchange or the Nasdaq Stock Market, Inc. or any other automated quotation system) that, if effective, would result in any Person (other than a Related Party or Look-Through Entity) Beneficially Owning shares of Equity Stock in excess of the Ownership Limit shall be void ab initio as to the Transfer of that number of

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shares of Equity Stock which would be otherwise Beneficially Owned by such Person in excess of the Ownership Limit, and the intended transferee shall acquire no rights in such shares of Equity Stock.

(III) Except as provided in Section (C)(4) of this Article IV, from and after the date of the Initial Public Offering and until the Restriction Termination Date, any purported Transfer (whether or not the result of a transaction entered into through the facilities of the New York Stock Exchange or any other national securities exchange or the Nasdaq Stock Market, Inc. or any other automated quotation system) that, if effective, would result in any Look-Through Entity Beneficially Owning shares of Equity Stock in excess of the Look-Through Ownership Limit shall be void ab initio as to the Transfer of that

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number of shares of Equity Stock which would be otherwise Beneficially Owned by such Look-Through Ownership Entity in excess of the Look-Through Ownership Limit, and the intended transferee Look-Through Entity shall acquire no rights in such shares of Equity Stock.

(IV) Except as provided in Section (C)(4) of this Article IV, from and after the date of the Initial Public Offering and until the Restriction Termination Date, any purported Transfer (whether or not the result of a transaction entered into through the facilities of the New York Stock Exchange or any other national securities exchange or the Nasdaq Stock Market, Inc. or any other automated quotation system) that, if effective, would result in any L-Related Party or Z-Related Party Beneficially Owning shares of Equity Stock which, when aggregated with all shares of Equity Stock Beneficially Owned by all other L-Related Parties or Z-Related Parties, respectively, would cause the L-Related Parties or the Z-Related Parties, respectively, to exceed the Related Party Limit shall be void ab initio as to the Transfer of that number of shares

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of Equity Stock which would be otherwise Beneficially Owned by such L-Related Party or Z-Related Party in violation of the Related Party Limit, and the intended transferee Related Party shall acquire no rights in such shares of Equity Stock.

(b) From and after the date of the Initial Public Offering and until the Restriction Termination Date, any purported Transfer (whether or not the result of a transaction entered into through the facilities of the New York Stock Exchange or any other national securities exchange or the Nasdaq Stock Market, Inc. or any other automated quotation system) of shares of Equity Stock that, if effective, would result in the Corporation being "closely held" within the meaning of Section 856(h) of the Code shall be void ab initio as to the

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Transfer of that number of shares of Equity Stock that would cause the Corporation to be "closely held" within the meaning of Section 856(h) of the Code, and the intended transferee shall acquire no rights in such shares of Equity Stock.

(c) From and after the date of the Initial Public Offering and until the Restriction Termination Date, any purported Transfer (whether or not the result of a

transaction entered into through the facilities of the New York Stock Exchange or any other national securities exchange or the Nasdaq Stock Market, Inc. or any other automated quotation system) of shares of Equity Stock that, if effective, would cause the Corporation to Constructively Own 10% or more of the ownership interests in a tenant of the real property of the Corporation or any direct or indirect subsidiary (whether a corporation, partnership, limited liability company or other entity) of the Corporation (a "Subsidiary"), within the meaning of Section 856(d)(2)(B) of the Code, shall be void ab initio as to

the Transfer of that number of shares of Equity Stock that would cause the Corporation to Constructively Own 10% or more of the ownership interests in a tenant of the real property of the Corporation or a Subsidiary within the meaning of Section 856(d)(2)(B) of the Code, and the intended transferee shall acquire no rights in such shares of Equity Stock.

(d) From and after the date of the Initial Public Offering and until the Restriction Termination Date, any purported Transfer (whether or not the result of a transaction entered into through the facilities of the New York Stock Exchange or any other national securities exchange or the Nasdaq Stock Market, Inc. or any other automated quotation system) that, if effective, would result in shares of Equity Stock being beneficially owned by fewer than 100 persons within the meaning of Section 856(a)(5) of the Code shall be void ab

initio and the intended transferee shall acquire no rights in such shares of Equity Stock.

3. Owners Required to Provide Information. Until the Restriction

Termination Date:

(a) Every Beneficial Owner of more than 5%, or such lower percentages as are then required pursuant to regulations under the Code, of the outstanding shares of any class or series of Equity Stock of the Corporation as of any dividend record date on the Company's Equity Stock shall, within 30 days after January 1 of each year, provide to the Corporation a written statement or affidavit stating the name and address of such Beneficial Owner, the number of shares of Equity Stock Beneficially Owned by such Beneficial Owner as of each such dividend record date, and a description of how such shares are held. Each such Beneficial Owner shall provide to the Corporation such additional information as the Corporation may request in order to determine the effect, if any, of such Beneficial Ownership on the Corporation's status as a REIT and to ensure compliance with the Ownership Limit.

(b) Each Person who is a Beneficial Owner of shares of Equity Stock and each Person (including the stockholder of record) who is holding shares of Equity Stock for a Beneficial Owner shall provide to the Corporation a written statement or affidavit stating such information as the Corporation may request in order to determine the Corporation's status as a REIT and to ensure compliance with the Ownership Limit.

4. Exception. The Board of Directors, upon receipt of a ruling from

the Internal Revenue Service or an opinion of counsel or other evidence or undertakings acceptable to it, may, in its sole discretion, waive the application of the Ownership Limit, the Look-Through Ownership Limit or the Related Party Limit to a Person subject, as the case may be,

to any such limit, provided that (A) the Board of Directors obtains such representations and undertakings from such Person as are reasonably necessary to ascertain that such Person's Beneficial Ownership or Constructive Ownership of shares of Equity Stock will now and in the future (i) not result in the Corporation being "closely held" within the meaning of Section 856(h) of the Code, (ii) not cause the Corporation to Constructively Own 10% or more of the ownership interests of a tenant of the Corporation or a Subsidiary within the meaning of Section 856(d)(2)(B) of the Code and to violate the 95% gross income test of Section 856(c)(2) of the Code, and (iii) not result in the shares of Equity Stock of the Corporation being beneficially owned by fewer than 100 persons within the meaning of Section 856(a)(5) of the Code and (B) such Person agrees in writing that any violation or attempted violation of (x) such other limitation as the Board of Directors may establish at the time of such waiver with respect to such Person or (y) such other restrictions and conditions as the Board of Directors may in its sole discretion impose at the time of such waiver with respect to such Person, will result, as of the time of such violation even if discovered after such violation, in the conversion of such shares in excess of the original limit applicable to such Person into shares of Excess Stock pursuant to Section (D)(1) of this Article IV.

5. New York Stock Exchange Transactions. Notwithstanding any

provision contained herein to the contrary, nothing in this Certificate shall preclude the settlement of any transaction entered into through the facilities of the New York Stock Exchange or any other national securities exchange or the Nasdaq Stock Market, Inc. or any other automated quotation system. In no event shall the existence or application of the preceding sentence have the effect of deterring or preventing the conversion of Equity Stock into Excess Stock as contemplated herein.

D. Excess Stock.

1. Conversion into Excess Stock.

(a) If, notwithstanding the other provisions contained in this Article IV, from and after the date of the Initial Public Offering and prior to the Restriction Termination Date, there is a purported Transfer or Non-Transfer Event such that any Person (other than a Related Party or Look-Through Entity) would Beneficially Own shares of Equity Stock in excess of the Ownership Limit, or such that any Person that is an L-Related Party would Beneficially Own shares of Equity Stock which when aggregated together with all shares of Equity Stock Beneficially Owned by all other L-Related Parties would cause the L-Related Parties to exceed the Related Party Limit, or such that any Person that is a Z-Related Party would Beneficially Own shares of Equity Stock which when aggregated together with all shares of Equity Stock Beneficially Owned by all other Z-Related Parties would cause the Z-Related Parties to exceed the Related Party Limit, or such that any Person that is a Look-Through Entity would Beneficially Own shares of Equity Stock in excess of the Look-Through Limit, then, (i) except as otherwise provided in Section (C)(4) of this Article IV, the purported transferee shall be deemed to be a Prohibited Owner and shall acquire no right or interest (or, in the case of a Non-Transfer Event, the Person holding record title to the shares of Equity

Stock Beneficially Owned by such Beneficial Owner shall cease to own any right or interest) in such number of shares of Equity Stock which would cause such Beneficial Owner (alone or together with other Related Parties, if applicable) to Beneficially Own shares of Equity Stock in excess of the Ownership Limit, the Related Party Limit, or the Look-Through Limit, as the case may be, (ii) such number of shares of Equity Stock in excess of the Ownership Limit, the Related Party Limit or the Look-Through Limit, as the case may be, (rounded up to the nearest whole share) shall be automatically converted into an equal number of shares of Excess Stock and transferred to a Trust in accordance with Section (D)(4) of this Article IV and (iii) the Prohibited Owner shall submit the certificates representing such number of shares of Equity Stock to the Corporation, accompanied by all requisite and duly executed assignments of transfer thereof, for registration in the name of the Trustee of the Trust. Such conversion into Excess Stock and transfer to a Trust shall be effective as of the close of trading on the Trading Day prior to the date of the purported Transfer or Non-Transfer Event, as the case may be, even though the certificates representing the shares of Equity Stock so converted may be submitted to the Corporation at a later date.

(b) If, notwithstanding the other provisions contained in this Article IV, from and after the date of the Initial Public Offering and prior to the Restriction Termination Date there is a purported Transfer or Non-Transfer Event that, if effective, would (i) result in the Corporation being "closely held" within the meaning of Section 856(h) of the Code, (ii) cause the Corporation to Constructively Own 10% or more of the ownership interest in a tenant of the Corporation's or a Subsidiary's real property within the meaning of Section 856(d)(2)(B) of the Code or (iii) result in the shares of Equity Stock being beneficially owned by fewer than 100 persons within the meaning of Section 856(a)(5) of the Code, then (x) the purported transferee shall be deemed to be a Prohibited Owner and shall acquire no right or interest (or, in the case of a Non-Transfer Event, the Person holding record title of the shares of Equity Stock with respect to which such Non-Transfer Event occurred shall cease to own any right or interest) in such number of shares of Equity Stock, the ownership of which by such purported transferee or record holder would (A) result in the Corporation being "closely held" within the meaning of Section 856(h) of the Code, (B) cause the Corporation to Constructively Own 10% or more of the ownership interests in a tenant of the Corporation's or a Subsidiary's real property within the meaning of Section 856(d)(2)(B) of the Code or (c) result in the shares of Equity Stock being beneficially owned by fewer than 100 persons within the meaning of Section 856(a)(5) of the Code, (y) such number of shares of Equity Stock (rounded up to the nearest whole share) shall be automatically converted into an equal number of shares of Excess Stock and transferred to a Trust in accordance with Section (D)(4) of this Article IV and (z) the Prohibited Owner shall submit such number of shares of Equity Stock to the Corporation, accompanied by all requisite and duly executed assignments of transfer thereof, for registration in the name of the Trustee of the Trust. Such conversion into Excess Stock and transfer to a Trust shall be effective as of the close of trading on the Trading Day prior to the date of the purported Transfer or Non-Transfer Event, as the case may be, even though the certificates representing the shares of Equity Stock so converted may be submitted to the Corporation at a later date.

(c) Upon the occurrence of such a conversion of shares of Equity Stock into an equal number of shares of Excess Stock, such shares of Equity Stock shall be automatically retired and canceled, without any action required by the Board of Directors of the Corporation, and shall thereupon be restored to the status of authorized but unissued shares of the particular class or series of Equity Stock from which such Excess Stock was converted and may be reissued by the Corporation as that particular class or series of Equity Stock.

2. Remedies for Breach. If the Corporation, or its designees, shall

at any time determine in good faith that a Transfer has taken place in violation of Section (C)(2) of this Article IV or that a Person intends to acquire or has attempted to acquire Beneficial Ownership or Constructive Ownership of any shares of Equity Stock in violation of Section (C)(2) of this Article IV, the Corporation shall take such action as it deems advisable to refuse to give effect to or to prevent such Transfer or acquisition, including, but not limited to, refusing to give effect to such Transfer on the stock transfer books of the Corporation or instituting proceedings to enjoin such Transfer or acquisition, but the failure to take any such action shall not affect the automatic conversion of shares of Equity Stock into Excess Stock and their transfer to a Trust in accordance with Section (D)(1).

3. Notice of Restricted Transfer. Any Person who acquires or

attempts to acquire shares of Equity Stock in violation of Section (C)(2) of this Article IV, or any Person who owns shares of Equity Stock that were converted into shares of Excess Stock and transferred to a Trust pursuant to Sections (D)(1) and (D)(4) of this Article IV, shall immediately give written notice to the Corporation of such event and shall provide to the Corporation such other information as the Corporation may request in order to determine the effect, if any, of such Transfer or Non-Transfer Event, as the case may be, on the Corporation's status as a REIT.

4. Ownership in Trust. Upon any purported Transfer or Non-Transfer

Event that results in Excess Stock pursuant to Section (D)(1) of this Article IV, (i) the Corporation shall create, or cause to be created, a Trust, and shall designate a Trustee and name a Beneficiary thereof and (ii) such Excess Stock shall be automatically transferred to such Trust to be held for the exclusive benefit of the Beneficiary. Any conversion of shares of Equity Stock into shares of Excess Stock and transfer to a Trust shall be effective as of the close of trading on the Trading Day prior to the date of the purported Transfer or Non-Transfer Event that results in the conversion. Shares of Excess Stock so held in trust shall remain issued and outstanding shares of stock of the Corporation.

5. Dividend Rights. Each share of Excess Stock shall be entitled to

the same dividends and distributions (as to both timing and amount) as may be declared by the Board of Directors with respect to shares of Common Stock. The Trustee, as record holder of the shares of Excess Stock, shall be entitled to receive all dividends and distributions and shall hold all such dividends or distributions in trust for the benefit of the Beneficiary. The Prohibited Owner with respect to such shares of Excess Stock shall repay to the Trust the amount of any dividends or distributions received by it (i) that are attributable to any shares of

Equity Stock that have been converted into shares of Excess Stock and (ii) the record date of which was on or after the date that such shares were converted into shares of Excess Stock. The Corporation shall take all measures that it determines reasonably necessary to recover the amount of any such dividend or distribution paid to a Prohibited Owner, including, if necessary, withholding any portion of future dividends or distributions payable on shares of Equity Stock Beneficially Owned by the Person who, but for the provisions of this Article IV, would Constructively Own or Beneficially Own the shares of Equity Stock that were converted into shares of Excess Stock; and, as soon as reasonably practicable following the Corporation's receipt or withholding thereof, shall pay over to the Trust for the benefit of the Beneficiary the dividends so received or withheld, as the case may be.

6. Rights upon Liquidation. In the event of any voluntary or

involuntary liquidation of, or winding up of, or any distribution of the assets of, the Corporation, each holder of shares of Excess Stock shall be entitled to receive, ratably with each other holder of shares of Common Stock and Excess Stock, that portion of the assets of the Corporation that is available for distribution to the holders of Common Stock and Excess Stock. The Trust shall distribute to the Prohibited Owner the amounts received upon such liquidation, dissolution, or winding up, or distribution; provided, however, that the

Prohibited Owner shall not be entitled to receive amounts in excess of, in the case of a purported Transfer in which the Prohibited Owner gave value for shares of Equity Stock and which Transfer resulted in the conversion of the shares into shares of Excess Stock, the product of (x) the price per share, if any, such Prohibited Owner paid for the shares of Equity Stock and (y) the number of shares of Equity Stock which were so converted into Excess Stock, and, in the case of a Non-Transfer Event or purported Transfer in which the Prohibited Owner did not give value for such shares (e.g., if the shares were received through a gift or devise) and which Non-Transfer Event or purported Transfer, as the case may be, resulted in the conversion of the shares into shares of Excess Stock, the product of (x) the price per share equal to the Market Price on the date of such Non-Transfer Event or purported Transfer and (y) the number of shares of Equity Stock which were so converted into Excess Stock. Any remaining amount in such Trust shall be distributed to the Beneficiary.

7. Voting Rights. Each share of Excess Stock shall entitle the

holder to no voting rights other than those voting rights which accompany a class of capital stock under Delaware law. The Trustee, as record holder of the Excess Stock, shall be entitled to vote all shares of Excess Stock. Any vote by a Prohibited Owner as a purported holder of shares of Equity Stock prior to the discovery by the Corporation that such shares of Equity Stock have been converted into shares of Excess Stock shall, subject to applicable law, be rescinded and shall be void ab initio with respect to such shares of Excess

Stock.

8. Designation of Permitted Transferee.

(a) As soon as practicable after the Trustee acquires Excess Stock, but in an orderly fashion so as not to materially adversely affect the trading price of Common Stock, the Trustee shall designate one or more Persons as Permitted Transferees and sell to

such Permitted Transferees any shares of Excess Stock held by the Trustee; provided, however, that (i) any Permitted Transferee so designated purchases for

valuable consideration (whether in a public or private sale) the shares of Excess Stock and (ii) any Permitted Transferee so designated may acquire such shares of Excess Stock without violating any of the restrictions set forth in Section (C)(2) of this Article IV and without such acquisition resulting in the conversion of the shares of Equity Stock so acquired into shares of Excess Stock and the transfer of such shares to a Trust pursuant to Sections (D)(1) and (D)(4) of this Article IV. The Trustee shall have the exclusive and absolute right to designate Permitted Transferees of any and all shares of Excess Stock. Prior to any transfer by the Trustee of shares of Excess Stock to a Permitted Transferee, the Trustee shall give not less than five Trading Days prior written notice to the Corporation of such intended transfer and the Corporation must have waived in writing its purchase rights under Section (D)(10) of this Article IV.

(b) Upon the designation by the Trustee of a Permitted Transferee in accordance with the provisions of this Section (D)(8), the Trustee shall cause to be transferred to the Permitted Transferee shares of Excess Stock acquired by the Trustee pursuant to Section (D)(4) of this Article IV. Upon such transfer of shares of Excess Stock to the Permitted Transferee, such shares of Excess Stock shall be automatically converted into an equal number of shares of Equity Stock of the same class and series from which such Excess Stock was converted. Upon the occurrence of such a conversion of shares of Excess Stock into an equal number of shares of Equity Stock, such shares of Excess Stock shall be automatically retired and canceled, without any action required by the Board of Directors of the Corporation, and shall thereupon be restored to the status of authorized but unissued shares of Excess Stock and may be reissued by the Corporation as Excess Stock. The Trustee shall (i) cause to be recorded on the stock transfer books of the Corporation that the Permitted Transferee is the holder of record of such number of shares of Equity Stock, and (ii) distribute to the Beneficiary any and all amounts held with respect to such shares of Excess Stock after making payment to the Prohibited Owner pursuant to Section (D)(9) of this Article IV.

(c) If the Transfer of shares of Excess Stock to a purported Permitted Transferee would or does violate any of the transfer restrictions set forth in Section (C)(2) of this Article IV, such Transfer shall be void ab

initio as to that number of shares of Excess Stock that cause the violation of any such restriction when such shares are converted into shares of Equity Stock (as described in clause (b) above) and the purported Permitted Transferee shall be deemed to be a Prohibited Owner and shall acquire no rights in such shares of Excess Stock or Equity Stock. Such shares of Equity Stock shall be automatically re-converted into Excess Stock and transferred to the Trust from which they were originally Transferred. Such conversion and transfer to the Trust shall be effective as of the close of trading on the Trading Day prior to the date of the Transfer to the purported Permitted Transferee and the provisions of this Article IV shall apply to such shares, including, without limitation, the provisions of Sections (D)(8) through (D)(10) with respect to any future Transfer of such shares by the Trust.

9. Compensation to Record Holder of Shares of Equity Stock That Are

Converted into Shares of Excess Stock. Any Prohibited Owner shall be entitled

(following acquisition of the shares of Excess Stock and subsequent designation of and sale of Excess Stock to a Permitted Transferee in accordance with Section (D)(8) of this Article IV or following the acceptance of the offer to purchase such shares in accordance with Section (D)(10) of this Article IV) to receive from the Trustee following the sale or other disposition of such shares of Excess Stock the lesser of (i) (a) in the case of a purported Transfer in which the Prohibited Owner gave value for shares of Equity Stock and which Transfer resulted in the conversion of such shares into shares of Excess Stock, the product of (x) the price per share, if any, such Prohibited Owner paid for the shares of Equity Stock and (y) the number of shares of Equity Stock which were so converted into Excess Stock and (b) in the case of a Non-Transfer Event or purported Transfer in which the Prohibited Owner did not give value for such shares (e.g., if the shares were received through a gift or devise) and which Non-Transfer Event or purported Transfer, as the case may be, resulted in the conversion of such shares into shares of Excess Stock, the product of (x) the price per share equal to the Market Price on the date of such Non-Transfer Event or purported Transfer and (y) the number of shares of Equity Stock which were so converted into Excess Stock or (ii) the proceeds received by the Trustee from the sale or other disposition of such shares of Excess Stock in accordance with Section (D)(8) or Section (D)(10) of this Article IV. Any amounts received by the Trustee in respect of such shares of Excess Stock and in excess of such amounts to be paid to the Prohibited Owner pursuant to this Section (D)(9) shall be distributed to the Beneficiary in accordance with the provisions of Section (D)(8) of this Article IV. Each Beneficiary and Prohibited Owner shall waive any and all claims that it may have against the Trustee and the Trust arising out of the disposition of shares of Excess Stock, except for claims arising out of the gross negligence or willful misconduct of, or any failure to make payments in accordance with this Section (D) of this Article IV by such Trustee.

10. Purchase Right in Excess Stock. Shares of Excess Stock shall be

deemed to have been offered for sale to the Corporation or its designee, at a price per share equal to the lesser of (i) the price per share in the transaction that created such shares of Excess Stock (or, in the case of a Non-Transfer Event or Transfer in which the Prohibited Owner did not give value for the shares (e.g., if the shares were received through a gift or devise), the Market Price on the date of such Non-Transfer Event or Transfer in which the Prohibited Owner did not give value for the shares) or (ii) the Market Price on the date the Corporation, or its designee, accepts such offer. The Corporation shall have the right to accept such offer for a period of 90 days following the later of (a) the date of the Non-Transfer Event or purported Transfer which results in such shares of Excess Stock or (b) the date the Board of Directors first determined that a Transfer or Non-Transfer Event resulting in shares of Excess Stock has occurred, if the Corporation does not receive a notice of such Transfer or Non-Transfer Event pursuant to Section (D)(3) of this Article IV.

E. Preemptive Rights. No holder of shares of any class or series of

capital stock shall as such holder have any preemptive or preferential right to purchase or subscribe to (i)

any shares of any class or series of capital stock of the Corporation, whether now or hereafter authorized, (ii) any warrants, rights or options to purchase any such capital stock or (iii) any obligations convertible into any such capital stock or into warrants, rights or options to purchase any such capital stock.

F. Remedies Not Limited. Except as set forth in Section (C)(5) of

this Article IV, nothing contained in this Article IV shall limit the authority of the Corporation to take such other action as it deems necessary or advisable to protect the Corporation and the interests of its stockholders by preservation of the Corporation's status as a REIT and to ensure compliance with the Ownership Limit, the Look-Through Ownership Limit and the Related Party Limit.

G. Ambiguity. In the case of an ambiguity in the application of any

of the provisions of this Article IV, including any definition contained in Section (C)(1) of this Article IV, the Board of Directors shall have the power to determine the application of the provisions of this Article IV with respect to any situation based on the facts known to it.

H. Legend. Each certificate for shares of Equity Stock shall bear the

following legend:

"The shares of Boston Properties, Inc. (the "Corporation") represented by this certificate are subject to restrictions set forth in the Corporation's Certificate of Incorporation which prohibit in general (a) any Person (other than a Related Party or a Look-Through Entity) from Beneficially Owning shares of Equity Stock in excess of the Ownership Limit, (b) any L-Related Party from Beneficially Owning shares of Equity Stock which, when aggregated with the shares of Equity Stock Beneficially Owned by all other L-Related Parties, are in excess of the Related Party Limit, (c) any Z-Related Party from Beneficially Owning shares of Equity Stock which, when aggregated with the shares of Equity Stock Beneficially Owned by all other Z-Related Parties, are in excess of the Related Party Limit, (d) any Look-Through Entity from Beneficially Owning shares of Equity Stock in excess of the Look-Through Ownership Limit and (e) any Person from acquiring or maintaining any ownership interest in the stock of the Corporation that is inconsistent with (i) the requirements of the Code pertaining to real estate investment trusts or (ii) the Certificate of Incorporation of the Corporation, and the holder of this certificate by his acceptance hereof consents to be bound by such restrictions. Capitalized terms used in this paragraph and not defined herein are defined in the Corporation's Certificate of Incorporation.

The Corporation will furnish without charge, to each stockholder who so requests, a copy of the relevant provisions of the Certificate of Incorporation and By-laws of the Corporation, a copy of the provisions setting forth the designations, preferences, privileges and rights of each class of stock or series thereof that the Corporation is authorized to issue and the qualifications, limitations and restrictions of such preferences and/or rights. Any such request may be addressed to the Secretary of the Corporation or to the transfer agent named on the face hereof."

I. Severability. Each provision of this Article IV shall be severable

and an adverse determination as to any such provision shall in no way affect the validity of any other provision.

ARTICLE V

STOCKHOLDER ACTION

Any action required or permitted to be taken by stockholders of the Corporation at any annual or special meeting of stockholders of the Corporation must be effected at a duly called annual or special meeting of stockholders and may not be taken or effected by a written consent of stockholders in lieu thereof.

ARTICLE VI

DIRECTORS

A. General Powers; Action by Committee. (a) The property, affairs and

business of the Corporation shall be managed by or under the direction of the Board of Directors and, except as otherwise expressly provided by law, the By-laws or this Certificate, all of the powers of the Corporation shall be vested in such Board. Any action which the Board of Directors is empowered to take may be taken on behalf of the Board of Directors by a duly authorized committee thereof except (i) to the extent limited by Delaware law, this Certificate or the By-laws and (ii) for any action which requires the affirmative vote or approval of a majority or a supermajority of the Directors then in office (unless, in such case, this Certificate or the By-laws specifically provides that a duly authorized Committee can take such action on behalf of the Board of Directors). A majority of the Board of Directors shall constitute a quorum and, except as provided in paragraph (b) of this Section (A), the affirmative vote of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

(b) Notwithstanding the foregoing or any other provision of this Certificate of Incorporation, the affirmative vote of more than 75% of the directors then in office (the "Required Directors") shall be required to approve the actions set forth in clauses (i) through

(viii) below and any such action shall not be effective unless approved by the vote of the Required Directors:

(i) a Change of Control (as hereinafter defined) of the Corporation or the Operating Partnership;

(ii) any amendment to the limited partnership agreement of the Operating Partnership;

(iii) any waiver or modification of the Ownership Limit, the Related Party Limit or the Look-Through Ownership Limit;

(iv) any merger, consolidation or sale of all or substantially all of the assets of the Corporation or the Operating Partnership;

(v) the issuance of any Equity Securities of the Corporation or any securities convertible into or exchangeable or exercisable for any Equity Securities of the Corporation, provided that the affirmative vote of the

Required Directors shall not be required with respect to the issuance of Equity Securities (a) pursuant to any stock incentive plan or employee bonus or compensation arrangement, (b) in a bona fide underwritten public offering managed by one or more nationally recognized investment banking firms, (c) in exchange for Units presented to the Operating Partnership for redemption pursuant to the Operating Partnership Agreement or (d) to a Look-Through Entity that would not violate the Look-Through Ownership Limit following such issuance;

(vi) for the Corporation to take title to assets (other than temporarily in connection with an acquisition prior to contributing such assets to the Operating Partnership), or to conduct business other than through the Operating Partnership, or for the Corporation or the Operating Partnership to engage in any business other than the ownership, construction, development, management and operation of commercial real estate properties;

(vii) for the Corporation or the Operating Partnership to make a general assignment for the benefit of creditors or to institute any proceedings in bankruptcy or for the liquidation, dissolution, reorganization or winding up of the Corporation or the Operating Partnership or to consent to the taking of any such action against the Corporation or the Operating Partnership;

(viii) to terminate the Corporation's status as a real estate investment trust for federal income tax purposes; and

(ix) to recommend to the stockholders that this Certificate or a provision of this Certificate be amended or repealed.

(c) Except as defined below, capitalized terms in this Section (A) have the meanings specified in Section (C)(1) of Article IV. For purposes of this Section (A):

(i) "Change of Control" of (A) the Corporation shall mean any

transaction or series of related transactions (whether by purchase of existing shares of Common Stock or Units, merger, consolidation or otherwise, but not including the issuance of newly issued shares of Common Stock by the Corporation or of Units by the Operating Partnership following a capital contribution by the Corporation in response to such issuance by the Corporation), to which the Corporation is a party or the Corporation's consent or approval is required, the result of which is that either (1) any Person or Group other than the Related Parties becomes the Beneficial Owner, directly or indirectly, of 25% or more of the total voting power in the aggregate of all classes of capital stock of the Corporation then outstanding normally entitled to vote in the election of directors of the Corporation (or any surviving entity) (including in such calculation the shares of capital stock such Person or Group would receive if any Units owned by such Person or Group were presented for redemption and acquired by the Corporation for shares of capital stock) or (2) the Beneficial Owners of the capital stock of the Corporation normally entitled to vote in the election of directors immediately prior to the transaction or series of related transactions beneficially own less than 75% of the total voting power in the aggregate of all classes of capital stock of the Corporation then outstanding normally entitled to vote in the election of directors of the Corporation (or any surviving entity) immediately after such transaction or transactions (including in such calculation the shares of capital stock such Beneficial Owners would receive if any Units owned by such Beneficial Owners were presented for redemption and acquired by the Corporation for shares of capital stock); or (B) the Operating Partnership shall mean (i) any sale, transfer or other conveyance (whether by merger or consolidation of the Corporation or otherwise) by the Corporation of the general partnership interest in the Operating Partnership, or (ii) any transaction or series of related transactions (whether by purchase of existing Units, issuance of Units (other than as a result of a capital contribution by the Corporation following an issuance of shares of Equity Stock), merger consolidation or otherwise), to which the Operating Partnership is a party or the consent or approval of the Corporation is required, the result of which is that either (1) any Person or Group other than the Related Parties becomes the Beneficial Owner, directly or indirectly, of Units which represent 25% or more of the total percentage of limited partnership interests therein or (2) the Beneficial Owners of limited partnership interests therein immediately prior to the transaction beneficially own less than 75% of the total percentage of limited partnership interests therein then outstanding immediately after such transaction or series of related transactions.

(ii) "Person" shall have the same meaning as such term has for

purposes of Sections 13(d) and 14(d) of the Exchange Act.

(iii) "Group" shall have the same meaning as such term has for

purposes of Sections 13(d) and 14(d) of the Exchange Act.

(iv) "Beneficial Owner" shall have the same meaning as such term has

for purposes of Rule 13d-3 promulgated under the Exchange Act, except that
a Person shall be deemed to have beneficial ownership of all shares that a
Person has the right to acquire, whether or not such right is immediately
exercisable. "Beneficially Owns" and "Beneficially Owned" shall have the

correlative meanings.

(v) "Units" shall mean the units into which partnership interests in

the Operating Partnership are divided, and as the same may be adjusted, as
provided in the limited partnership agreement of the Operating Partnership
(the "Operating Partnership Agreement").

C. Election of Directors. Election of directors need not be by written

ballot unless the By-laws of the Corporation shall so provide.

D. Number and Terms of Directors. The Corporation shall have a Board of

Directors initially consisting of five (5) directors. Thereafter, the number of
directors shall be fixed by resolution duly adopted from time to time by the
Board of Directors; provided, however, that in no event shall the number of

directors exceed eleven (11) or be less than the minimum number required by the
DGCL. A director need not be a stockholder of the Corporation.

The directors shall be classified, with respect to the term for which they
severally hold office, into three classes, as nearly equal in number as
possible. The initial Class I Directors of the Corporation shall be Mortimer B.
Zuckerman; the initial Class II Directors of the Corporation shall be Alan J.
Patricof and Martin Turchin; and the initial Class III Directors of the
Corporation shall be Edward H. Linde and Ivan G. Seidenberg. The initial Class
I Directors shall serve for a term expiring at the annual meeting of
stockholders to be held in 1998; the initial Class II Directors shall serve for
a term expiring at the annual meeting of stockholders to be held in 1999; and
the initial Class III Directors shall serve for a term expiring at the annual
meeting of stockholders to be held in 2000. At each annual meeting of
stockholders, the successor or successors of the class of directors whose term
expires at that meeting shall be elected by a plurality of the votes of the
shares present in person or represented by proxy at such meeting and entitled to
vote on the election of directors, and shall hold office for a term expiring at
the annual meeting of stockholders held in the third year following the year of
their election. The directors elected to each class shall hold office until
their successors are duly elected and qualified or until their earlier
resignation or removal.

Notwithstanding the foregoing, whenever, pursuant to the provisions of
Article IV of this Certificate, the holders of any one or more series of
Preferred Stock shall have the right, voting separately as a series or together
with holders of other such series, to elect directors at an annual or special
meeting of stockholders, the election, term of office, filling of vacancies

and other features of such directorships shall be governed by the terms of this Certificate and any certificates of designation applicable thereto, and such directors so elected shall not be divided into classes pursuant to this Section (C).

During any period when the holders of any series of Preferred Stock have the right to elect additional directors as provided for or fixed pursuant to the provisions of Article IV of this Certificate, then upon commencement and for the duration of the period during which such right continues: (a) the then otherwise total authorized number of directors of the Corporation shall automatically be increased by such specified number of directors, and the holders of such Preferred Stock shall be entitled to elect the additional directors so provided for or fixed pursuant to said provisions and (b) each such additional director shall serve until such director's successor shall have been duly elected and qualified, or until such director's right to hold such office terminates pursuant to said provisions, whichever occurs earlier, subject to such director's earlier death, disqualification, resignation or removal. Except as otherwise provided by the Board in the resolution or resolutions establishing such series, whenever the holders of any series of Preferred Stock having such right to elect additional directors are divested of such right pursuant to the provisions of such stock, the terms of office of all such additional directors elected by the holders of such stock, or elected to fill any vacancies resulting from the death, resignation, disqualification or removal of such additional directors, shall forthwith terminate and the total authorized number of directors of the Corporation shall be reduced accordingly.

E. Removal of Directors. Subject to the rights, if any, of the holders

of any series of Preferred Stock to elect directors and to remove any director whom such holders have the right to elect, any director (including persons elected by directors to fill vacancies in the Board of Directors) may be removed from office (a) only with cause and (b) only by the affirmative vote of the holders of at least 75% of the shares then entitled to vote at a meeting of the stockholders called for that purpose. At least 30 days prior to any meeting of stockholders at which it is proposed that any director be removed from office, written notice of such proposed removal shall be sent to the director whose removal will be considered at the meeting. For purposes of this Certificate, "cause," with respect to the removal of any director, shall mean only (i) conviction of a felony, (ii) declaration of unsound mind by order of a court, (iii) gross dereliction of duty, (iv) commission of any act involving moral turpitude or (v) commission of an act that constitutes intentional misconduct or a knowing violation of law if such action in either event results both in an improper substantial personal benefit to such director and a material injury to the Corporation.

F. Vacancies. Subject to the rights, if any, of the holders of any

series of Preferred Stock to elect directors and to fill vacancies in the Board of Directors relating thereto, any and all vacancies in the Board of Directors, however occurring, including, without limitation, by reason of an increase in size of the Board of Directors, or the death, resignation, disqualification or removal of a director, shall be filled solely by the affirmative vote of a majority of the remaining directors then in office, even if less than a quorum of the Board of Directors. Any director appointed in accordance with the preceding sentence shall hold office

for the remainder of the full term of the class of directors in which the new directorship was created or the vacancy occurred and until such director's successor shall have been duly elected and qualified or until such director's earlier resignation or removal. Subject to the rights, if any, of the holders of any series of Preferred Stock, when the number of directors is increased or decreased, the Board of Directors shall determine the class or classes to which the increased or decreased number of directors shall be apportioned; provided,

however, that no decrease in the number of directors shall shorten the term of

any incumbent director. In the event of a vacancy in the Board of Directors, the remaining directors, except as otherwise provided by law, may exercise the powers of the full Board of Directors until such vacancy is filled.

ARTICLE VII

LIMITATION OF LIABILITY

A director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (a) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (b) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (c) under Section 174 of the DGCL or (d) for any transaction from which the director derived an improper personal benefit. If the DGCL is amended after the effective date of this Certificate to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended.

Any repeal or modification of this Article VII by either (i) the stockholders of the Corporation or (ii) an amendment to the DGCL shall not adversely affect any right or protection existing at the time of such repeal or modification with respect to any acts or omissions occurring before such repeal or modification of a person who has served as a director prior to, or is then serving as a director at the time of, such repeal or modification.

ARTICLE VIII

MAINTENANCE OF REIT STATUS

For so long as the Board of Directors deems the maintenance of REIT status to be in the best interests of the Corporation, the Corporation shall seek to satisfy the requirements for qualification as a REIT under the Code, including, but not limited to, the ownership of its outstanding stock, the nature of its assets, the sources of its income, and the amount and timing of its distributions to its stockholders.

ARTICLE IX

AMENDMENT OF BYLAWS

A. Amendment by Directors. Except as otherwise provided bylaw, the

By-laws of the Corporation may be amended or repealed by the Board of Directors by the affirmative vote of a majority of the directors then in office.

B. Amendment by Stockholders. The By-laws of the Corporation may be

amended or repealed at any annual meeting of stockholders, or at any special meeting of stockholders called for such purpose, by the affirmative vote of at least 75% of the outstanding shares of capital stock of the Corporation entitled to vote on such amendment or repeal, voting together as a single class; provided, however, that if the Board of Directors recommends that stockholders

approve such amendment or repeal at such meeting of stockholders, such amendment or repeal shall only require the affirmative vote of the majority of the shares present in person or represented by proxy at such meeting and entitled to vote on such amendment or repeal, voting together as a single class.

ARTICLE X

AMENDMENT OF CERTIFICATE OF INCORPORATION

The Corporation reserves the right to amend or repeal this Certificate in the manner now or hereafter prescribed by statute and this Certificate, and all rights conferred upon stockholders herein are granted subject to this reservation.

No amendment or repeal of this Certificate shall be made unless the same is first approved by the Board of Directors pursuant to a resolution adopted by the Board of Directors in accordance with Section 242 of the DGCL, and, except as otherwise provided by law, thereafter approved by the stockholders. Whenever any vote of the holders of voting stock is required to amend or repeal any provision of this Certificate, then in addition to any other vote of the holders of voting stock that is required by this Certificate or by-law, the affirmative vote of a majority of the outstanding shares of capital stock of the Corporation entitled to vote on such amendment or repeal, voting together as a single class, and the affirmative vote of a majority of the outstanding shares of each class entitled to vote thereon as a class, shall be required to amend or repeal any provision of this Certificate; provided,

however, that in each case two-thirds rather than a majority shall be needed if

such amendment or repeal relates to a repeal or modification of the Ownership Limit, the Related Party Limit or the Look-Through Ownership Limit; and

provided, further, that the affirmative vote of not less than 75% of the

outstanding shares entitled to vote on such amendment or repeal, voting together as a single class, and the affirmative vote of not less than 75% of the outstanding shares of each class entitled to vote thereon as a class, shall be required to amend or repeal any of the provisions of Article V, Article VI, Article VII, Article IX or Article X of this Certificate.

I, William J. Wedge, Senior Vice President and Secretary of the Corporation, do make this certificate, hereby declaring and certifying that this is my act and deed on behalf of the Corporation this 12th day of June, 1997.

BOSTON PROPERTIES, INC.

By:

William J. Wedge
Senior Vice President and Secretary

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AMENDED AND RESTATED
BY-LAWS
OF
BOSTON PROPERTIES, INC.

ARTICLE I

Definitions

For purposes of these By-laws, the following words shall have the meanings set forth below:

(a) "Affiliate" of a Person shall mean (i) any Person that, directly

or indirectly, controls or is controlled by or is under common control with such other Person, (ii) any Person that owns, beneficially, directly or indirectly, 5% or more of the outstanding capital stock, shares or equity interests of such other Person or (iii) any officer, director, employee, partner or trustee of such other Person or any Person controlling, controlled by or under common control with such Person (excluding directors and Persons serving in similar capacities who are not otherwise Affiliates of such Person). For the purposes of this definition, the term "Person" shall mean, and includes, any natural person, corporation, partnership, association, trust, limited liability company or any other legal entity. For the purposes of this definition, "control" (including the correlative meanings of the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, through the ownership of voting securities, partnership interests or other equity interests.

(b) "Certificate" shall mean the Certificate of Incorporation of the

Corporation, as amended from time to time.

(c) "Corporation" shall mean Boston Properties, Inc.

(d) "DGCL" shall mean the Delaware General Corporation Law, as amended

from time to time.

(e) "Equity Stock" shall mean the common stock, par value \$.01 per

share, and the preferred stock, par value \$.01 per share of the Corporation.

(f) "Public Announcement" shall mean: (i) disclosure in a press

release reported by the Dow Jones News Service, Associated Press or other similar national news service, (ii) a report or other document filed publicly with the Securities and Exchange Commission (including, without limitation, a Form 8-K) or (iii) a letter or report sent to stockholders of record of the Corporation at the time of the mailing of such letter or report.

ARTICLE II

Meetings of Stockholders

2.1 Places of Meetings. All meetings of the stockholders shall be held at

such place, either within or without the State of Delaware, as from time to time may be fixed by the majority of the Board of Directors, the Chairman of the Board, if one is elected, or the President, which place may subsequently be changed at any time by vote of the Board of Directors.

2.2 Annual Meetings. The annual meeting of the stockholders, for the

election of directors and transaction of such other business as may come properly before the meeting, shall be held at such date and time as shall be determined by a majority of the Board of Directors, the Chairman of the Board, if one is elected, or the President, which date and time may subsequently be changed at any time by vote of the Board of Directors. If no annual meeting has been held for a period of thirteen months after the Corporation's last annual meeting of stockholders, a special meeting in lieu thereof may be held, and such special meeting shall have, for the purposes of these By-laws or otherwise, all the force and effect of an annual meeting. Any and all references hereafter in these By-laws to an annual meeting or annual meetings also shall be deemed to refer to any special meeting(s) in lieu thereof.

At any annual meeting of stockholders or any special meeting in lieu of annual meeting of stockholders, only such business shall be conducted, and only such proposals shall be acted upon, as shall have been properly brought before such annual meeting. To be considered as properly brought before an annual meeting, business must be: (a) specified in the notice of meeting, (b) otherwise properly brought before the meeting by, or at the direction of, the Board of Directors, or (c) otherwise properly brought before the meeting by any holder of record (both as of the time notice of such proposal is given by the stockholder as set forth below and as of the record date for the annual meeting in question) of any shares of capital stock of the Corporation entitled to vote at such annual meeting who complies with the requirements set forth in Section 2.9.

2.3 Special Meetings. Except as otherwise required by law and subject to

the rights, if any, of the holders of any series of preferred stock of the Corporation, special meetings of the stockholders may be called only by the Board of Directors pursuant to a resolution approved by the affirmative vote of a majority of the directors then in office. Only those matters set forth in the notice of the special meeting may be considered or acted upon at a special meeting of stockholders of the Corporation, unless otherwise provided by law.

2.4 Notice of Meetings; Adjournments. A written notice of each annual

meeting stating the hour, date and place of such annual meeting shall be given by the Secretary or an Assistant Secretary of the Corporation (or other person authorized by these By-laws or by law) not less than 10 days nor more than 60 days before the annual meeting, to each stockholder

entitled to vote thereat and to each stockholder who, by law or under the Certificate or under these By-laws, is entitled to such notice, by delivering such notice to him or her or by mailing it, postage prepaid, addressed to such stockholder at the address of such stockholder as it appears on the stock transfer books of the Corporation. Such notice shall be deemed to be delivered when hand-delivered to such address or deposited in the mail so addressed, with postage prepaid.

Notice of all special meetings of stockholders shall be given in the same manner as provided for annual meetings, except that the written notice of all special meetings shall state the purpose or purposes for which the meeting has been called.

Notice of an annual meeting or special meeting of stockholders need not be given to a stockholder if a written waiver of notice is signed before or after such meeting by such stockholder or if such stockholder attends such meeting, unless such attendance was for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting was not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any annual meeting or special meeting of stockholders need be specified in any written waiver of notice.

The Board of Directors may postpone and reschedule any previously scheduled annual meeting or special meeting of stockholders and any record date with respect thereto, regardless of whether any notice or public disclosure with respect to any such meeting has been sent or made pursuant to this Section 2.4 or otherwise. In no event shall the Public Announcement of an adjournment, postponement or rescheduling of any previously scheduled meeting of stockholders commence a new time period for the giving of a stockholder's notice under Section 2.9 of these By-laws.

When any meeting is convened, the presiding officer of the meeting may adjourn the meeting if (a) no quorum is present for the transaction of business, (b) the Board of Directors determines that adjournment is necessary or appropriate to enable the stockholders to consider fully information that the Board of Directors determines has not been made sufficiently or timely available to stockholders or (c) the Board of Directors determines that adjournment is otherwise in the best interests of the Corporation. When any annual meeting or special meeting of stockholders is adjourned to another hour, date or place, notice need not be given of the adjourned meeting, other than an announcement at the meeting at which the adjournment is taken, of the hour, date and place to which the meeting is adjourned; provided, however, that if the adjournment is

for more than 30 days, or if after the adjournment a new record date is fixed for the adjourned meeting, notice of the adjourned meeting shall be given to each stockholder of record entitled to vote thereat and each stockholder who, by law or under the Certificate or under these By-laws, is entitled to such notice.

2.5 Quorum. Except as otherwise required by the Certificate or law, any

number of stockholders together holding at least a majority of the outstanding shares of capital stock entitled to vote with respect to the business to be transacted, who shall be present in person or

represented by proxy at any meeting duly called, shall constitute a quorum for the transaction of business. Where a separate vote by a class or classes is required, a majority of the outstanding shares of such class or classes, present in person or represented by proxy, shall constitute a quorum entitled to take action with respect to that matter. If less than a quorum shall be in attendance at the time for which a meeting shall have been called, the holders of voting stock representing a majority of the voting power present at the meeting or represented by proxy or the presiding officer may adjourn the meeting from time to time, and the meeting may be held as adjourned without further notice. At such adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally noticed. The stockholders present at a duly constituted meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum.

2.6 Voting and Proxies. Stockholders shall have one vote for each share

of stock entitled to vote owned by them of record according to the stock transfer books of the Corporation, unless otherwise provided by law or by the Certificate. Stockholders may vote either in person or by written proxy, but no proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. Proxies shall be filed with the Secretary of the meeting before being voted. Except as otherwise limited therein or as otherwise provided by law, proxies authorizing a person to vote at a specific meeting shall entitle the persons authorized thereby to vote at any adjournment of such meeting, but they shall not be valid after final adjournment of such meeting. A proxy with respect to stock held in the name of two or more persons shall be valid if executed by or on behalf of any one of them unless at or prior to the exercise of the proxy the Corporation receives a specific written notice to the contrary from any one of them. A proxy purporting to be executed by or on behalf of a stockholder shall be deemed valid, and the burden of proving invalidity shall rest on the challenger.

2.7 Action at Meeting. When a quorum is present, any matter before any

meeting of stockholders shall be decided by the affirmative vote of the majority of shares present in person or represented by proxy at such meeting and entitled to vote on such matter, except where a larger vote is required by law, by the Certificate or by these By-laws. Where a separate vote by a class or classes is required, the affirmative vote of the majority of shares of such class or classes present in person or represented by proxy at the meeting shall be the act of such class. Any election by stockholders shall be determined by a plurality of the votes of the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors, except where a larger vote is required by law, by the Certificate or by these By-laws. The Corporation shall not directly or indirectly vote any shares of its own stock; provided, however, that the Corporation may vote shares which it holds in a

fiduciary capacity to the extent permitted by law.

2.8 Stockholder List. The officer or agent having charge of the stock

transfer books of the Corporation shall make, at least 10 days before every annual meeting or special meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting or any

adjournment thereof, in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least 10 days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where the meeting is to be held. The list shall also be produced and kept at the hour, date and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present.

2.9 Stockholder Proposals. In addition to any other applicable

requirements, for business to be properly brought before an annual meeting by a stockholder of record (both as of the time notice of such proposal is given by the stockholder as set forth below and as of the record date for the annual meeting in question) of any shares of capital stock entitled to vote at such annual meeting, such stockholder shall: (i) give timely written notice as required by this Section 2.9 to the Secretary of the Corporation and (ii) be present at such meeting, either in person or by a representative. For the first annual meeting following the initial public offering of the common stock of the Corporation, a stockholder's notice shall be timely if delivered to, or mailed to and received by, the Corporation at its principal executive office not later than the close of business on the later of (x) the 75th day prior to the scheduled date of such annual meeting or (y) the 15th day following the day on which the Public Announcement of the date of such annual meeting is first made by the Corporation. For all subsequent annual meetings, a stockholder's notice shall be timely if delivered to, or mailed to and received by, the Corporation at its principal executive office not less than 75 days nor more than 120 days prior to the anniversary date of the immediately preceding annual meeting (the "Anniversary Date"); provided, however, that in the event the annual meeting is

scheduled to be held on a date more than 30 days before the Anniversary Date or more than 60 days after the Anniversary Date, a stockholder's notice shall be timely if delivered to, or mailed to and received by, the Corporation at its principal executive office not later than the close of business on the later of (1) the 75th day prior to the scheduled date of such annual meeting or (2) the 15th day following the day on which Public Announcement of the date of such annual meeting is first made by the Corporation.

A stockholder's notice to the Secretary of the Corporation shall set forth as to each matter proposed to be brought before an annual meeting: (i) a brief description of the business the stockholder desires to bring before such annual meeting and the reasons for conducting such business at such annual meeting, (ii) the name and address, as they appear on the stock transfer books of the Corporation, of the stockholder proposing such business, (iii) the class and number of shares of the capital stock of the Corporation beneficially owned by the stockholder proposing such business, (iv) the names and addresses of the beneficial owners, if any, of any capital stock of the Corporation registered in such stockholder's name on such books, and the class and number of shares of the capital stock of the Corporation beneficially owned by such beneficial owners, (v) the names and addresses of other stockholders known by the stockholder proposing such business to support such proposal, and the class and number of shares of the capital stock of the Corporation beneficially owned by such other stockholders

and (vi) any material interest of the stockholder proposing to bring such business before such meeting (or any other stockholders known to be supporting such proposal) in such proposal.

If the Board of Directors or a designated committee thereof determines that any stockholder proposal was not made in a timely fashion in accordance with the provisions of this Section 2.9 or that the information provided in a stockholder's notice does not satisfy the information requirements of this Section 2.9 in any material respect, such proposal shall not be presented for action at the annual meeting in question. If neither the Board of Directors nor such committee makes a determination as to the validity of any stockholder proposal in the manner set forth above, the presiding officer of the annual meeting shall determine whether the stockholder proposal was made in accordance with the terms of this Section 2.9. If the presiding officer determines that any stockholder proposal was not made in a timely fashion in accordance with the provisions of this Section 2.9 or that the information provided in a stockholder's notice does not satisfy the information requirements of this Section 2.9 in any material respect, such proposal shall not be presented for action at the annual meeting in question. If the Board of Directors, a designated committee thereof or the presiding officer determines that a stockholder proposal was made in accordance with the requirements of this Section 2.9, the presiding officer shall so declare at the annual meeting and ballots shall be provided for use at the meeting with respect to such proposal.

Notwithstanding the foregoing provisions of this Section 2.9, a stockholder shall also comply with all applicable requirements of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and the rules and regulations thereunder with respect to the matters set forth in this Section 2.9, and nothing in this Section 2.9 shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act (or any successor provision thereof).

2.10 Voting Procedures and Inspectors of Elections. The Corporation

shall, in advance of any meeting of stockholders, appoint one or more inspectors to act at the meeting and make a written report thereof. The Corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of stockholders, the presiding officer shall appoint one or more inspectors to act at the meeting. Any inspector may, but need not, be an officer, employee or agent of the Corporation. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. The inspectors shall perform such duties as are required by the DGCL, including the counting of all votes and ballots. The inspectors may appoint or retain other persons or entities to assist the inspectors in the performance of the duties of the inspectors. The presiding officer may review all determinations made by the inspectors, and in so doing the presiding officer shall be entitled to exercise his or her sole judgment and discretion and he or she shall not be bound by any determinations made by the inspectors. All determinations by the inspectors and, if applicable, the presiding officer, shall be subject to further review by any court of competent jurisdiction.

2.11 Presiding Officer. The Chairman of the Board, if one is elected, or

if not elected or in his or her absence, the President, shall preside at all annual meetings or special meetings of stockholders and shall have the power, among other things, to adjourn such meeting at any time and from time to time, subject to Sections 2.4 and 2.5 of this Article II. The order of business and all other matters of procedure at any meeting of the stockholders shall be determined by the presiding officer.

ARTICLE III

Directors

3.1 General Powers. The property, affairs and business of the Corporation

shall be managed by or under the direction of the Board of Directors and, except as otherwise expressly provided by law, the Certificate or these By-laws, all of the powers of the Corporation shall be vested in such Board.

3.2 Number of Directors. The number of directors shall be fixed by

resolution duly adopted from time to time by the Board of Directors. The directors shall hold office in the manner provided in the Certificate.

3.3 Election and Removal of Directors; Quorum.

(a) Directors shall be elected and removed in the manner provided for in Article VII of the Certificate.

(b) Vacancies in the Board of Directors shall be filled in the manner provided for in Article VII of the Certificate.

(c) At any meeting of the Board of Directors, a majority of the number of directors then in office shall constitute a quorum for the transaction of business. However, if less than a quorum is present at a meeting, a majority of the directors present may adjourn the meeting from time to time, and the meeting may be held as adjourned without further notice, except as provided in Section 3.6 of this Article III. Any business which might have been transacted at the meeting as originally noticed may be transacted at such adjourned meeting at which a quorum is present.

(d) No director need be a stockholder of the Corporation.

(e) A director may resign at any time by giving written notice to the Chairman of the Board, if one is elected, the President or the Secretary. A resignation shall be effective upon receipt, unless the resignation otherwise provides.

3.4 Regular Meetings. The regular annual meeting of the Board of

Directors shall be held, without notice other than this Section 3.4, on the same date and at the same place as

the annual meeting following the close of such meeting of stockholders. Other regular meetings of the Board of Directors may be held at such hour, date and place as the Board of Directors may by resolution from time to time determine without notice other than such resolution.

3.5 Special Meetings. Special meetings of the Board of Directors may be

called, orally or in writing, by or at the request of a majority of the directors, the Chairman of the Board, if one is elected, or the President. The person calling any such special meeting of the Board of Directors may fix the hour, date and place thereof.

3.6 Notice of Meetings. Notice of the hour, date and place of all special

meetings of the Board of Directors shall be given to each director by the Secretary or an Assistant Secretary, or in case of the death, absence, incapacity or refusal of such persons, by the Chairman of the Board, if one is elected, or the President or such other officer designated by the Chairman of the Board, if one is elected, or the President. Notice of any special meeting of the Board of Directors shall be given to each director in person, by telephone, or by facsimile, telex, telecopy, telegram, or other written form of electronic communication, sent to his or her business or home address, at least 24 hours in advance of the meeting, or by written notice mailed to his or her business or home address, at least 48 hours in advance of the meeting. Such notice shall be deemed to be delivered when hand delivered to such address, read to such director by telephone, deposited in the mail so addressed, with postage thereon prepaid if mailed, dispatched or transmitted if faxed, telexed or telecopied, or when delivered to the telegraph company if sent by telegram.

When any Board of Directors meeting, either regular or special, is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. It shall not be necessary to give any notice of the hour, date or place of any meeting adjourned for less than 30 days or of the business to be transacted thereat, other than an announcement at the meeting at which such adjournment is taken of the hour, date and place to which the meeting is adjourned.

A written waiver of notice signed before or after a meeting by a director and filed with the records of the meeting shall be deemed to be equivalent to notice of the meeting. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting at the beginning of the meeting to the transaction of any business because such meeting is not lawfully called or convened. Except as otherwise required by law, by the Certificate or by these By-laws, neither the business to be transacted at, nor the purpose of, any meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

3.7 Nominations. Nominations of candidates for election as directors of

the Corporation at any annual meeting may be made only (a) by, or at the direction of, a majority of the Board of Directors or (b) by any holder of record (both as of the time notice of such nomination is given by the stockholder as set forth below and as of the record date for the

annual meeting in question) of any shares of the capital stock of the Corporation entitled to vote at such annual meeting who complies with the timing, informational and other requirements set forth in this Section 3.7. Any stockholder who has complied with the timing, informational and other requirements set forth in this Section 3.7 and who seeks to make such a nomination must be, or his, her or its representative must be, present in person at the annual meeting. Only persons nominated in accordance with the procedures set forth in this Section 3.7 shall be eligible for election as directors at an annual meeting.

Nominations, other than those made by, or at the direction of, the Board of Directors shall be made pursuant to timely notice in writing to the Secretary of the Corporation as set forth in this Section 3.7. For the first annual meeting following the initial public offering of the common stock of the Corporation, a stockholder's notice shall be timely if delivered to, or mailed to and received by, the Corporation at its principal executive office not later than the close of business on the later of (i) the 75th day prior to the scheduled date of such annual meeting or (ii) the 15th day following the day on which the Public Announcement of the date of such annual meeting is first made by the Corporation. For all subsequent annual meetings, a stockholder's notice shall be timely if delivered to, or mailed to and received by, the Corporation at its principal executive office not less than 75 days nor more than 120 days prior to the Anniversary Date; provided, however, that in the event the annual meeting is

scheduled to be held on a date more than 30 days before the Anniversary Date or more than 60 days after the Anniversary Date, a stockholder's notice shall be timely if delivered to, or mailed and received by, the Corporation at its principal executive office not later than the close of business on the later of (x) the 75th day prior to the scheduled date of such annual meeting or (y) the 15th day following the day on which Public Announcement of the date of such annual meeting is first made by the Corporation.

A stockholder's notice to the Secretary of the Corporation shall set forth as to each person whom the stockholder proposes to nominate for election or re-election as a director: (1) the name, age, business address and residence address of such person; (2) the principal occupation or employment of such person; (3) the class and number of shares of the capital stock of the Corporation which are beneficially owned by such person on the date of such stockholder notice; and (4) the consent of each nominee to serve as a director if elected. A stockholder's notice to the Secretary of the Corporation shall further set forth as to the stockholder giving such notice: (a) the name and address, as they appear on the stock transfer books of the Corporation, of such stockholder and of the beneficial owners (if any) of the capital stock of the Corporation registered in such stockholder's name and the name and address of other stockholders known by such stockholder to be supporting such nominee(s); (b) the class and number of shares of the capital stock of the Corporation which are held of record, beneficially owned or represented by proxy by such stockholder and by any other stockholders known by such stockholder to be supporting such nominee(s) on the record date for the annual meeting in question (if such date shall then have been made publicly available and shall be earlier than the date of such stockholder notice) and on the date of such stockholder's notice; and (c) a description of all arrangements or understandings between such

stockholder and each nominee and any other person or persons (naming such person or persons) pursuant to which the nomination or nominations are to be made by such stockholder.

If the Board of Directors or a designated committee thereof determines that any stockholder nomination was not made in accordance with the terms of this Section 3.7 or that the information provided in a stockholder's notice does not satisfy the informational requirements of this Section 3.7 in any material respect, then such nomination shall not be considered at the annual meeting in question. If neither the Board of Directors nor such committee makes a determination as to whether a nomination was made in accordance with the provisions of this Section 3.7, the presiding officer of the annual meeting shall determine whether a nomination was made in accordance with such provisions. If the presiding officer determines that any stockholder nomination was not made in accordance with the terms of this Section 3.7 or that the information provided in a stockholder's notice does not satisfy the informational requirements of this Section 3.7 in any material respect, then such nomination shall not be considered at the annual meeting in question. If the Board of Directors, a designated committee thereof or the presiding officer determines that a nomination was made in accordance with the terms of this Section 3.7, the presiding officer shall so declare at the annual meeting and ballots shall be provided for use at the meeting with respect to such nominee.

Notwithstanding anything to the contrary in the second paragraph of this Section 3.7, in the event that the number of directors to be elected to the Board of Directors is increased and there is no Public Announcement by the Corporation naming all of the nominees for director or specifying the size of the increased Board of Directors at least 75 days prior to the Anniversary Date, a stockholder's notice required by this Section 3.7 shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if such notice shall be delivered to, or mailed to and received by, the Corporation at its principal executive office not later than the close of business on the 15th day following the day on which such Public Announcement is first made by the Corporation.

No person shall be elected by the stockholders as a director of the Corporation unless nominated in accordance with the procedures set forth in this Section 3.7. Election of directors at an annual meeting need not be by written ballot, unless otherwise provided by the Board of Directors or presiding officer at such annual meeting. If written ballots are to be used, ballots bearing the names of all the persons who have been nominated for election as directors at the annual meeting in accordance with the procedures set forth in this Section 3.7 shall be provided for use at the annual meeting.

3.8 Action at Meeting and by Consent. (a) At any meeting of the Board of

Directors at which a quorum is present, a majority of the directors present may take any action on behalf of the Board of Directors, unless otherwise required by law, by the Certificate or by these By-laws.

(b) Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if all members of the Board of Directors consent thereto in writing. Such written consent shall be filed with the records of the meetings of the Board of Directors and shall be treated for all purposes as a vote at a meeting of the Board of Directors.

3.9 Manner of Participation. Directors may participate in meetings of

the Board of Directors by means of conference telephone or similar communications equipment by means of which all directors participating in the meeting can hear each other, and participation in a meeting in accordance herewith shall constitute presence in person at such meeting for purposes of these By-laws.

3.10 Compensation of Directors. By resolution of the Board of Directors,

directors may be allowed a fee for serving as a director and a fee and expenses for attendance at a meeting of the Board, but nothing herein shall preclude directors from serving the Corporation in other capacities and receiving compensation for such other services; provided, however, that directors who are serving the Corporation as employees and who receive compensation for their services as such shall not receive any salary or other compensation for their services as directors of the Corporation.

ARTICLE IV

Committees

4.1 Executive Committee. The Board of Directors, by resolution duly

adopted, may designate an Executive Committee which shall consist of not less than two directors, including the Chairman of the Board. The members of the Executive Committee shall serve until their successors are designated by the Board of Directors, until removed, or until the Executive Committee is dissolved by the Board of Directors. All vacancies that may occur in the Executive Committee shall be filled by the Board of Directors.

When the Board of Directors is not in session, the Executive Committee shall have all power vested in the Board of Directors by law, by the Certificate, or by these By-laws, except as otherwise provided in the DGCL or by a resolution adopted by the Board of Directors. The Executive Committee shall report at the next regular or special meeting of the Board of Directors all action that the Executive Committee may have taken on behalf of the Board of Directors since the last regular or special meeting of the Board of Directors.

Meetings of the Executive Committee shall be held at such places and at such times fixed by resolution of the Executive Committee, or upon call of the Chairman of the Board. Not less than 12 hours' notice shall be given by letter, facsimile, telegraph or telephone (or in person) of all meetings of the Executive Committee; provided, however, that notice need not be given of regular

meetings held at times and places fixed by resolution of the Executive Committee and that meetings may be held at any time without notice if all of the members of

the Executive Committee are present or if those not present waive notice in writing either before or after the meeting; provided, further, that attendance

at a meeting for the express purpose of objecting at the beginning of a meeting to the transaction of any business because the meeting is not lawfully convened shall not be considered a waiver of notice. A majority of the members of the Executive Committee then serving shall constitute a quorum for the transaction of business at any meeting of the Executive Committee.

4.2 Compensation Committee. The Board of Directors, by resolution duly

adopted, may designate a Compensation Committee which shall consist of two or more non-employee directors. In addition, the Board of Directors at any time may designate one or more alternate members of the Compensation Committee, who shall be non-employee directors, who may act in place of any absent regular member upon invitation by the chairman or secretary of the Compensation Committee.

With respect to bonuses, the Compensation Committee shall have and may exercise the powers to determine the amounts annually available for bonuses pursuant to any bonus plan or formula approved by the Board of Directors, to determine bonus awards to executive officers and to exercise such further powers with respect to bonuses as may from time to time be conferred by the Board of Directors.

With respect to salaries, the Compensation Committee shall have and may exercise the power to fix and determine from time to time all salaries of the executive officers of the Corporation, and such further powers with respect to salaries as may from time to time be conferred by the Board of Directors.

The Compensation Committee shall administer the Corporation's stock incentive plans and from time to time may grant, consistent with the plans, stock options and other awards permissible under such plans.

Vacancies in the Compensation Committee shall be filled by the Board of Directors, and members of the Compensation Committee shall be subject to removal by the Board of Directors at any time.

The Compensation Committee shall fix its own rules of procedure. A majority of the number of regular members then serving on the Compensation Committee shall constitute a quorum; and regular and alternate members present shall be counted to determine whether there is a quorum. The Compensation Committee shall keep minutes of its meetings, and all action taken by it shall be reported to the Board of Directors.

4.3 Audit Committee. The Board of Directors, by resolution duly adopted,

may designate an Audit Committee which shall consist of two or more directors whose membership on the Audit Committee shall meet the requirements set forth in the rules of the New York Stock Exchange, as amended from time to time. Vacancies in the Audit Committee shall be filled by the Board of Directors with directors meeting the requirements set forth above, giving

consideration to continuity of the Audit Committee, and members shall be subject to removal by the Board of Directors at any time. The Audit Committee shall fix its own rules of procedure and a majority of the members serving shall constitute a quorum. The Audit Committee shall meet at least twice per year with both the internal and the Corporation's outside auditors present at each meeting and shall keep minutes of its meetings and all action taken shall be reported to the Board of Directors. The Audit Committee shall review the reports and minutes of any audit committees of the Corporation's subsidiaries. The Audit Committee shall review the Corporation's financial reporting process, including accounting policies and procedures. The Audit Committee shall examine the report of the Corporation's outside auditors, consult with them with respect to their report and the standards and procedures employed by them in their audit, report to the Board of Directors the results of its study and recommend the selection of auditors for each fiscal year.

4.4 Nominating Committee. The Board of Directors, by resolution duly

adopted, may designate a Nominating Committee which shall consist of two or more directors. The Nominating Committee shall make recommendations to the Board of Directors regarding nominees for election as directors by the stockholders at each annual meeting of stockholders and make such other recommendations regarding tenure, and classification of directors as the Nominating Committee may deem advisable from time to time. The Nominating Committee shall fix its own rules of procedure and a majority of the members then serving shall constitute a quorum.

4.5 Other Committees. The Board of Directors, by resolution adopted, may

establish such other standing or special committees of the Board of Directors as it may deem advisable, and the members, terms and authority of such committees shall be as set forth in the resolutions establishing the same.

ARTICLE V

Officers

5.1 Enumeration. The officers of the Corporation shall consist of a

President, a Treasurer, a Secretary and such other officers, including, without limitation, a Chairman of the Board of Directors, a Chief Executive Officer, a Chief Operating Officer and one or more Vice Presidents (including Executive Vice Presidents or Senior Vice Presidents), Assistant Vice Presidents, Assistant Treasurers and Assistant Secretaries, and such other officers as the Board of Directors may determine.

5.2 Election. At the regular annual meeting of the Board following the

annual meeting of stockholders, the Board of Directors shall elect the President, the Treasurer and the Secretary. Other officers may be elected by the Board of Directors at such regular annual meeting of the Board of Directors or at any other regular or special meeting.

5.3 Qualification. No officer need be a stockholder or a director. Any

person may occupy more than one office of the Corporation at any time. Any officer may be required by the Board of Directors to give bond for the faithful performance of his or her duties in such amount and with such sureties as the Board of Directors may determine.

5.4 Tenure. Except as otherwise provided by the Certificate or by these

By-laws, each of the officers of the Corporation shall hold office until the regular annual meeting of the Board of Directors following the next annual meeting of stockholders and until his or her successor is elected and qualified or until his or her earlier resignation or removal.

5.5 Resignation. Any officer may resign by delivering his or her written

resignation to the Corporation addressed to the President or the Secretary, and such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

5.6 Removal. Except as otherwise provided by law, the Board of Directors

may remove any officer with or without cause by the affirmative vote of a majority of the directors then in office.

5.7 Absence or Disability. In the event of the absence or disability of

any officer, the Board of Directors may designate another officer to act temporarily in place of such absent or disabled officer.

5.8 Vacancies. Any vacancy in any office may be filled for the unexpired

portion of the term by the Board of Directors.

5.9 President. The President shall, subject to the direction of the Board

of Directors, have general supervision and control of the Corporation's business. If there is no Chairman of the Board or if he or she is absent, the President shall preside, when present, at all meetings of stockholders and of the Board of Directors. The President shall have such other powers and perform such other duties as the Board of Directors may from time to time designate.

5.10 Chairman of the Board. The Chairman of the Board, if one is elected,

shall preside, when present, at all meetings of the stockholders and of the Board of Directors. The Chairman of the Board shall have such other powers and shall perform such other duties as the Board of Directors may from time to time designate.

5.11 Chief Executive Officer. The Chief Executive Officer, if one is

elected, shall have such powers and shall perform such duties as the Board of Directors may from time to time designate. If there shall be a Chief Executive Officer at any time, such officer shall have authority to take any action that the President is authorized to take.

5.12 Vice Presidents and Assistant Vice Presidents. Any Vice President

(including any Executive Vice President or Senior Vice President) and any Assistant Vice President shall have such powers and shall perform such duties as the Board of Directors or the Chief Executive Officer may from time to time designate.

5.13 Treasurer and Assistant Treasurers. The Treasurer shall, subject to

the direction of the Board of Directors and except as the Board of Directors or the President may otherwise provide, have general charge of the financial affairs of the Corporation and shall cause to be kept accurate books of account. The Treasurer shall have custody of all funds, securities, and valuable documents of the Corporation. He or she shall have such other duties and powers as may be designated from time to time by the Board of Directors or the Chief Executive Officer.

Any Assistant Treasurer shall have such powers and perform such duties as the Board of Directors or the Chief Executive Officer may from time to time designate.

5.14 Secretary and Assistant Secretaries. The Secretary shall record all

the proceedings of the meetings of the stockholders and the Board of Directors (including committees of the Board) in books kept for that purpose. In his or her absence from any such meeting, a temporary secretary chosen at the meeting shall record the proceedings thereof. The Secretary shall have charge of the stock ledger (which may, however, be kept by any transfer or other agent of the Corporation). The Secretary shall have custody of the seal of the Corporation, and the Secretary, or an Assistant Secretary, shall have authority to affix it to any instrument requiring it, and, when so affixed, the seal may be attested by his or her signature or that of an Assistant Secretary. The Secretary shall have such other duties and powers as may be designated from time to time by the Board of Directors or the Chief Executive Officer. In the absence of the Secretary, any Assistant Secretary may perform his or her duties and responsibilities.

Any Assistant Secretary shall have such powers and perform such duties as the Board of Directors or the Chief Executive Officer may from time to time designate.

5.15 Other Powers and Duties. Subject to these By-laws and to such

limitations as the Board of Directors may from time to time prescribe, the officers of the Corporation shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as from time to time may be conferred by the Board of Directors, the Chairman of the Board or the President.

ARTICLE VI

Capital Stock

6.1 Certificates. Each stockholder shall be entitled to a certificate of

the capital stock of the Corporation in such form as may from time to time be prescribed by the Board of

Directors. Such certificate shall be signed by the Chairman of the Board, the President or a Vice President and by the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary. The Corporation seal and the signatures by the Corporation's officers, the transfer agent or the registrar may be facsimiles. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed on such certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, the certificate may be issued by the Corporation with the same effect as if he or she were such officer, transfer agent or registrar at the time of its issue. Every certificate for shares of stock which are subject to a restriction on transfer (as provided in Article V of the Certificate) and every certificate issued when the Corporation is authorized to issue more than one class or series of stock shall contain such legend (as provided in Article V of the Certificate) with respect thereto as is required by law.

6.2 Lost, Destroyed and Mutilated Certificates. Holders of the shares of

the stock of the Corporation shall immediately notify the Corporation of any loss, destruction or mutilation of the certificate therefor, and the Board of Directors may in its discretion cause one or more new certificates for the same number of shares in the aggregate to be issued to such stockholder upon the surrender of the mutilated certificate or upon satisfactory proof of such loss or destruction, and the deposit of a bond in such form and amount and with such surety as the Board of Directors may require.

6.3 Transfer of Stock. Subject to the restrictions on transfer of stock

described in Article V of the Certificate, shares of stock of the Corporation shall be transferable or assignable only on the stock transfer books of the Corporation by the holder in person or by attorney upon surrender to the Corporation or its transfer agent of the certificate theretofore properly endorsed or, if sought to be transferred by attorney, accompanied by a written assignment or power of attorney properly executed, with transfer stamps (if necessary) affixed, and with such proof of the authenticity of signatures as the Corporation or its transfer agent may reasonably require.

6.4 Record Holders. Except as may otherwise be required by law, by the

Certificate or by these By-laws, the Corporation shall be entitled to treat the record holder of stock as shown on its books as the owner of such stock for all purposes, including the payment of dividends and the right to vote with respect thereto, regardless of any transfer, pledge or other disposition of such stock, until the shares have been transferred on the books of the Corporation in accordance with the requirements of these By-laws.

It shall be the duty of each stockholder to notify the Corporation of his or her postal address and any changes thereto.

6.5 Record Date. In order that the Corporation may determine the

stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for

the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date: (a) in the case of determination of stockholders entitled to vote at any meeting of stockholders, shall, unless otherwise required by law, not be more than sixty nor less than ten days before the date of such meeting and (b) in the case of any other action, shall not be more than sixty days prior to such other action. If no record date is fixed: (i) the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held and (ii) the record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

ARTICLE VII

Indemnification

7.1 Definitions. For purposes of this Article VII:

(a) "Corporate Status" describes the status of a person who (i) in the case of a Director, is or was a director of the Corporation and is or was acting in such capacity, (ii) in the case of an Officer, is or was an officer, employee or agent of the Corporation or is or was a director, officer, employee or agent of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise that such Officer is or was serving at the request of the Corporation and (iii) in the case of a Non-Officer Employee, is or was an employee of the Corporation or is or was a director, officer, employee or agent of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise that such Non-Officer Employee is or was serving at the request of the Corporation;

(b) "Director" means any person who serves or has served the Corporation as a director on the Board of Directors;

(c) "Disinterested Director" means, with respect to each Proceeding in respect of which indemnification is sought hereunder, a Director of the Corporation who is not and was not a party to such Proceeding;

(d) "Expenses" means all reasonable attorneys' fees, retainers, court costs, transcript costs, fees of expert witnesses, private investigators and professional advisors (including, without limitation, accountants and investment bankers), travel expenses, duplicating costs, printing and binding costs, costs of preparation of demonstrative evidence and other courtroom presentation aids and devices, costs incurred in connection with document review, organization, imaging and computerization, telephone charges, postage, delivery service fees, and all other disbursements, costs or expenses of the type customarily incurred in

connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness in, settling or otherwise participating in, a Proceeding;

(e) "Non-Officer Employee" means any person who serves or has served as an employee of the Corporation, but who is not or was not a Director or Officer;

(f) "Officer" means any person who serves or has served the Corporation as an officer appointed by the Board of Directors; and

(g) "Proceeding" means any threatened, pending or completed action, suit, arbitration, alternate dispute resolution mechanism, inquiry, investigation, administrative hearing or other proceeding, whether civil, criminal, administrative, arbitratve or investigative.

7.2 Indemnification of Directors and Officers. Subject to the

operation of Section 7.4 of these By-laws, each Director and Officer shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the DGCL, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than such law permitted the Corporation to provide prior to such amendment) against any and all Expenses, judgments, penalties, fines and amounts reasonably paid in settlement, in each case to the extent actually and reasonably incurred by such Director or Officer or on such Director's or Officer's behalf in connection with any threatened, pending or completed Proceeding or any claim, issue or matter therein, which such Director or Officer is, or is threatened to be made, a party to or participant in by reason of such Director's or Officer's Corporate Status, if such Director or Officer acted in good faith and in a manner such Director or Officer reasonably believed to be in or not opposed to the best interests of the Corporation and, with respect to any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful. The rights of indemnification provided by this Section 7.2 shall exist as to a Director or Officer after he or she has ceased to be a Director or Officer and shall inure to the benefit of his or her heirs, executors, administrators and personal representatives. Notwithstanding the foregoing, the Corporation shall indemnify any Director or Officer seeking indemnification in connection with a Proceeding initiated by such Director or Officer only if such Proceeding was authorized by the Board of Directors. The Company hereby agrees to indemnify such Director's or Officer's spouse (whether by statute or at common law and without regard to the location of the governing jurisdiction) and children as express third-party beneficiaries hereunder to the same extent and subject to the same limitations applicable to such Director or Officer hereunder for claims arising out of the status of such person as a spouse or child of such Director or Officer, including claims seeking damages from marital property (including community property) or property held by such Director or Officer and such spouse or property transferred to such spouse or child.

7.3 Indemnification of Non-Officer Employees. Subject to the operation of

Section 7.4 of these By-laws, each Non-Officer Employee may, in the discretion of the Board

of Directors, be indemnified by the Corporation to the fullest extent authorized by the DGCL, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than such law permitted the Corporation to provide prior to such amendment), against any and all Expenses, judgments, penalties, fines and amounts reasonably paid in settlement, in each case to the extent actually and reasonably incurred by such Non-Officer Employee or on such Non-Officer Employee's behalf in connection with any threatened, pending or completed Proceeding, or any claim, issue or matter therein, which such Non-Officer Employee is, or is threatened to be made, a party to or participant in by reason of such Non-Officer Employee's Corporate Status, if such Non-Officer Employee acted in good faith and in a manner such Non-Officer Employee reasonably believed to be in or not opposed to the best interests of the Corporation and, with respect to any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful. The rights of indemnification provided by this Section 7.3 shall exist as to a Non-Officer Employee after he or she has ceased to be a Non-Officer Employee and shall inure to the benefit of his or her heirs, personal representatives, executors and administrators. Notwithstanding the foregoing, the Corporation may indemnify any Non-Officer Employee seeking indemnification in connection with a Proceeding initiated by such Non-Officer Employee only if such Proceeding was authorized by the Board of Directors. The Company hereby agrees to indemnify such Non-Officer Employee's spouse (whether by statute or at common law and without regard to the location of the governing jurisdiction) and children as express third-party beneficiaries hereunder to the same extent and subject to the same limitations applicable to such Non-Officer Employee hereunder for claims arising out of the status of such person as a spouse or child of such Non-Officer Employee, including claims seeking damages from marital property (including community property) or property held by such Director or Officer and such Non-Officer Employee and such spouse or property transferred to such spouse or child.

7.4 Good Faith. Unless ordered by a court, no indemnification shall

be provided pursuant to this Article VII to a Director, to an Officer or to a Non-Officer Employee unless a determination shall have been made that such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Corporation and, with respect to any criminal Proceeding, such person had no reasonable cause to believe his or her conduct was unlawful. Such determination shall be made by (a) a majority vote of the Disinterested Directors, even though less than a quorum of the Board of Directors, (b) if there are no such Disinterested Directors, or if a majority of Disinterested Directors so direct, by independent legal counsel in a written opinion or (c) by the stockholders of the Corporation.

7.5 Notice/Cooperation by Indemnitee. Any Director, Officer or Non-

Employee Director shall, as a condition precedent to his or her right to be indemnified under these By-laws, give the Company notice in writing as soon as practicable of any claim made against such Director, Officer or Non-Officer Employee for which indemnification will or could be sought under these By-laws. Such notice shall contain the written affirmation of the Director, Officer or Non-Officer Director that the standard of conduct necessary for indemnification hereunder has been satisfied. Notice to the Company shall be directed to the Chief Executive

Officer of the Company in the manner set forth below. The Director, Officer or Non-Officer Director shall give the Company such information and cooperation as it may reasonably require and as shall be within such Director, Officer or Non-Officer Employee's power. A delay in giving notice under this Section 7.5 shall not invalidate the Director, Officer or Non-Officer Director's right to be indemnified under these By-laws unless such delay prejudices the defense of the claim or the availability to the Company of insurance coverage for such claim. All notices, requests, demands and other communications under these By-laws shall be in writing and shall be deemed duly given (i) if delivered by hand and receipted for by the party addressed, on the date of such receipt or (ii) if mailed by domestic certified or registered mail with postage prepaid, on the third business day after the date postmarked.

7.6 Advancement of Expenses to Directors Prior to Final Disposition.

The Corporation shall advance all Expenses incurred by or on behalf of any Director in connection with any Proceeding in which such Director is involved by reason of such Director's Corporate Status within 10 days after the receipt by the Corporation of a written statement from such Director requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. Such statement or statements shall reasonably evidence the Expenses incurred by such Director and shall be preceded or accompanied by an undertaking by or on behalf of such Director to repay any Expenses so advanced if it shall ultimately be determined that such Director is not entitled to be indemnified against such Expenses.

7.7 Advancement of Expenses to Officers and Non-Officer Employees

Prior to Final Disposition. The Corporation may, in the discretion of the Board

of Directors, advance any or all Expenses incurred by or on behalf of any Officer or Non-Officer Employee in connection with any Proceeding in which such Officer or Non-Officer Employee is involved by reason of such Officer or Non-Officer Employee's Corporate Status upon the receipt by the Corporation of a statement or statements from such Officer or Non-Officer Employee requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. Such statement or statements shall reasonably evidence the Expenses incurred by such Officer or Non-Officer Employee and shall be preceded or accompanied by an undertaking by or on behalf of such Officer or Non-Officer Employee to repay any Expenses so advanced if it shall ultimately be determined that such Officer or Non-Officer Employee is not entitled to be indemnified against such Expenses.

7.8 Contractual Nature of Rights. The foregoing provisions of this

Article VII shall be deemed to be a contract between the Corporation and each Director and Officer entitled to the benefits hereof at any time while this Article VII is in effect, and any repeal or modification thereof shall not affect any rights or obligations then existing with respect to any state of facts then or theretofore existing or any Proceeding theretofore or thereafter brought based in whole or in part upon any such state of facts. If a claim for indemnification or advancement of Expenses hereunder by a Director or Officer is not paid in full by the Corporation within (a) 60 days after the receipt by the Corporation of a written claim for indemnification or (b) in the case of a Director, 10 days after the receipt by the Corporation of documentation of Expenses and the required undertaking, such Director or Officer may at any

time thereafter bring suit against the Corporation to recover the unpaid amount of the claim, and if successful in whole or in part, such Director or Officer shall also be entitled to be paid the expenses of prosecuting such claim. The failure of the Corporation (including its Board of Directors or any committee thereof, independent legal counsel, or stockholders) to make a determination concerning the permissibility of such indemnification or, in the case of a Director, advancement of Expenses, under this Article VII shall not be a defense to the action and shall not create a presumption that such indemnification or advancement is not permissible. It is the parties' intention that if the Company contests any Director's, Officer's or Non-Officer Employee's right to indemnification, the question of such Director's, Officer's or Non-Officer Employee's right to indemnification shall be for the court to decide, and neither the failure of the Company (including its Board of Directors, any committee or subgroup of the Board of Directors, independent legal counsel, or its shareholders) to have made a determination that indemnification of such Director, Officer or Non-Officer Employee is proper in the circumstances because the Director, Officer or Non-Officer Employee has met the applicable standard of conduct required by applicable law, nor an actual determination by the Company (including its Board of Directors, any committee or subgroup of the Board of Directors, independent legal counsel, or its stockholders) that the Director, Officer or Non-Officer Employee has not met such applicable standard of conduct, shall create a presumption that such Director, Officer or Non-Officer Employee has or has not met the applicable standard of conduct.

7.9 Non-Exclusivity of Rights. The rights to indemnification and advancement of Expenses set forth in this Article VII shall not be exclusive of any other right which any Director, Officer or Non-Officer Employee may have or hereafter acquire under any statute, provision of the Certificate or these By-laws, agreement, vote of stockholders or Disinterested Directors or otherwise.

7.10 Partial Indemnification. If any Director, Officer or Non-Officer Employee is entitled under any provision of these By-laws to indemnification by the Company for some or a portion of the expenses, judgments, fines or penalties actually or reasonably incurred by him in the investigation, defense, appeal or settlement of any civil or criminal action or proceeding, but not, however, for the total amount thereof, the Company shall nevertheless indemnify such Director, Officer or Non-Officer Employee for the portion of such expenses, judgments, fines or penalties to which such Director, Officer or Non-Officer Employee is entitled.

7.11 Mutual Acknowledgment. By accepting any potential benefits under this Article VII each Director, Officer or Non-Officer Employee acknowledges that in certain instances, Federal law or applicable public policy may prohibit the Company from indemnifying its directors, officers and employees under these By-laws or otherwise. The Director, Officer or Non-Officer Employee understands and acknowledges that the Company has undertaken and may be required in the future to undertake with the Securities and Exchange Commission to submit the question of indemnification to a court in certain circumstances for a determination of the Company's right under public policy to indemnify Director, Officer or Non-Officer Employee.

7.12 Insurance. The Corporation may maintain insurance, at its

expense, to protect itself and any Director, Officer or Non-Officer Employee
against any liability of any character asserted against or incurred by the
Corporation or any such Director, Officer or Non-Officer Employee, or arising
out of any such person's Corporate Status, whether or not the Corporation would
have the power to indemnify such person against such liability under the DGCL or
the provisions of this Article VII.

ARTICLE VIII

Miscellaneous Provisions

8.1 Seal. The seal of the Corporation shall consist of a flat-faced

circular die, of which there may be any number of counterparts, on which there
shall be engraved the word "Seal" and the name of the Corporation. The Board of
Directors shall have the power to adopt and alter the seal of the Corporation.

8.2 Fiscal Year. The fiscal year of the Corporation shall end on

such date and shall consist of such accounting periods as may be fixed by the
Board of Directors.

8.3 Checks, Notes and Drafts. Checks, notes, drafts and other orders

for the payment of money shall be signed by such persons as the Board of
Directors from time to time may authorize. When the Board of Directors so
authorizes, however, the signature of any such person may be a facsimile.

8.4 Execution of Instruments. All deeds, leases, transfers,

contracts, bonds, notes and other obligations to be entered into by the
Corporation in the ordinary course of its business without director action may
be executed on behalf of the Corporation by the Chairman of the Board, if one is
elected, the President or the Treasurer or any other officer, employee or agent
of the Corporation as the Board of Directors or Executive Committee may
authorize.

8.5 Resident Agent. The Board of Directors may appoint a resident

agent upon whom legal process may be served in any action or proceeding against
the Corporation.

8.6 Corporate Records. The original or attested copies of the

Certificate, By-laws and records of all meetings of the incorporators,
stockholders and the Board of Directors and the stock transfer books, which
shall contain the names of all stockholders, their record addresses and the
amount of stock held by each, may be kept outside the State of Delaware and
shall be kept at the principal office of the Corporation, at the office of its
counsel or at an office of its transfer agent or at such other place or places
as may be designated from time to time by the Board of Directors.

8.7 Amendment of By-laws.

(a) Amendment by Directors. Except as provided otherwise by law,

these By-laws may be amended or repealed by the Board of Directors by the affirmative vote of a majority of the directors then in office.

(b) Amendment by Stockholders. These By-laws may be amended or

repealed at any annual meeting of stockholders, or special meeting of stockholders called for such purpose, by the affirmative vote of at least seventy-five percent of the shares present in person or represented by proxy at such meeting and entitled to vote on such amendment or repeal, voting together as a single class; provided, however, that if the Board of Directors recommends

that stockholders approve such amendment or repeal at such meeting of stockholders, such amendment or repeal shall only require the affirmative vote of a majority of the shares present in person or represented by proxy at such meeting and entitled to vote on such amendment or repeal, voting together as a single class.

8.8 Voting of Stock Held. Unless otherwise provided by resolution of

the Board of Directors or of the Executive Committee, if any, the Chairman of the Board, if one is elected, the President or the Treasurer may from time to time waive notice of and act on behalf of this Corporation, or appoint an attorney or attorneys or agent or agents of the Corporation, in the name and on behalf of the Corporation, to cast the vote that the Corporation may be entitled to cast as a stockholder or otherwise in any other corporation, any of whose securities may be held by the Corporation, at meetings of the holders of the shares or other securities of such other corporation, or to consent in writing to any action by any such other corporation; and the Chairman of the Board, if one is elected, the President or the Treasurer shall instruct the person or persons so appointed as to the manner of casting such votes or giving such consent and may execute or cause to be executed on behalf of the Corporation, and under its corporate seal or otherwise, such written proxies, consents, waivers or other instruments as may be necessary or proper in the premises. In lieu of such appointment, the Chairman of the Board, if one is elected, the President or the Treasurer may himself or herself attend any meetings of the holders of shares or other securities of any such other corporation and there vote or exercise any or all power of the Corporation as the holder of such shares or other securities of such other corporation.

Adopted and effective as of June 11, 1997.

AMENDED AND RESTATED
AGREEMENT OF LIMITED PARTNERSHIP
OF
BOSTON PROPERTIES LIMITED PARTNERSHIP

June 23, 1997

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[Operating Partnership Agreement]

AMENDED AND RESTATED
AGREEMENT OF LIMITED PARTNERSHIP
OF
BOSTON PROPERTIES LIMITED PARTNERSHIP

THIS AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP OF BOSTON PROPERTIES LIMITED PARTNERSHIP (this "Agreement"), dated as of June 23, 1997, is entered into by and among Boston Properties, Inc., a Delaware corporation (the "Company"), and the Persons (as defined below) whose names are set forth on Exhibit A attached hereto (as it may be amended from time to time).

- - - - -

WHEREAS, this Limited Partnership was formed on April 8, 1997 and an original agreement of limited partnership was entered into between the Company, as general partner, and Edward H. Linde, as limited partner;

WHEREAS, prior to the date hereof certain partnerships merged into the Partnership and the partners of such partnerships ("Merging Partners") were issued or became entitled to receive, as a result of such mergers, Partnership Interests;

WHEREAS, immediately prior to or contemporaneously with the execution hereof, certain partnerships (the "Contributing Partnerships") conveyed to the Partnership all right, title and interest of such partnerships to the real property and other assets owned by them

and received in exchange therefor Partnership Interests;

WHEREAS, the Company proposes to effect a public offering of its common stock, to acquire and cause the Partnership to acquire direct and indirect interests in certain office properties and other assets, to cause the Partnership to enter into certain financing arrangements and to contribute the remaining net proceeds from the public offering and the other assets of the Company to the Partnership;

WHEREAS, the Merging Partners and the Contributing Partnerships and persons with direct and indirect interests in them have in certain instances engaged in a series of distributions whereby certain persons with direct or indirect interests in the Merging Partners and the Contributing Partnerships (the "New Partners") were assigned and conveyed Partnership Interests, and the Merging Partners and the Contributing Partnerships have directed that the Partnership issue directly to the New Partners the Partnership Interests to which such persons thus became entitled;

WHEREAS, the Partnership will issue Partnership Interests to the Company and other persons, and additional Partnership Interests to certain of the Merging Partners and the New Partners, in accordance with the foregoing transactions;

[Operating Partnership Agreement]

WHEREAS, upon the completion of the foregoing transactions, the Partnership shall return the original capital contributions made by the Company and Mr. Linde and any ongoing interest in the Partnership of the Company and Mr. Linde shall be based on their respective contributions as Merging Partners or as contemplated below;

WHEREAS, as evidenced by their respective execution of this Agreement, the Company and Mr. Linde and the other persons who are or will hereby become Limited Partners hereby consent to the amendment and restatement of the original agreement of limited partnership.

NOW, THEREFORE, BE IT RESOLVED, that for good and adequate consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1
DEFINED TERMS

The following definitions shall be for all purposes, unless otherwise clearly indicated to the contrary, applied to the terms used in this Agreement.

"Act" means the Delaware Revised Uniform Limited Partnership Act, as it may be amended from time to time, and any successor to such statute.

"Additional Limited Partner" means a Person admitted to the Partnership as a Limited Partner pursuant to Sections 4.2 and 12.2 hereof and who is shown as such on the books and records of the Partnership.

"Adjusted Capital Account" means the Capital Account maintained for each Partner as of the end of each Partnership taxable year (i) increased by any amounts which such Partner is obligated to restore pursuant to any provision of this Agreement or is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5); and (ii) decreased by the items described in Regulations Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), and 1.704-1(b)(2)(ii)(d)(6). The foregoing definition of Adjusted Capital Account is intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

"Adjusted Capital Account Deficit" means, with respect to any Partner, the deficit balance, if any, in such Partner's Adjusted Capital Account as of the end of the relevant Partnership taxable year.

[Operating Partnership Agreement]

"Adjusted Property" means any property, the Carrying Value of which has

been adjusted pursuant to Exhibit B hereof. Once an Adjusted Property is deemed

distributed by, and recontributed to, the Partnership for federal income tax
purposes upon a termination thereof pursuant to Section 708 of the Code, such
property shall thereafter constitute a Contributed Property until the Carrying
Value of such property is further adjusted pursuant to Exhibit B hereof.

"Affiliate" means, with respect to any Person, any Person directly or

indirectly controlling, controlled by or under common control with such Person.
For purposes of this definition, "control," when used with respect to any
Person, means the power to direct the management and policies of such Person,
directly or indirectly, whether through the ownership of voting securities, by
contract or otherwise, and the terms "controlling" and "controlled" have
meanings correlative to the foregoing. No officer, director or stockholder of
the General Partner shall be considered an Affiliate of the General Partner
solely as a result of serving in such capacity or being a stockholder of the
General Partner.

"Agreed Value" means (i) in the case of any Contributed Property as of the

time of its contribution to the Partnership, the 704(c) Value of such property,
reduced by any liabilities either assumed by the Partnership upon such
contribution or to which such property is subject when contributed, and (ii) in
the case of any property distributed to a Partner by the Partnership, the
Partnership's Carrying Value of such property at the time such property is
distributed, reduced by any indebtedness either assumed by such Partner upon
such distribution or to which such property is subject at the time of
distribution as determined under Section 752 of the Code and the Regulations
thereunder. The aggregate Agreed Value of the Contributed Property contributed
or deemed contributed by each Partner as of the date hereof is as set forth in
Exhibit A.

"Agreement" means this Amended and Restated Agreement of Limited

Partnership, as it may be amended, supplemented or restated from time to time.

"Assignee" means a Person to whom one or more Partnership Units have been

transferred in a manner permitted under this Agreement, but who has not become a
Substituted Limited Partner, and who has the rights set forth in Section 11.5.

"Available Cash" means, with respect to any period for which such

calculation is being made, (i) the sum of:

- (a) the Partnership's Net Income or Net Loss (as the case may be) for
such period (without regard to adjustments resulting from allocations
described in Sections 1.A through 1.E of Exhibit C);

[Operating Partnership Agreement]

(b) Depreciation and all other noncash charges deducted in determining Net Income or Net Loss for such period;

(c) the amount of any reduction in the reserves of the Partnership referred to in clause (ii)(f) below (including, without limitation, reductions resulting because the General Partner determines such amounts are no longer necessary);

(d) the excess of proceeds from the sale, exchange, disposition, or refinancing of Partnership property for such period over the gain recognized from such sale, exchange, disposition, or refinancing during such period (excluding Terminating Capital Transactions); and

(e) all other cash received by the Partnership for such period that was not included in determining Net Income or Net Loss for such period;

(ii) less the sum of:

(a) all principal debt payments made by the Partnership during such period;

(b) capital expenditures made by the Partnership during such period;

(c) investments made by the Partnership during such period in any entity (including loans made thereto) to the extent that such investments are not otherwise described in clause (ii)(a) or (ii)(b);

(d) all other expenditures and payments not deducted in determining Net Income or Net Loss for such period;

(e) any amount included in determining Net Income or Net Loss for such period that was not received or disbursed by the Partnership during such period;

(f) the amount of any increase in reserves during such period which the General Partner determines to be necessary or appropriate in its sole and absolute discretion; and

(g) the amount of any working capital accounts and other cash or similar balances which the General Partner determines to be necessary or appropriate, in its sole and absolute discretion.

[Operating Partnership Agreement]

Notwithstanding the foregoing, Available Cash shall not include any cash received or reductions in reserves, or take into account any disbursements made or reserves established, after commencement of the dissolution and liquidation of the Partnership.

"Book-Tax Disparities" means, with respect to any item of Contributed

Property or Adjusted Property, as of the date of any determination, the difference between the Carrying Value of such Contributed Property or Adjusted Property and the adjusted basis thereof for federal income tax purposes as of such date. A Partner's share of the Partnership's Book-Tax Disparities in all of its Contributed Property and Adjusted Property will be reflected by the difference between such Partner's Capital Account balance as maintained pursuant to Exhibit B and the hypothetical balance of such Partner's Capital Account

computed as if it had been maintained strictly in accordance with federal income tax accounting principles.

"Business Day" means any day except a Saturday, Sunday or other day on

which commercial banks in New York, New York or Boston, Massachusetts are authorized or required by law to close.

"Capital Account" means the Capital Account maintained for a Partner

pursuant to Exhibit B hereof.

"Capital Contribution" means, with respect to any Partner, any cash, cash

equivalents or the Agreed Value of Contributed Property which such Partner contributes or is deemed to contribute to the Partnership pursuant to Section 4.1, 4.2, or 4.3 hereof.

"Carrying Value" means (i) with respect to a Contributed Property or

Adjusted Property, the 704(c) Value of such property, reduced (but not below zero) by all Depreciation with respect to such Contributed Property or Adjusted Property, as the case may be, charged to the Partners' Capital Accounts following the contribution of or adjustment with respect to such Property; and (ii) with respect to any other Partnership property, the adjusted basis of such property for federal income tax purposes, all as of the time of determination. The Carrying Value of any property shall be adjusted from time to time in accordance with Exhibit B hereof, and to reflect changes, additions or other

adjustments to the Carrying Value for dispositions and acquisitions of Partnership properties, as deemed appropriate by the General Partner.

"Cash Amount" means an amount of cash per Partnership Unit equal to the

Value on the Valuation Date of the REIT Shares Amount.

"Certificate of Incorporation" means the Certificate of Incorporation or

other organizational document governing the General Partner, as amended or restated from time to time.

[Operating Partnership Agreement]

"Certificate of Limited Partnership" means the Certificate of Limited Partnership relating to the Partnership filed in the office of the Delaware Secretary of State, as amended from time to time in accordance with the terms hereof and the Act.

"Code" means the Internal Revenue Code of 1986, as amended and in effect from time to time, as interpreted by the applicable regulations thereunder. Any reference herein to a specific section or sections of the Code shall be deemed to include a reference to any corresponding provision of future law.

"Consent" means the consent or approval of a proposed action by a Partner given in accordance with Section 14.2 hereof.

"Consenting Partner" or "Consenting Partners" means Mortimer B. Zuckerman and Edward H. Linde, individually or collectively, as the case may be.

"Contributed Property" means each property or other asset, in such form as may be permitted by the Act (but excluding cash), contributed or deemed contributed to the Partnership (including deemed contributions to the Partnership on termination and reconstitution thereof pursuant to Section 708 of the Code). Once the Carrying Value of a Contributed Property is adjusted pursuant to Exhibit B hereof, such property shall no longer constitute a Contributed Property for purposes of Exhibit B hereof, but shall be deemed an Adjusted Property for such purposes.

"Conversion Factor" means 1.0, provided that in the event that the Company (i) declares or pays a dividend on its outstanding REIT Shares in REIT Shares or makes a distribution to all holders of its outstanding REIT Shares in REIT Shares; (ii) subdivides its outstanding REIT Shares; or (iii) combines its outstanding REIT Shares into a smaller number of REIT Shares, the Conversion Factor shall be adjusted by multiplying the Conversion Factor by a fraction, the numerator of which shall be the number of REIT Shares issued and outstanding on the record date for such dividend, distribution, subdivision or combination (assuming for such purpose that such dividend, distribution, subdivision or combination has occurred as of such time), and the denominator of which shall be the actual number of REIT Shares (determined without the above assumption) issued and outstanding on the record date for such dividend, distribution, subdivision or combination. Any adjustment to the Conversion Factor shall become effective immediately after the effective date of such event retroactive to the record date, if any, for such event (provided, however, if a Notice of Redemption is given prior to such a record date and the Specified Redemption Date is after such a record date, then the adjustment to the Conversion Factor shall, with respect to such redeeming Partner, be retroactive to the date of such Notice of Redemption). It is intended that adjustments to the Conversion Factor are to be made in order to avoid unintended dilution or anti-dilution as a result of transactions in which REIT Shares are issued, redeemed or exchanged without a

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corresponding issuance, redemption or exchange of Partnership Units. If, prior to a Specified Redemption Date, Rights (other than Rights issued pursuant to an employee benefit plan or other compensation arrangement) were issued and have expired, and such Rights were issued with an exercise price that, together with the purchase price for such Rights, was below fair market value in relation to the security or other property to be acquired upon the exercise of such Rights, and such Rights were issued to all holders of outstanding REIT shares or the General Partner cannot in good faith represent that the issuance of such Rights benefitted the Limited Partners, then the Conversion Factor applicable upon a Notice of Redemption shall be equitably adjusted in a manner consistent with antidilution provisions in warrants and other instruments in the case of such a below market issuance or exercise price. A similar equitable adjustment to protect the value of Partnership Units shall be made in all events if any Rights issued under a "Shareholder Rights Plan" became exercisable and expired prior to a Specified Redemption Date.

"Depreciation" means, for each taxable year, an amount equal to the federal

income tax depreciation, amortization, or other cost recovery deduction allowable with respect to an asset for such year, except that if the Carrying Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period, Depreciation shall be an amount which bears the same ratio to such beginning Carrying Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such year bears to such beginning adjusted tax basis; provided, however,

that if the federal income tax depreciation, amortization, or other cost recovery deduction for such year is zero, Depreciation shall be determined with reference to such beginning Carrying Value using any reasonable method selected by the General Partner.

"Designated Property" or "Designated Properties" has the meanings set forth

in Section 8.7 hereof.

"Effective Date" means the date of closing the initial public offering of

REIT Shares by the Company.

"Extraordinary Transaction" shall mean, with respect to the Company, the

occurrence of one or more of the following events: (i) a merger (including a triangular merger), consolidation or other combination with or into another Person; (ii) the direct or indirect sale, lease, exchange or other transfer of all or substantially all of its assets in one transaction or a series of transactions; (iii) any reclassification, recapitalization or change of its outstanding equity interests (other than a change in par value, or from par value to no par value, or as a result of a split, dividend or similar subdivision); (iv) any issuance of equity securities of the Company in exchange for assets (other than an issuance of securities for cash or an issuance of securities pursuant to an employee benefit plan); (v) any Change of Control (as defined in the Company's Certificate of Incorporation) or (vi) the adoption of any plan of liquidation or

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dissolution of the Company (whether or not in compliance with the provisions of this Agreement).

"General Partner" means the Company, in its capacity as the general partner

of the Partnership, or its successors as general partner of the Partnership.

"General Partner Interest" means a Partnership Interest held by the General

Partner, in its capacity as general partner. A General Partner Interest may be expressed as a number of Partnership Units.

"IRS" means the Internal Revenue Service, which administers the internal

revenue laws of the United States.

"Incapacity" or "Incapacitated" means, (i) as to any individual Partner,

death, total physical disability or entry by a court of competent jurisdiction adjudicating him incompetent to manage his or her Person or estate; (ii) as to any corporation which is a Partner, the filing of a certificate of dissolution, or its equivalent, for the corporation or the revocation of its charter; (iii) as to any partnership which is a Partner, the dissolution and commencement of winding up of the partnership; (iv) as to any estate which is a Partner, the distribution by the fiduciary of the estate's entire interest in the Partnership; (v) as to any trustee of a trust which is a Partner, the termination of the trust (but not the substitution of a new trustee); or (vi) as to any Partner, the bankruptcy of such Partner. For purposes of this definition, bankruptcy of a Partner shall be deemed to have occurred when (a) the Partner commences a voluntary proceeding seeking liquidation, reorganization or other relief under any bankruptcy, insolvency or other similar law now or hereafter in effect; (b) the Partner is adjudged as bankrupt or insolvent, or a final and nonappealable order for relief under any bankruptcy, insolvency or similar law now or hereafter in effect has been entered against the Partner; (c) the Partner executes and delivers a general assignment for the benefit of the Partner's creditors; (d) the Partner files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the Partner in any proceeding of the nature described in clause (b) above; (e) the Partner seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator for the Partner or for all or any substantial part of the Partner's properties; (f) any proceeding seeking liquidation, reorganization or other relief of or against such Partner under any bankruptcy, insolvency or other similar law now or hereafter in effect has not been dismissed within one hundred twenty (120) days after the commencement thereof; (g) the appointment without the Partner's consent or acquiescence of a trustee, receiver or liquidator has not been vacated or stayed within ninety (90) days of such appointment; or (h) an appointment referred to in clause (g) which has been stayed is not vacated within ninety (90) days after the expiration of any such stay.

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"Indemnitee" means (i) any Person made a party to a proceeding by reason of

(A) his status as the General Partner, or as a director or officer of the Partnership or the General Partner, or (B) his or its liabilities, pursuant to a loan guarantee or otherwise, for any indebtedness of the Partnership or any Subsidiary of the Partnership (including, without limitation, any indebtedness which the Partnership or any Subsidiary of the Partnership has assumed or taken assets subject to); and (ii) such other Persons (including Affiliates of the General Partner or the Partnership) as the General Partner may designate from time to time (whether before or after the event giving rise to potential liability), in its sole and absolute discretion.

"Limited Partner" means any Person (including the Company) named as a

Limited Partner in Exhibit A attached hereto, as such Exhibit may be amended

from time to time, or any Substituted Limited Partner or Additional Limited Partner, in such Person's capacity as a Limited Partner of the Partnership.

"Limited Partner Interest" means a Partnership Interest of a Limited

Partner in the Partnership representing a fractional part of the Partnership Interests of all Partners and includes any and all benefits to which the holder of such a Partnership Interest may be entitled, as provided in this Agreement, together with all obligations of such Person to comply with the terms and provisions of this Agreement. A Limited Partner Interest may be expressed as a number of Partnership Units.

"Limited Partner Recourse Debt Percentage" means with respect to certain of

the Limited Partners the percentage listed with respect to such Limited Partner on the recourse debt level schedule attached hereto as Exhibit F.

"Liquidating Event" has the meaning set forth in Section 13.1.

"Liquidator" has the meaning set forth in Section 13.2.

"Merging Partners" has the meaning set forth in the recitals.

"Net Income" means, for any taxable period, the excess, if any, of the

Partnership's items of income and gain for such taxable period over the Partnership's items of loss and deduction for such taxable period. The items included in the calculation of Net Income shall be determined in accordance with federal income tax accounting principles, subject to the specific adjustments provided for in Exhibit B.

"Net Loss" means, for any taxable period, the excess, if any, of the

Partnership's items of loss and deduction for such taxable period over the Partnership's items of income and gain for such taxable period. The items included in the calculation of Net Loss shall be determined

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in accordance with federal income tax accounting principles, subject to the specific adjustments provided for in Exhibit B.

"Nonrecourse Built-in Gain" means, with respect to any Contributed Properties or Adjusted Properties that are subject to a mortgage or negative pledge securing a Nonrecourse Liability, the amount of any taxable gain that would be allocated to the Partners pursuant to Section 2.B of Exhibit C if such properties were disposed of in a taxable transaction in full satisfaction of such liabilities and for no other consideration.

"Nonrecourse Deductions" has the meaning set forth in Regulations Section 1.704-2(b)(1), and the amount of Nonrecourse Deductions for a Partnership taxable year shall be determined in accordance with the rules of Regulations Section 1.704-2(c).

"Nonrecourse Liability" has the meaning set forth in Regulations Section 1.752-1(a)(2).

"Notice of Redemption" means the Notice of Redemption substantially in the form of Exhibit D to this Agreement.

"Partner" means a General Partner or a Limited Partner, and "Partners" means the General Partner and the Limited Partners collectively.

"Partner Minimum Gain" means an amount, with respect to each Partner Nonrecourse Debt, equal to the Partnership Minimum Gain that would result if such Partner Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Regulations Section 1.704-2(i)(3).

"Partner Nonrecourse Debt" has the meaning set forth in Regulations Section 1.704-2(b)(4).

"Partner Nonrecourse Deductions" has the meaning set forth in Regulations Section 1.704-2(i)(2), and the amount of Partner Nonrecourse Deductions with respect to a Partner Nonrecourse Debt for a Partnership taxable year shall be determined in accordance with the rules of Regulations Section 1.704-2(i)(2).

"Partnership" means the limited partnership formed under the Act and pursuant to this Agreement, as it may be amended and/or restated, and any successor thereto.

"Partnership Interest" means an ownership interest in the Partnership representing a Capital Contribution by either a Limited Partner or the General Partner and includes any and all benefits to which the holder of such a Partnership Interest may be entitled as provided in this Agreement, together with all obligations of such Person to comply with the terms and

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provisions of this Agreement. A Partnership Interest may be expressed as a number of Partnership Units.

"Partnership Minimum Gain" has the meaning set forth in Regulations Section 1.704-2(b)(2), and the amount of Partnership Minimum Gain, as well as any net increase or decrease in a Partnership Minimum Gain, for a Partnership taxable year shall be determined in accordance with the rules of Regulations Section 1.704-2(d).

"Partnership Record Date" means the record date established by the General Partner for the distribution of Available Cash pursuant to Section 5.1 hereof, which record date shall be the same as the record date established by the Company for a distribution to its shareholders of some of all of its portion of such distribution.

"Partnership Unit" or "Unit" means a fractional, undivided share of the Partnership Interests of all Partners issued pursuant to Sections 4.1, 4.2 and 4.3. The number of Partnership Units outstanding and the Percentage Interest in the Partnership represented by such Units are set forth in Exhibit A attached hereto, as such Exhibit may be amended from time to time. The ownership of Partnership Units shall be evidenced by such form of certificate for units as the General Partner adopts from time to time unless the General Partner determines that the Partnership Units shall be uncertificated securities.

"Partnership Year" means the fiscal year of the Partnership, which shall be the calendar year.

"Percentage Interest" means, as to a Partner, its interest in the Partnership as determined by dividing the Partnership Units owned by such Partner by the total number of Partnership Units then outstanding and as specified in Exhibit A attached hereto, as such Exhibit may be amended from time to time.

"Person" means an individual or a corporation, partnership, trust, unincorporated organization, association or other entity.

"Recapture Income" means any gain recognized by the Partnership upon the disposition of any property or asset of the Partnership, which gain is characterized as ordinary income because it represents the recapture of deductions previously taken with respect to such property or asset.

"Recourse Debt Amount" has the meaning set forth in Section 6.1B(2) hereof.

"Redeeming Partner" has the meaning set forth in Section 8.6 hereof.

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"Redemption Right" shall have the meaning set forth in Section 8.6 hereof.

"Regulations" means the Income Tax Regulations promulgated under the Code,

as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

"REIT" means a real estate investment trust under Section 856 of the Code.

"REIT Share" shall mean a share of common stock, par value \$.01 per share,

of the Company.

"REIT Shares Amount" shall mean a number of REIT Shares equal to the

product of the number of Partnership Units offered for redemption by a Redeeming Partner, multiplied by the Conversion Factor in effect on the date of receipt by the General Partner of a Notice of Redemption, provided that in the event the

Company issues to all holders of REIT Shares rights, options, warrants or convertible or exchangeable securities entitling the shareholders to subscribe for or purchase REIT Shares, or any other securities or property (collectively, "Rights"), and the Rights have not expired at the Specified Redemption Date, then the REIT Shares Amount shall also include the Rights that were issuable to a holder of the REIT Shares Amount of REIT Shares on the applicable record date relating to the issuance of such Rights.

"Residual Gain" or "Residual Loss" means any item of gain or loss, as the

case may be, of the Partnership recognized for federal income tax purposes resulting from a sale, exchange or other disposition of Contributed Property or Adjusted Property, to the extent such item of gain or loss is not allocated pursuant to Section 2.B.1(a) or 2.B.2(a) of Exhibit C to eliminate Book-Tax

Disparities.

"Rights" shall have the meaning set forth in the definition of "REIT Shares

Amount."

"704(c) Value" of any Contributed Property means the fair market value of

such property or other consideration at the time of contribution, as determined by the General Partner using such reasonable method of valuation as it may adopt; provided, however, that the 704(c) Value of any property deemed

contributed to the Partnership for federal income tax purposes upon termination and reconstitution thereof pursuant to Section 708 of the Code shall be determined in accordance with Exhibit B hereof. Subject to Exhibit B hereof,

the General Partner shall, in its sole and absolute discretion, use such method as it deems reasonable and appropriate to allocate the aggregate of the 704(c) Values of Contributed Properties in a single or integrated transaction among the separate properties on a basis proportional to their respective fair market values.

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"Specified Redemption Date" means the tenth (10th) Business Day after receipt by the Company of a Notice of Redemption; provided that no Specified Redemption Date shall occur before that date that is fourteen (14) months after the Effective Date, provided further that if the Company combines its outstanding REIT Shares, no Specified Redemption Date shall occur after the record date of such combination of REIT Shares and prior to the effective date of such combination.

"Subsidiary" means, with respect to any Person, any corporation, partnership or other entity of which a majority of (i) the voting power of the voting equity securities; or (ii) the outstanding equity interests, is owned, directly or indirectly, by such Person.

"Substituted Limited Partner" means a Person who is admitted as a Limited Partner to the Partnership pursuant to Section 11.4.

"Successor Designated Property" has the meaning set forth in Section 8.7 hereof.

"Terminating Capital Transaction" means any sale or other disposition of all or substantially all of the assets of the Partnership or a related series of transactions that, taken together, result in the sale or other disposition of all or substantially all of the assets of the Partnership.

"Unrealized Gain" attributable to any item of Partnership property means, as of any date of determination, the excess, if any, of (i) the fair market value of such property (as determined under Exhibit B hereof) as of such date; over (ii) the Carrying Value of such property (prior to any adjustment to be made pursuant to Exhibit B hereof) as of such date.

"Unrealized Loss" attributable to any item of Partnership property means, as of any date of determination, the excess, if any, of (i) the Carrying Value of such property (prior to any adjustment to be made pursuant to Exhibit B hereof) as of such date; over (ii) the fair market value of such property (as determined under Exhibit B hereof) as of such date.

"Valuation Date" means the date of receipt by the General Partner of a Notice of Redemption or, if such date is not a Business Day, the first Business Day thereafter.

"Value" means, with respect to a REIT Share, the average of the daily market price for the ten (10) consecutive trading days immediately preceding the Valuation Date. The market price for each such trading day shall be: (i) if the REIT Shares are listed or admitted to trading on any securities exchange or the Nasdaq National Market System, the closing price on such day, or if no such sale takes place on such day, the average of the closing bid and asked prices on such day; (ii) if the REIT Shares are not listed or admitted to trading on any securities exchange or the Nasdaq National Market System, the last reported sale price on such day or, if

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no sale takes place on such day, the average of the closing bid and asked prices on such day, as reported by a reliable quotation source designated by the General Partner; or (iii) if the REIT Shares are not listed or admitted to trading on any securities exchange or the Nasdaq National Market System and no such last reported sale price or closing bid and asked prices are available, the average of the reported high bid and low asked prices on such day, as reported by a reliable quotation source designated by the General Partner, or if there shall be no bid and asked prices on such day, the average of the high bid and low asked prices, as so reported, on the most recent day (not more than ten (10) days prior to the date in question) for which prices have been so reported; provided that if there are no bid and asked prices reported during the ten (10)

days prior to the date in question, the Value of the REIT Shares shall be determined by the General Partner acting in good faith on the basis of such quotations and other information as it considers, in its reasonable judgment, appropriate. In the event the REIT Shares Amount includes Rights, then the Value of such Rights shall be determined by the General Partner acting in good faith on the basis of such quotations and other information as it considers, in its reasonable judgment, appropriate, provided that the Value of any rights

issued pursuant to a "Shareholder Rights Plan" shall be deemed to have no value unless a "triggering event" shall have occurred (i.e., if the Rights issued

pursuant thereto are no longer "attached" to the REIT Shares and are able to trade independently).

ARTICLE 2
ORGANIZATIONAL MATTERS

Section 2.1 Formation

The Partnership is a limited partnership organized pursuant to the provisions of the Act. The Partners hereby agree to continue the Partnership upon the terms and conditions set forth in this Agreement. Except as expressly provided herein to the contrary, the rights and obligations of the Partners and the administration and termination of the Partnership shall be governed by the Act. The Partnership Interest of each Partner shall be personal property for all purposes.

Section 2.2 Name

The name of the Partnership is Boston Properties Limited Partnership. The Partnership's business may be conducted under any other name or names deemed advisable by the General Partner, including the name of the General Partner or any Affiliate thereof. The words "Limited Partnership," "L.P.," "Ltd." or similar words or letters shall be included in the Partnership's name where necessary for the purposes of complying with the laws of any jurisdiction that so requires. The General Partner in its sole and absolute discretion may

change the name of the Partnership at any time and from time to time and shall notify the Limited Partners of such change in the next regular communication to the Limited Partners.

Section 2.3 Registered Office and Agent; Principal Office

The address of the registered office of the Partnership in the State of Delaware and the name and address of the registered agent for service of process on the Partnership in the State of Delaware is The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801. The principal office of the Partnership shall be 8 Arlington Street, Boston, MA 02116, or such other place as the General Partner may from time to time designate by notice to the Limited Partners. The Partnership may maintain offices at such other place or places within or outside the State of Delaware as the General Partner deems advisable.

Section 2.4 Power of Attorney

A. Each Limited Partner and each Assignee hereby constitutes and appoints the General Partner, any Liquidator, and authorized officers and attorneys-in-fact of each, and each of those acting singly, in each case with full power of substitution, as its true and lawful agent and attorney-in-fact, with full power and authority in its name, place and stead to:

- (1) execute, swear to, acknowledge, deliver, file and record in the appropriate public offices (a) all certificates, documents and other instruments (including, without limitation, this Agreement and the Certificate of Limited Partnership and all amendments or restatements thereof) that the General Partner or the Liquidator deems appropriate or necessary to form, qualify or continue the existence or qualification of the Partnership as a limited partnership (or a partnership in which the Limited Partners have limited liability) in the State of Delaware and in all other jurisdictions in which the Partnership may or plans to conduct business or own property; (b) all instruments that the General Partner deems appropriate or necessary to reflect any amendment, change, modification or restatement of this Agreement in accordance with its terms; (c) all conveyances and other instruments or documents that the General Partner or the Liquidator deems appropriate or necessary to reflect the dissolution and liquidation of the Partnership pursuant to the terms of this Agreement, including, without limitation, a certificate of cancellation; (d) all instruments relating to the admission, withdrawal, removal or substitution of any Partner pursuant to, or other events described in, Article 11, 12 or 13 hereof or the Capital Contribution of any Partner; and (e) all certificates, documents and other instruments

relating to the determination of the rights, preferences and privileges of Partnership Interests; and

- (2) execute, swear to, seal, acknowledge and file all ballots, consents, approvals, waivers, certificates and other instruments appropriate or necessary, in the sole and absolute discretion of the General Partner or any Liquidator, to make, evidence, give, confirm or ratify any vote, consent, approval, agreement or other action which is made or given by the Partners hereunder or is consistent with the terms of this agreement or appropriate or necessary, in the sole discretion of the General Partner or any Liquidator, to effectuate the terms or intent of this Agreement.

Nothing contained herein shall be construed as authorizing the General Partner or any Liquidator to amend this Agreement except in accordance with Article 14 hereof or as may be otherwise expressly provided for in this Agreement.

B. The foregoing power of attorney is hereby declared to be irrevocable and a power coupled with an interest, in recognition of the fact that each of the Partners will be relying upon the power of the General Partner and any Liquidator to act as contemplated by this Agreement in any filing or other action by it on behalf of the Partnership, and it shall survive and not be affected by the subsequent Incapacity of any Limited Partner or Assignee and the transfer of all or any portion of such Limited Partner's or Assignee's Partnership Units and shall extend to such Limited Partner's or Assignee's heirs, successors, assigns and personal representatives. Each such Limited Partner or Assignee hereby agrees to be bound by any representation made by the General Partner or any Liquidator, acting in good faith pursuant to such power of attorney, and each such Limited Partner or Assignee hereby waives any and all defenses which may be available to contest, negate or disaffirm the action of the General Partner or any Liquidator, taken in good faith under such power of attorney. Each Limited Partner or Assignee shall execute and deliver to the General Partner or the Liquidator, within fifteen (15) days after receipt of the General Partner's or Liquidator's request therefor, such further designation, powers of attorney and other instruments as the General Partner or the Liquidator, as the case may be, deems necessary to effectuate this Agreement and the purposes of the Partnership.

Section 2.5 Term

The term of the Partnership commenced on April 8, 1997, the date on which the Certificate of Limited Partnership was filed in the office of the Secretary of State of the State of Delaware, and shall continue until December 31, 2095, unless the Partnership is dissolved sooner pursuant to the provisions of Article 13 or as otherwise provided by law.

ARTICLE 3
PURPOSE

Section 3.1 Purpose and Business

The purpose and nature of the business to be conducted by the Partnership is (i) to conduct any business that may be lawfully conducted by a limited partnership organized pursuant to the Act; provided, however, that such business

shall be limited to and conducted in such a manner as to permit the Company at all times to be classified as a REIT, unless the Company ceases to qualify as a REIT for reasons other than the conduct of the business of the Partnership; (ii) to enter into any partnership, joint venture, limited liability company or other similar arrangement to engage in any of the foregoing or to own interests in any entity engaged, directly or indirectly, in any of the foregoing; and (iii) to do anything necessary or incidental to the foregoing. In connection with the foregoing, and without limiting the Company's right, in its sole discretion, to cease qualifying as a REIT, the Partners acknowledge the Company's current status as a REIT inures to the benefit of all of the Partners and not solely the General Partner. The General Partner shall also be empowered to do any and all acts and things necessary or prudent to ensure that the Partnership will not be classified as a "publicly traded partnership" for purposes of Section 7704 of the Code, including but not limited to imposing restrictions on transfers and restrictions on redemptions.

Section 3.2 Powers

The Partnership is empowered to do any and all acts and things necessary, appropriate, proper, advisable, incidental to or convenient for the furtherance and accomplishment of the purposes and business described herein and for the protection and benefit of the Partnership, including, without limitation, full power and authority, directly or through its ownership interest in other entities, to enter into, perform and carry out contracts of any kind, borrow money and issue evidences of indebtedness whether or not secured by mortgage, deed of trust, pledge or other lien, acquire, own, manage, improve and develop real property, and lease, sell, transfer and dispose of real property; provided,

however, that the Partnership shall not take, or refrain from taking, any action

which, in the judgment of the General Partner, in its sole and absolute discretion, (i) could adversely affect the ability of the Company to continue to qualify as a REIT; (ii) could subject the Company to any additional taxes under Section 857 or Section 4981 of the Code; or (iii) could violate any law or regulation of any governmental body or agency having jurisdiction over the Company or its securities, unless such action (or inaction) shall have been specifically consented to by the General Partner in writing.

ARTICLE 4
CAPITAL CONTRIBUTIONS

Section 4.1 Capital Contributions of the Partners

A. Initial Capital Contributions and Recapitalization of the Partnership on the Effective Date. The Company and Edward H. Linde previously made Capital Contributions to the Partnership upon its formation, which contributions shall be returned to them on the Effective Date. On the Effective Date, the Company, as General Partner and as a Limited Partner, Edward H. Linde, as a Limited Partner, and the other Persons listed on Schedule A will make Capital Contributions to the Partnership as set forth therein (except that certain of such Persons, as described in the recitals hereof, were deemed to have made Capital Contributions prior to the date hereof). On the Effective Date, the Partnership shall be recapitalized, and the General Partner will complete Exhibit A to reflect the Capital Contributions made by each Partner, the Partnership Units assigned to each Partner and the Percentage Interest in the Partnership represented by such Partnership Units. The Capital Accounts of the Partners and the Carrying Values of the Partnership's Assets shall be determined as of the Effective Date pursuant to Section I.D of Exhibit B hereto to reflect the Capital Contributions made prior to and on the Effective Date.

B. General Partnership Interest. A number of Partnership Units held by the Company equal to one percent (1%) of all outstanding Partnership Units shall be deemed to be the General Partner Partnership Units and shall be the General Partnership Interest. All other Partnership Units held by the Company shall be deemed to be Limited Partnership Interests and shall be held by the General Partner in its capacity as a Limited Partner in the Partnership.

C. Capital Contributions By Merger. To the extent the Partnership acquires any property by the merger of any other Person into the Partnership, Persons who receive Partnership Interests in exchange for their interests in the Person merging into the Partnership shall become Partners and shall be deemed to have made Capital Contributions as provided in the applicable merger agreement and as set forth in Exhibit A, as amended to reflect such deemed Capital Contributions.

D. No Obligation to Make Additional Capital Contributions. Each Partner shall own the number of Partnership Units set forth for such Partner in Exhibit A and shall have a Percentage Interest in the Partnership as set forth in Exhibit A, which Percentage Interest shall be adjusted in Exhibit A from time to time by the General Partner to the extent necessary to reflect accurately redemptions, additional Capital Contributions, the issuance of additional Partnership Units (pursuant to any merger or otherwise), or similar events having an effect on any Partner's Percentage Interest. The number of Partnership Units held by the General Partner, in its capacity as general partner, (equal to one percent (1%) of all outstanding

Partnership Units from time to time) shall be deemed to be the General Partner Interest. Except as provided in Sections 4.2, 10.5 or elsewhere in this Agreement, the Partners shall have no obligation to make any additional Capital Contributions or loans to the Partnership.

Section 4.2 Issuances of Additional Partnership Interests

A. The General Partner is hereby authorized to cause the Partnership from time to time to issue to the Partners (including the General Partner and its Affiliates) or other Persons (including, without limitation, in connection with the contribution of property to the Partnership) additional Partnership Units or other Partnership Interests in one or more classes, or one or more series of any of such classes, with such designations, preferences and relative, participating, optional or other special rights, powers and duties, including rights, powers and duties senior to the Limited Partner Interests issued on the Effective Date, all as shall be determined by the General Partner in its sole and absolute discretion subject to Delaware law, including, without limitation, (i) the allocations of items of Partnership income, gain, loss, deduction and credit to each such class or series of Partnership Interests; (ii) the right of each such class or series of Partnership Interests to share in Partnership distributions; and (iii) the rights of each such class or series of Partnership Interests upon dissolution and liquidation of the Partnership; provided that no

such additional Partnership Units or other Partnership Interests shall be issued to the General Partner, unless either (a)(1) the additional Partnership Interests are issued in connection with the grant, award or issuance of REIT Shares or other equity interests by the Company, which REIT shares or other equity interests have designations, preferences and other rights such that the economic interests attributable to such REIT shares or other equity interests are substantially similar to the designations, preferences and other rights of the additional Partnership Interests issued to the General Partner in accordance with this Section 4.2.A, and (2) the Company shall make a Capital Contribution to the Partnership in an amount equal to the proceeds raised in connection with such issuance, or (b) the additional Partnership Interests are issued to all Partners in proportion to their respective Percentage Interests. In addition, the Company may acquire Units from other Partners pursuant to this Agreement. In the event that the Partnership issues Partnership Interests pursuant to this Section 4.2.A, the General Partner shall make such revisions to this Agreement (without any requirement of receiving approval of the Limited Partners) including but not limited to the revisions described in Section 5.4, Section 6.1 and Section 8.6 hereof, as it deems necessary to reflect the issuance of such additional Partnership Interests and the special rights, powers and duties associated therewith. Unless specifically set forth otherwise by the General Partner, any Partnership Interest issued after the Effective Date shall have the same rights, powers and duties as the Partnership Interests issued on the Effective Date.

B. From and after the date hereof, the Company shall not issue any additional REIT Shares (other than REIT Shares issued pursuant to Section 8.6), or rights, options, warrants or convertible or exchangeable securities containing the right to subscribe for or

purchase REIT Shares (collectively "New Securities") other than to all holders

of REIT Shares unless (i) the General Partner shall cause the Partnership to issue to the Company, Partnership Interests or rights, options, warrants or convertible or exchangeable securities of the Partnership having designations, preferences and other rights, all such that the economic interests are substantially similar to those of the New Securities; and (ii) the Company contributes to the Partnership the proceeds from the issuance of such New Securities and from the exercise of rights contained in such New Securities. Without limiting the foregoing, the Company is expressly authorized to issue New Securities for no tangible value or for less than fair market value, and the General Partner is expressly authorized to cause the Partnership to issue to the Company corresponding Partnership Interests, so long as (x) the General Partner concludes in good faith that such issuance is in the interests of the Company and the Partnership (for example, and not by way of limitation, the issuance of REIT Shares and corresponding Units pursuant to an employee stock purchase plan providing for employee grants or purchases of REIT Shares or employee stock options that have an exercise price that is less than the fair market value of the REIT Shares, either at the time of issuance or at the time of exercise); and (y) the Company contributes all proceeds, if any, from such issuance and exercise to the Partnership.

Section 4.3 Contribution of Proceeds of Issuance of REIT Shares

In connection with the initial public offering of REIT Shares by the Company and any other issuance of New Securities pursuant to Section 4.2, the Company shall contribute to the Partnership any proceeds (or a portion thereof) raised in connection with such issuance; provided that if the proceeds actually

received by the Company are less than the gross proceeds of such issuance as a result of any underwriter's discount or other expenses paid or incurred in connection with such issuance, then the Company shall be deemed to have made a Capital Contribution to the Partnership in the amount equal to the sum of the net proceeds of such issuance plus the amount of such underwriter's discount and other expenses paid by the Company (which discount and expense shall be treated as an expense for the benefit of the Partnership for purposes of Section 7.4). In the case of employee acquisitions of New Securities at a discount from fair market value or for no value in connection with a grant of New Securities, the amount of such discount representing compensation to the employee, as determined by the General Partner, shall be treated as an expense of the issuance of such New Securities.

ARTICLE 5
DISTRIBUTIONS

Section 5.1 Requirement and Characterization of Distributions

The General Partner shall distribute at least quarterly an amount equal to one hundred percent (100%) of Available Cash generated by the Partnership during such quarter or shorter period to the Partners who are Partners on the Partnership Record Date with respect to such quarter or shorter period in accordance with their respective Percentage Interests on such Partnership Record Date; provided that in no event may a Partner receive a

distribution of Available Cash with respect to a Partnership Unit if such Partner is entitled to receive a distribution out of such Available Cash with respect to a REIT Share for which such Partnership Unit has been exchanged and such distribution shall be made to the Company. The General Partner shall take such reasonable efforts, as determined by it in its sole and absolute discretion and consistent with the Company's qualification as a REIT, to distribute Available Cash (a) to the Limited Partners so as to preclude any such distribution or portion thereof from being treated as part of a sale of property to the Partnership by a Limited Partner under Section 707 of the Code or the Regulations thereunder; provided that the General Partner and the Partnership

shall not have liability to a Limited Partner under any circumstances as a result of any distribution to a Limited Partner being so treated and (b) to satisfy the requirements for qualifying as a REIT under the Code. Unless otherwise expressly provided for herein or in an agreement at the time a new class of Partnership Interests is created in accordance with Article 4 hereof, no Partnership Interest shall be entitled to a distribution in preference to any other Partnership Interest.

Section 5.2 Amounts Withheld

All amounts withheld pursuant to the Code or any provisions of any state or local tax law and Section 10.5 hereof with respect to any allocation, payment or distribution to the Partners or Assignees shall be treated as amounts distributed to the Partners or Assignees pursuant to Section 5.1 for all purposes under this Agreement.

Section 5.3 Distributions Upon Liquidation

Proceeds from a Terminating Capital Transaction and any other cash received or reductions in reserves made after commencement of the liquidation of the Partnership shall be distributed to the Partners in accordance with Section 13.2.

Section 5.4 Revisions to Reflect Issuance of Additional Partnership

Interests

In the event that the Partnership issues additional Partnership Interests to the General Partner or any Additional Limited Partner pursuant to Article 4 hereof, the General Partner shall make such revisions to this Article 5 as it deems necessary to reflect the issuance of such additional Partnership Interests and any special rights, duties or powers with respect thereto.

ARTICLE 6
ALLOCATIONS

Section 6.1 Allocations For Capital Account Purposes

For purposes of maintaining the Capital Accounts and in determining the rights of the Partners among themselves, the Partnership's items of income, gain, loss and deduction (computed in accordance with Exhibit B hereof) shall be

allocated among the Partners in each taxable year (or portion thereof) as provided herein below.

A. Net Income shall be allocated (i) first, to the General Partner to the extent that Net Losses previously allocated to the General Partner pursuant to the last sentence of Section 6.1.B exceed Net Income previously allocated to the General Partner pursuant to this clause (i) of Section 6.1.A; and (ii) thereafter, Net Income shall be allocated to the Partners in accordance with their respective Percentage Interests, provided however, gain on the sale of

property contributed as of the Effective Date with respect to which the General Partner elects, the "traditional method with cumulative allocations" described in Treasury Regulation Section 1.704-3(c)(3)(iii)(B) shall first be allocated to solely to the Partners who contributed such Property, pro rata, in proportion to their Percentage Interests, to the extent allocations to non-contributing Partners of depreciation deductions with respect to such Contributed Property have been limited by the so-called "ceiling rule".

B. After giving effect to the special allocations set forth in Section 1 of Exhibit C attached hereto, Net Losses shall be allocated to the

Partners in the following order:

- (1) First, to the Partners, in proportion to their Percentage Interest until each Partner's Adjusted Capital Account balance has been reduced to zero;
- (2) Second, to the General Partner until the General Partner's negative Adjusted Capital Account balance is equal to the excess, if any, of the aggregate recourse liabilities of the Partnership over the aggregate amount of recourse partnership debt (the "Recourse Debt Amount") set

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forth on the recourse debt level schedule attached hereto as Exhibit F, as appropriately amended from time to time;

(3) Third, to the Limited Partners listed on the recourse debt level schedule attached hereto as Exhibit F, in proportion to each such Limited Partner's Limited Partner Recourse Debt Percentage, until the sum of such Limited Partners' negative Adjusted Capital Account balances equals the Recourse Debt Amount; and

(4) Fourth, 100% to the General Partner.

C. The Partners agree that Nonrecourse Liabilities of the Partnership shall be allocated among the Partners in accordance with the provisions of Regulations Section 1.752-3, as modified by any guidance published by the Internal Revenue Service, or otherwise reasonably interpreted.

D. Any gain allocated to the Partners upon the sale or other taxable disposition of any Partnership asset shall, to the extent possible, after taking into account other required allocations of gain pursuant to Exhibit C, be

characterized as Recapture Income in the same proportions and to the same extent as such Partners have been allocated any deductions directly or indirectly giving rise to the treatment of such gains as Recapture Income.

In the event that the Partnership issues additional Partnership Interests to the General Partner, or any Additional Limited Partner pursuant to Article 4 hereof, the General Partner shall make such revisions to this Section 6.1 as it determines are necessary to reflect the terms of the issuance of such additional Partnership Interests, including making preferential allocations to certain classes of Partnership Interests.

ARTICLE 7
MANAGEMENT AND OPERATIONS OF BUSINESS

Section 7.1 Management

A. Except as otherwise expressly provided in this Agreement, all management powers over the business and affairs of the Partnership are and shall be exclusively vested in the General Partner, and no Limited Partner shall have any right to participate in or exercise control or management power over the business and affairs of the Partnership. The General Partner may not be removed by the Limited Partners with or without cause. In addition to the powers now or hereafter granted a general partner of a limited partnership under applicable law or which are granted to the General Partner under any other provision of this Agreement,

the General Partner, subject to Section 7.3 hereof, shall have full power and authority to do all things deemed necessary or desirable by it to conduct the business of the Partnership, to exercise all powers set forth in Section 3.2 hereof and to effectuate the purposes set forth in Section 3.1 hereof, including, without limitation:

- (1) the making of any expenditures, the lending or borrowing of money (including, without limitation, making prepayments on loans and borrowing money to permit the Partnership to make distributions to its Partners in such amounts as will permit the Company (so long as the Company qualifies as a REIT) to avoid the payment of any federal income tax (including, for this purpose, any excise tax pursuant to Section 4981 of the Code) and to make distributions to its shareholders in amounts sufficient to permit the Company to maintain REIT status), the assumption or guarantee of, or other contracting for, indebtedness and other liabilities, the issuance of evidence of indebtedness (including the securing of the same by deed, mortgage, deed of trust or other lien or encumbrance on the Partnership's assets) and the incurring of any obligations it deems necessary for the conduct of the activities of the Partnership;
- (2) the making of tax, regulatory and other filings, or rendering of periodic or other reports to governmental or other agencies having jurisdiction over the business or assets of the Partnership, the registration of any class of securities of the Partnership under the Securities Exchange Act of 1934, as amended, and the listing of any debt securities of the Partnership on any exchange;
- (3) the acquisition, disposition, mortgage, pledge, encumbrance, hypothecation or exchange of any assets of the Partnership (including the exercise or grant of any conversion, option, privilege, or subscription right or other right available in connection with any assets at any time held by the Partnership) or the merger or other combination of the Partnership with or into another entity (all of the foregoing subject to any prior approval only to the extent required by Section 7.3 hereof);
- (4) the use of the assets of the Partnership (including, without limitation, cash on hand) for any purpose consistent with the terms of this Agreement and on any terms it sees fit, including, without limitation, the financing of the conduct of the operations of the Company, the Partnership or any of the Partnership's Subsidiaries, the lending of funds to other Persons (including, without limitation, the Subsidiaries of the

Partnership and/or the Company) and the repayment of obligations of the Partnership and its Subsidiaries and any other Person in which it has an equity investment, and the making of capital contributions to its Subsidiaries;

- (5) the management, operation, leasing, landscaping, repair, alteration, demolition or improvement of any real property or improvements owned by the Partnership or any Subsidiary of the Partnership;
- (6) the negotiation, execution, and performance of any contracts, conveyances or other instruments that the General Partner considers useful or necessary to the conduct of the Partnership's operations or the implementation of the General Partner's powers under this Agreement, including contracting with contractors, developers, consultants, accountants, legal counsel, other professional advisors and other agents and the payment of their expenses and compensation out of the Partnership's assets;
- (7) the distribution of Partnership cash or other Partnership assets in accordance with this Agreement;
- (8) holding, managing, investing and reinvesting cash and other assets of the Partnership;
- (9) the collection and receipt of revenues and income of the Partnership;
- (10) the establishment of one or more divisions of the Partnership, the selection and dismissal of employees of the Partnership (including, without limitation, employees having titles such as "president," "vice president," "secretary" and "treasurer" of the Partnership), and agents, outside attorneys, accountants, consultants and contractors of the Partnership, and the determination of their compensation and other terms of employment or hiring;
- (11) the maintenance of such insurance for the benefit of the Partnership, the Partner and directors and officers thereof as it deems necessary or appropriate;
- (12) the formation of, or acquisition of an interest in, and the contribution of property to, any further limited or general partnerships, joint ventures or other relationships that it deems desirable (including, without limitation,

the acquisition of interests in, and the contributions of property to, its Subsidiaries and any other Person in which it has an equity investment from time to time);

- (13) the control of any matters affecting the rights and obligations of the Partnership, including the settlement, compromise, submission to arbitration or any other form of dispute resolution, or abandonment of, any claim, cause of action, liability, debt or damages, due or owing to or from the Partnership, the commencement or defense of suits, legal proceedings, administrative proceedings, arbitration or other forms of dispute resolution, and the representation of the Partnership in all suits or legal proceedings, administrative proceedings, arbitrations or other forms of dispute resolution, the incurring of legal expense, and the indemnification of any Person against liabilities and contingencies to the extent permitted by law;
- (14) the undertaking of any action in connection with the Partnership's direct or indirect investment in its Subsidiaries or any other Person (including, without limitation, the contribution or loan of funds by the Partnership to such Persons);
- (15) the determination of the fair market value of any Partnership property distributed in kind using such reasonable method of valuation as the General Partner may adopt;
- (16) the exercise, directly or indirectly, through any attorney-in-fact acting under a general or limited power of attorney, of any right, including the right to vote, appurtenant to any asset or investment held by the Partnership;
- (17) the exercise of any of the powers of the General Partner enumerated in this Agreement on behalf of or in connection with any Subsidiary of the Partnership or any other Person in which the Partnership has a direct or indirect interest, or jointly with any such Subsidiary or other Person;
- (18) the exercise of any of the powers of the General Partner enumerated in this Agreement on behalf of any Person in which the Partnership does not have an interest pursuant to contractual or other arrangements with such Person;

- (19) the making, execution and delivery of any and all deeds, leases, notes, mortgages, deeds of trust, security agreements, conveyances, contracts, guarantees, warranties, indemnities, waivers, releases or legal instruments or agreements in writing necessary or appropriate, in the judgment of the General Partner, for the accomplishment of any of the powers of the General Partner enumerated in this Agreement; and
- (20) the issuance of additional Partnership Units, as appropriate, in connection with Capital Contributions by Additional Limited Partners and additional Capital Contributions by Partners pursuant to Article 4 hereof.

B. Each of the Limited Partners agrees that the General Partner is authorized to execute, deliver and perform the above-mentioned agreements and transactions on behalf of the Partnership without any further act, approval or vote of the Partners, notwithstanding any other provision of this Agreement (except as provided in Section 7.3 or Section 8.7), the Act or any applicable law, rule or regulation, to the fullest extent permitted under the Act or other applicable law, rule or regulation. The execution, delivery or performance by the General Partner or the Partnership of any agreement authorized or permitted under this Agreement shall not constitute a breach by the General Partner of any duty that the General Partner may owe the Partnership or the Limited Partners or any other Persons under this Agreement or of any duty stated or implied by law or equity.

C. At all times from and after the date hereof, the General Partner may cause the Partnership to establish and maintain at any and all times working capital accounts and other cash or similar balances in such amounts as the General Partner, in its sole and absolute discretion, deems appropriate and reasonable from time to time.

D. In exercising its authority under this Agreement, the General Partner may, but shall be under no obligation to, take into account the tax consequences to any Partner of any action taken by it. The General Partner and the Partnership shall not have liability to a Limited Partner under any circumstances, as a result of an income tax liability incurred by such Limited Partner as a result of an action (or inaction) by the General Partner taken pursuant to its authority under this Agreement and in accordance with the terms of Section 7.3 and Section 8.7. The Limited Partners expressly acknowledge that the General Partner is acting on behalf of the Partnership, the Company and the Company's stockholders collectively.

Section 7.2 Certificate of Limited Partnership

The General Partner has previously filed the Certificate of Limited Partnership with the Secretary of State of the State of Delaware as required by the Act. The General Partner shall

use all reasonable efforts to cause to be filed such other certificates or documents as may be reasonable and necessary or appropriate for the formation, continuation, qualification and operation of a limited partnership (or a partnership in which the limited partners have limited liability) in the State of Delaware and any other state, or the District of Columbia, in which the Partnership may elect to do business or own property. To the extent that such action is determined by the General Partner to be reasonable and necessary or appropriate, the General Partner shall file amendments to and restatements of the Certificate of Limited Partnership and do all of the things to maintain the Partnership as a limited partnership (or a partnership in which the limited partners have limited liability) under the laws of the State of Delaware and each other state, or the District of Columbia, in which the Partnership may elect to do business or own property. Subject to the terms of Section 8.5.A(4) hereof, the General Partner shall not be required, before or after filing, to deliver or mail a copy of the Certificate of Limited Partnership or any amendment thereto to any Limited Partner.

Section 7.3 Restrictions on General Partner Authority. The General Partner

may not take any action in contravention of an express prohibition or limitation of this Agreement without the written Consent of Limited Partners holding a majority of the Percentage Interests of the Limited Partners (including Limited Partner Interests held by the Company), or such other percentage of the Limited Partners as may be specifically provided for under a provision of this Agreement.

Section 7.4 Reimbursement of the General Partner and the Company; DRIP's

and Repurchase Programs

A. Except as provided in this Section 7.4 and elsewhere in this Agreement (including the provisions of Articles 5 and 6 regarding distributions, payments, and allocations to which it may be entitled), the General Partner shall not be compensated for its services as general partner of the Partnership.

B. The General Partner shall be reimbursed on a monthly basis, or such other basis as it may determine in its sole and absolute discretion, for all expenses that it incurs relating to the ownership and operation of, or for the benefit of, the Partnership (including, without limitation, (i) expenses relating to the ownership of interests in and operation of the Partnership, (ii) compensation of the Company's officers and employees including, without limitation, payments under the General Partner's Stock Incentive Plans that provides for stock units, or other phantom stock, pursuant to which employees of the General Partner will receive payments based upon dividends on or the value of REIT Shares, (iii) director fees and expenses and (iv) all costs and expenses of being a public company, including costs of filings with the SEC, reports and other distributions to its stockholders); provided that the amount of any such

reimbursement shall be reduced by any interest earned by the General Partner with respect to bank accounts or other instruments or accounts held by it on behalf of the Partnership. The

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Partners acknowledge that all such expenses of the General Partner are deemed to be for the benefit of the Partnership. Such reimbursement shall be in addition to any reimbursement made as a result of indemnification pursuant to Section 7.7 hereof.

C. As set forth in Section 4.3, the Company shall be treated as having made a Capital Contribution in the amount of all expenses that it incurs relating to the Company's initial public offering REIT of Shares.

D. In the event that the Company shall elect to purchase from its shareholders REIT Shares for the purpose of delivering such REIT Shares to satisfy an obligation under any dividend reinvestment program adopted by the Company, any employee stock purchase plan adopted by the Company, or any similar obligation or arrangement undertaken by the Company in the future or for the purpose of retiring such REIT Shares, the purchase price paid by the Company for such REIT Shares and any other expenses incurred by the Company in connection with such purchase shall be considered expenses of the Partnership and shall be advanced to the Company or reimbursed to the Company, subject to the condition that: (i) if such REIT Shares subsequently are sold by the Company, the Company shall pay to the Partnership any proceeds received by the Company for such REIT Shares (which sales proceeds shall include the amount of dividends reinvested under any dividend reinvestment or similar program provided that a transfer of REIT Shares for Units pursuant to Section 8.6 would not be considered a sale for such purposes); and (ii) if such REIT Shares are not retransferred by the Company within thirty (30) days after the purchase thereof, or the Company otherwise determines not to retransfer such REIT Shares, the Company, as General Partner, shall cause the Partnership to redeem a number of Partnership Units held by the Company, as a Limited Partner, equal to the product obtained by dividing the number of such REIT Shares by the Conversion Factor (in which case such advancement or reimbursement of expenses shall be treated as having been made as a distribution in redemption of such number of Units held by the Company).

Section 7.5 Outside Activities of the General Partner

The General Partner shall not directly or indirectly enter into or conduct any business other than in connection with the ownership, acquisition and disposition of Partnership Interests and the management of the business of the Partnership, and such activities as are incidental thereto. The General Partner and any Affiliates of the General Partner may acquire Limited Partner Interests and shall be entitled to exercise all rights of a Limited Partner relating to such Limited Partner Interests.

Section 7.6 Contracts with Affiliates

A. The Partnership may lend or contribute funds or other assets to its Subsidiaries or other Persons in which it has an equity investment and such Persons may borrow funds from the Partnership, on terms and conditions established in the sole and absolute discretion of the General Partner. The foregoing authority shall not create any right or benefit in favor of any Subsidiary or any other Person.

B. Except as provided in Section 7.5, the Partnership may transfer assets to joint ventures, other partnerships, corporations or other business entities in which it is or thereby becomes a participant upon such terms and subject to such conditions consistent with this Agreement and applicable law as the General Partner, in its sole and absolute discretion, believes are advisable.

C. Except as expressly permitted by this Agreement, neither the General Partner nor any of its Affiliates shall sell, transfer or convey any property to, or purchase any property from, the Partnership, directly or indirectly, except pursuant to transactions that are determined by the General Partner in good faith to be fair and reasonable.

D. The General Partner, in its sole and absolute discretion and without the approval of the Limited Partners, may propose and adopt, on behalf of the Partnership, employee benefit plans, stock option plans, and similar plans funded by the Partnership for the benefit of employees of the General Partner, the Partnership, Subsidiaries of the Partnership or any Affiliate of any of them in respect of services performed, directly or indirectly, for the benefit of the Partnership, the General Partner, or any Subsidiaries of the Partnership.

E. The General Partner is expressly authorized to enter into, in the name and on behalf of the Partnership, a right of first opportunity arrangement and other conflict avoidance agreements with various Affiliates of the Partnership and the General Partner, on such terms as the General Partner, in its sole and absolute discretion, believes are advisable.

Section 7.7 Indemnification

A. To the fullest extent permitted by Delaware law, the Partnership shall indemnify each Indemnitee from and against any and all losses, claims, damages, liabilities, joint or several, expenses (including, without limitation, attorneys fees and other legal fees and expenses), judgments, fines, settlements, and other amounts arising from any and all claims, demands, actions, suits or proceedings, civil, criminal, administrative or investigative, that relate to the operations of the Partnership or the Company as set forth in this Agreement, in which such Indemnitee may be involved, or is threatened to be involved, as a party or otherwise, unless it is established that: (i) the act or omission of the Indemnitee was material to

the matter giving rise to the proceeding and either was committed in bad faith or was the result of active and deliberate dishonesty; (ii) the Indemnitee actually received an improper personal benefit in money, property or services; or (iii) in the case of any criminal proceeding, the Indemnitee had reasonable cause to believe that the act or omission was unlawful. Without limitation, the foregoing indemnity shall extend to any liability of any Indemnitee, pursuant to a loan guaranty (except a guaranty by a limited partner of nonrecourse indebtedness of the Partnership or as otherwise provided in any such loan guaranty) or otherwise for any indebtedness of the Partnership or any Subsidiary of the Partnership (including without limitation, any indebtedness which the Partnership or any Subsidiary of the Partnership has assumed or taken subject to), and the General Partner is hereby authorized and empowered, on behalf of the Partnership, to enter into one or more indemnity agreements consistent with the provisions of this Section 7.7 in favor of any Indemnitee having or potentially having liability for any such indebtedness. The termination of any proceeding by conviction of an Indemnitee or upon a plea of nolo contendere or its equivalent by an Indemnitee, or an entry of an order of probation against an Indemnitee prior to judgment, creates a rebuttable presumption that such Indemnitee acted in a manner contrary to that specified in this Section 7.7.A. Any indemnification pursuant to this Section 7.7 shall be made only out of the assets of the Partnership, and neither the General Partner nor any Limited Partner shall have any obligation to contribute to the capital of the Partnership, or otherwise provide funds, to enable the Partnership to fund its obligations under this Section 7.7.

B. Reasonable expenses incurred by an Indemnitee who is a party to a proceeding shall be paid or reimbursed by the Partnership in advance of the final disposition of the proceeding upon receipt by the Partnership of (i) a written affirmation by the Indemnitee of the Indemnitee's good faith belief that the standard of conduct necessary for indemnification by the Partnership as authorized in Section 7.7.A. has been met, and (ii) a written undertaking by or on behalf of the Indemnitee to repay the amount if it shall ultimately be determined that the standard of conduct has not been met.

C. The indemnification provided by this Section 7.7 shall be in addition to any other rights to which an Indemnitee or any other Person may be entitled under any agreement, pursuant to any vote of the Partners, as a matter of law or otherwise, and shall continue as to an Indemnitee who has ceased to serve in such capacity unless otherwise provided in a written agreement pursuant to which such Indemnitee is indemnified.

D. The Partnership may, but shall not be obligated to, purchase and maintain insurance, on behalf of the Indemnitees and such other Persons as the General Partner shall determine, against any liability that may be asserted against or expenses that may be incurred by such Person in connection with the Partnership's activities, regardless of whether the Partnership would have the power to indemnify such Person against such liability under the provisions of this Agreement.

E. For purposes of this Section 7.7, the Partnership shall be deemed to have requested an Indemnitee to serve as fiduciary of an employee benefit plan whenever the performance by it of its duties to the Partnership also imposes duties on, or otherwise involves services by, it to the plan or participants or beneficiaries of the plan; excise taxes assessed on an Indemnitee with respect to an employee benefit plan pursuant to applicable law shall constitute fines within the meaning of Section 7.7; and actions taken or omitted by the Indemnitee with respect to an employee benefit plan in the performance of its duties for a purpose reasonably believed by it to be in the interest of the participants and beneficiaries of the plan shall be deemed to be for a purpose which is not opposed to the best interests of the Partnership.

F. In no event may an Indemnitee subject any of the Partners to personal liability by reason of the indemnification provisions set forth in this Agreement.

G. An Indemnitee shall not be denied indemnification in whole or in part under this Section 7.7 because the Indemnitee had an interest in the transaction with respect to which the indemnification applies if the transaction was otherwise permitted by the terms of this Agreement.

H. The provisions of this Section 7.7 are for the benefit of the Indemnitees, their heirs, successors, assigns and administrators and shall not be deemed to create any rights for the benefit of any other Persons. Any amendment, modification or repeal of this Section 7.7 or any provision hereof shall be prospective only and shall not in any way affect the Partnership's liability to any Indemnitee under this Section 7.7, as in effect immediately prior to such amendment, modification, or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.

Section 7.8 Liability of the General Partner

A. Notwithstanding anything to the contrary set forth in this Agreement, the General Partner and its officers and directors shall not be liable for monetary damages to the Partnership, any Partners or any Assignees for losses sustained or liabilities incurred as a result of errors in judgment or of any act or omission if the General Partner acted in good faith.

B. The Limited Partners expressly acknowledge that, as stated in Section 7.1.D, the General Partner is acting on behalf of the Partnership and the shareholders of the Company collectively, that the General Partner is under no obligation to consider the separate interests of the Limited Partners in deciding whether to cause the Partnership to take (or decline to take)

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any actions, and that the General Partner shall not be liable for monetary damages for losses sustained, liabilities incurred, or benefits not derived by Limited Partners in connection with such decisions, provided that the General Partner has acted in good faith.

C. Subject to its obligations and duties as General Partner set forth in Section 7.1.A hereof, the General Partner may exercise any of the powers granted to it by this Agreement and perform any of the duties imposed upon it hereunder either directly or by or through its agents. The General Partner shall not be responsible for any misconduct or negligence on the part of any such agent appointed by the General Partner in good faith.

D. Any amendment, modification or repeal of this Section 7.8 or any provision hereof shall be prospective only and shall not in any way affect the limitations on the General Partner's and its officers' and directors' liability to the Partnership and the Limited Partners under this Section 7.8 as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.

Section 7.9 Other Matters Concerning the General Partner

A. The General Partner may rely and shall be protected in acting, or refraining from acting, upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture, or other paper or document believed by it in good faith to be genuine and to have been signed or presented by the proper party or parties.

B. The General Partner may consult with legal counsel, accountants, appraisers, management consultants, investment bankers, architects, engineers, environmental consultants and other consultants and advisers selected by it, and any act taken or omitted to be taken in reliance upon the opinion of such Persons as to matters which such General Partner reasonably believes to be within such Person's professional or expert competence shall be conclusively presumed to have been done or omitted in good faith and in accordance with such opinion.

C. The General Partner shall have the right, in respect of any of its powers or obligations hereunder, to act through any of its duly authorized officers and duly appointed attorneys-in-fact. Each such attorney shall, to the extent provided by the General Partner in the power of attorney, have full power and authority to do and perform all and every act and duty which is permitted or required to be done by the General Partner hereunder.

D. Notwithstanding any other provisions of this Agreement or the Act, any action of the General Partner on behalf of the Partnership or any decision of the General Partner to refrain from acting on behalf of the Partnership, undertaken in the good faith belief that such

action or omission is necessary or advisable in order (i) to protect the ability of the Company to continue to qualify as a REIT; or (ii) to avoid the Company incurring any taxes under Section 857 or Section 4981 of the Code, is expressly authorized under this Agreement and is deemed approved by all of the Limited Partners.

Section 7.10 Title to Partnership Assets

Title to Partnership assets, whether real, personal or mixed and whether tangible or intangible, shall be deemed to be owned by the Partnership as an entity, and no Partner, individually or collectively, shall have any ownership interest in such Partnership assets or any portion thereof. Title to any or all of the Partnership assets may be held in the name of the Partnership, the General Partner or one or more nominees, as the General Partner may determine, including Affiliates of the General Partner. The General Partner hereby declares and warrants that any Partnership assets for which legal title is held in the name of the General Partner or any nominee or Affiliate of the General Partner shall be held by the General Partner for the use and benefit of the Partnership in accordance with the provisions of this Agreement; provided, however, that the

General Partner shall use its best efforts to cause beneficial and record title to such assets to be vested in the Partnership as soon as reasonably practicable if failure to so vest such title would have a material adverse effect on the Partnership. All Partnership assets shall be recorded as the property of the Partnership in its books and records, irrespective of the name in which legal title to such Partnership assets is held.

Section 7.11 Reliance by Third Parties

Notwithstanding anything to the contrary in this Agreement, any Person dealing with the Partnership shall be entitled to assume that the General Partner has full power and authority, without consent or approval of any other Partner or Person, to encumber, sell or otherwise use in any manner any and all assets of the Partnership and to enter into any contracts on behalf of the Partnership, and take any and all actions on behalf of the Partnership and such Person shall be entitled to deal with the General Partner as if the General Partner were the Partnership's sole party in interest, both legally and beneficially. Each Limited Partner hereby waives any and all defenses or other remedies which may be available against such Person to contest, negate or disaffirm any action of the General Partner in connection with any such dealing. In no event shall any Person dealing with the General Partner or its representatives be obligated to ascertain that the terms of this Agreement have been complied with or to inquire into the necessity or expedience of any act or action of the General Partner or its representatives. Each and every certificate, document or other instrument executed on behalf of the Partnership by the General Partner or its representatives shall be conclusive evidence in favor of any and every Person relying thereon or claiming thereunder that (i) at the time of the execution and delivery of such certificate, document or instrument, this Agreement was in full force and effect; (ii) the Person executing and delivering such certificate, document

or instrument was duly authorized and empowered to do so for and on behalf of the Partnership; and (iii) such certificate, document or instrument was duly executed and delivered in accordance with the terms and provisions of this Agreement and is binding upon the Partnership.

ARTICLE 8
RIGHTS AND OBLIGATIONS OF LIMITED PARTNERS

Section 8.1 Limitation of Liability

The Limited Partners shall have no liability under this Agreement except as expressly provided in this Agreement, including Section 10.5 hereof, or under the Act.

Section 8.2 Management of Business

No Limited Partner or Assignee (other than the General Partner, any of its Affiliates or any officer, director, employee, agent or trustee of the General Partner, the Partnership or any of their Affiliates, in their capacity as such) shall take part in the operation, management or control (within the meaning of the Act) of the Partnership's business, transact any business in the Partnership's name or have the power to sign documents for or otherwise bind the Partnership. The transaction of any such business by the General Partner, any of its Affiliates or any officer, director, employee, partner, agent or trustee of the General Partner, the Partnership or any of their Affiliates, in their capacity as such, shall not affect, impair or eliminate the limitations on the liability of the Limited Partners or Assignees under this Agreement.

Section 8.3 Outside Activities of Limited Partners

Subject to any agreements entered into pursuant to Section 7.6.E hereof and any other agreements entered into by a Limited Partner or its Affiliates with the Partnership or any of its Subsidiaries, any Limited Partner (other than the Company) and any officer, director, employee, agent, trustee, Affiliate or shareholder of any Limited Partner shall be entitled to and may have business interests and engage in business activities in addition to those relating to the Partnership, including business interests and activities that are in direct competition with the Partnership or that are enhanced by the activities of the Partnership. Neither the Partnership nor any Partners shall have any rights by virtue of this Agreement in any business ventures of any Limited Partner or Assignee. None of the Limited Partners (other than the Company) nor any other Person shall have any rights by virtue of this Agreement or the Partnership relationship established hereby in any business ventures of any other Person and such Person shall have no obligation pursuant to this Agreement to offer any interest in any

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such business ventures to the Partnership, any Limited Partner or any such other Person, even if such opportunity is of a character which, if presented to the Partnership, any Limited Partner or such other Person, could be taken by such Person.

Section 8.4 Return of Capital

Except pursuant to the right of redemption set forth in Section 8.6, no Limited Partner shall be entitled to the withdrawal or return of its Capital Contribution, except to the extent of distributions made pursuant to this Agreement or upon termination of the Partnership as provided herein. Except to the extent provided by Exhibit C hereof or as otherwise expressly provided in

this Agreement, no Limited Partner or Assignee shall have priority over any other Limited Partner or Assignee, either as to the return of Capital Contributions or as to profits, losses or distributions.

Section 8.5 Rights of Limited Partners Relating to the Partnership

A. In addition to the other rights provided by this Agreement or by the Act, and except as limited by Section 8.5.C hereof, each Limited Partner shall have the right, for a purpose reasonably related to such Limited Partner's interest as a limited partner in the Partnership, upon written demand with a statement of the purpose of such demand and at such Limited Partner's own expense (including such copying and administrative charges as the General Partner may establish from time to time):

- (1) to obtain a copy of the most recent annual and quarterly reports filed with the Securities and Exchange Commission by the Company pursuant to the Securities Exchange Act of 1934;
- (2) to obtain a copy of the Partnership's federal, state and local income tax returns for each Partnership Year;
- (3) to obtain a current list of the name and last known business, residence or mailing address of each Partner;
- (4) to obtain a copy of this Agreement and the Certificate of Limited Partnership and all amendments thereto, together with executed copies of all powers of attorney pursuant to which this Agreement, the Certificate of Limited Partnership and all amendments thereto have been executed; and
- (5) to obtain true and full information regarding the amount of cash and a description and statement of any other property or services contributed

by each Partner and which each Partner has agreed to contribute in the future, and the date on which each became a Partner.

B. The Partnership shall notify each Limited Partner, upon request, of the then current Conversion Factor and the REIT Shares Amount per Partnership Unit and, with reasonable detail, how the same was determined.

C. Notwithstanding any other provision of this Section 8.5, the General Partner may keep confidential from the Limited Partners, for such period of time as the General Partner determines in its sole and absolute discretion to be reasonable, any information that (i) the General Partner reasonably believes to be in the nature of trade secrets or other information, the disclosure of which the General Partner in good faith believes is not in the best interests of the Partnership or could damage the Partnership or its business; or (ii) the Partnership is required by law or by agreements with an unaffiliated third party to keep confidential.

Section 8.6 Redemption Right

A. Subject to Sections 8.6.B and 8.6.C hereof, on or after that date which is fourteen (14) months after the Effective Date, each Limited Partner (other than the Company) shall have the right (the "Redemption Right") to

require the Partnership to redeem on a Specified Redemption Date all or a portion of the Partnership Units held by such Limited Partner at a redemption price per Unit equal to and in the form of the Cash Amount to be paid by the Partnership. The Redemption Right shall be exercised pursuant to a Notice of Redemption delivered to the Partnership (with a copy to the Company) by the Limited Partner who is exercising the redemption right (the "Redeeming Partner"); provided, however, that the Partnership shall not be obligated to

satisfy such Redemption Right if the Company elects to purchase the Partnership Units subject to the Notice of Redemption pursuant to Section 8.6.B. A Limited Partner may not exercise the Redemption Right for less than one thousand (1,000) Partnership Units or, if such Limited Partner holds less than one thousand (1,000) Partnership Units, all of the Partnership Units held by such Partner. The Redeeming Partner shall have no right, with respect to any Partnership Units so redeemed, to receive any distributions paid on or after the Specified Redemption Date. The Assignee of any Limited Partner may exercise the rights of such Limited Partner pursuant to this Section 8.6, and such Limited Partner shall be deemed to have assigned such rights to such Assignee and shall be bound by the exercise of such rights by such Assignee. In connection with any exercise of such rights by an Assignee on behalf of a Limited Partner, the Cash Amount shall be paid by the Partnership directly to such Assignee and not to such Limited Partner.

B. Notwithstanding the provisions of Section 8.6.A, a Limited Partner that exercises the Redemption Right shall be deemed to have offered to sell the Partnership Units

described in the Notice of Redemption to the Company, and the Company will, at the direction of the Partnership as determined in the Partnership's sole and absolute discretion and only if so directed, elect to purchase directly and acquire such Partnership Units by paying to the Redeeming Partner either the Cash Amount or the REIT Shares Amount, as directed by the Partnership, on the Specified Redemption Date, whereupon the Company shall acquire the Partnership Units offered for redemption by the Redeeming Partner and shall be treated for all purposes of this Agreement as the owner of such Partnership Units. If the Company shall elect to exercise its right to purchase Partnership Units under this Section 8.6.B with respect to a Notice of Redemption, it shall so notify the Redeeming Partner within five (5) Business Days after the receipt by it of such Notice of Redemption. Unless the Company (as directed by the Partnership in its sole and absolute discretion) shall exercise its right to purchase Partnership Units from the Redeeming Partner pursuant to this Section 8.6.B, the Company shall not have any obligation to the Redeeming Partner or the Partnership with respect to the Redeeming Partner's exercise of the Redemption Right. In the event the Company shall exercise its right to purchase Partnership Units with respect to the exercise of a Redemption Right in the manner described in the first sentence of this Section 8.6.B, the Partnership shall have no obligation to pay any amount to the Redeeming Partner with respect to such Redeeming Partner's exercise of such Redemption Right, and each of the Redeeming Partner, the Partnership, and the Company shall treat the transaction between the Company and the Redeeming Partner, for federal income tax purposes, as a sale of the Redeeming Partner's Partnership Units to the Company. Each Redeeming Partner agrees to execute such documents as the Company may reasonably require in connection with the issuance of REIT Shares upon exercise of the Redemption Right.

C. Notwithstanding the provisions of Section 8.6.A and Section 8.6.B, a Partner shall not be entitled to exercise the Redemption Right pursuant to Section 8.6.A if the delivery of REIT Shares to such Partner on the Specified Redemption Date by the Company pursuant to Section 8.6.B (regardless of whether or not the Company would in fact exercise its rights under Section 8.6.B) would be prohibited under the Certificate of Incorporation of the Company.

D. In the event that the Partnership issues additional Partnership Interests pursuant to Section 4.2.A hereof, the General Partner shall make such revisions to this Section 8.6 as it determines are necessary to reflect the issuance of such additional Partnership Interests.

Section 8.7 Consent and Guarantee Rights of Certain Limited Partners

A. Each of the properties listed on Exhibit E hereto is referred to as a

"Designated Property." At any time during the 10 year period following the Effective Date, the Partnership may not sell or otherwise dispose of a Designated Property or a Successor Designated Property (as hereinafter defined) in a transaction that causes gain recognition under

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Section 752 (or any other section) of the Code for the Consenting Partners without the consent of each of the Consenting Partners who contributed such Designated Property. For purposes of this Section 8.7, the term "Successor Designated Property" means a property acquired by the Partnership upon the disposition of a Designated Property in a Section 1031 like kind exchange or any other exchange transaction that does not result in gain recognition. The provisions of this Section 8.7 shall not be applicable with respect to any Consenting Partner if at any time such Consenting Partner beneficially owns fewer than 30% of the number of Partnership Units owned by such Consenting Partner following the closing of the initial public offering of REIT Shares on the date hereof and the related formation transactions that occurred simultaneously therewith.

B. The General Partner agrees to cause the Partnership to use its reasonable commercial efforts to cause its lenders to permit the Consenting Partners or either of them individually to guarantee any indebtedness of the Partnership (including additional indebtedness or substitute indebtedness incurred after the Effective Date) and to thereby become the guarantor or guarantors of last resort with respect to such additional or substitute indebtedness. Each Partner by such Partner's execution hereof agrees that the right of each Consenting Partner under this Section 8.7.B shall include the right (i) to become the guarantor of last resort of any indebtedness of the Partnership guaranteed by any other Partner of the Partnership or (ii) to increase such Consenting Partner's Recourse Debt Amount set forth on Exhibit F

hereto, without, in either case under the preceding clauses (i) and (ii) any further action by or notice to or approval of any other Partner, provided that such Consenting Partner has not expressly waived his right with respect to such indebtedness.

C. This Section 8.7 may not be amended without the written consent of each Consenting Partner.

ARTICLE 9
BOOKS, RECORDS, ACCOUNTING AND REPORTS

Section 9.1 Records and Accounting

The General Partner shall keep or cause to be kept at the principal office of the Partnership those records and documents required to be maintained by the Act and other books and records deemed by the General Partner to be appropriate with respect to the Partnership's business, including, without limitation, all books and records necessary to provide to the Limited Partners any information, lists and copies of documents required to be provided pursuant to Section 9.3 hereof. Any records maintained by or on behalf of the Partnership in the regular course of its business may be kept on, or be in the form of, punch cards, magnetic tape, photographs, micrographics or any other information storage device, provided that the

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records so maintained are convertible into clearly legible written form within a reasonable period of time. The books of the Partnership shall be maintained, for financial and tax reporting purposes, on an accrual basis in accordance with generally accepted accounting principles, or such other basis as the General Partner determines to be necessary or appropriate.

Section 9.2 Fiscal Year

The fiscal year of the Partnership shall be the calendar year.

Section 9.3 Reports

A. As soon as practicable, but in no event later than one hundred five (105) days after the close of each Partnership Year, the General Partner shall cause to be mailed to each Limited Partner as of the close of the Partnership Year, an annual report containing financial statements of the Partnership, or of the Company if such statements are prepared solely on a consolidated basis with the Company, for such Partnership Year, presented in accordance with generally accepted accounting principles, such statements to be audited by a nationally recognized firm of independent public accountants selected by the General Partner.

B. As soon as practicable, but in no event later than one hundred five (105) days after the close of each calendar quarter (except the last calendar quarter of each year), the General Partner shall cause to be mailed to each Limited Partner as of the last day of the calendar quarter, a report containing unaudited financial statements of the Partnership, or of the Company, if such statements are prepared solely on a consolidated basis with the Company, and such other information as may be required by applicable law or regulation, or as the General Partner determines to be appropriate.

ARTICLE 10
TAX MATTERS

Section 10.1 Preparation of Tax Returns

The General Partner shall arrange for the preparation and timely filing of all returns of Partnership income, gains, deductions, losses and other items required of the Partnership for federal and state income tax purposes and shall use all reasonable efforts to furnish, within ninety (90) days of the close of each taxable year, the tax information reasonably required by Limited Partners for federal and state income tax reporting purposes.

Section 10.2 Tax Elections

Except as otherwise provided herein, the General Partner shall, in its sole and absolute discretion, determine whether to make any available election pursuant to the Code. Notwithstanding the above, in making any such tax election the General Partner shall take into account the tax consequences to the Limited Partners resulting from any such election. The General Partner shall make such tax elections on behalf of the Partnership as the Limited Partners holding a majority of the Percentage Interests of the Limited Partners (excluding Limited Partner Interests held by the Company) request, provided that the General Partner believes that such election is not adverse to the interests of the General Partner, including its interest in preserving its qualification as a REIT under the Code. The General Partner intends that Section 704(c) allocations with respect to property contributed as of the Effective Date shall be made by the election of the so-called "traditional method" with curative allocations limited solely to allocations of gain on sale of such contributed property to the extent allocations of depreciation deductions with respect to such contributed property to non-contributing Partners have been limited by the so-called "ceiling rule", as described in Regulations Section 1.704-3(c)(3)(iii)(B). The General Partner shall have the right to seek to revoke any tax election it makes (including, without limitation, the election under Section 754 of the Code) upon the General Partner's determination, in its sole and absolute discretion, that such revocation is in the best interests of the Partners.

Section 10.3 Tax Matters Partner

A. The General Partner shall be the "tax matters partner" of the Partnership for federal income tax purposes. Pursuant to Section 6230(e) of the Code, upon receipt of notice from the IRS of the beginning of an administrative proceeding with respect to the Partnership, the tax matters partner shall furnish the IRS with the name, address, taxpayer identification number, and profit interest of each of the Limited Partners and the Assignees; provided,

however, that such information is provided to the Partnership by the Limited

Partners and the Assignees.

B. The tax matters partner is authorized, but not required:

- (1) to enter into any settlement with the IRS with respect to any administrative or judicial proceedings for the adjustment of Partnership items required to be taken into account by a Partner for income tax purposes (such administrative proceedings being referred to as a "tax audit" and such judicial proceedings being referred to as "judicial review"), and in the settlement agreement the tax matters partner may expressly state that such agreement shall bind all Partners, except that such settlement agreement shall not bind any Partner (i) who (within the

time prescribed pursuant to the Code and Regulations) files a statement with the IRS providing that the tax matters partner shall not have the authority to enter into a settlement agreement on behalf of such Partner; or (ii) who is a "notice partner" (as defined in Section 6231(a)(8) of the Code) or a member of a "notice group" (as defined in Section 6223(b)(2) of the Code);

- (2) in the event that a notice of a final administrative adjustment at the Partnership level of any item required to be taken into account by a Partner for tax purposes (a "final adjustment") is mailed to the tax matters partner, to seek judicial review of such final adjustment, including the filing of a petition for readjustment with the Tax Court or the filing of a complaint for refund with the United States Claims Court or the District Court of the United States for the district in which the Partnership's principal place of business is located;
- (3) to intervene in any action brought by any other Partner for judicial review of a final adjustment;
- (4) to file a request for an administrative adjustment with the IRS and, if any part of such request is not allowed by the IRS, to file an appropriate pleading (petition or complaint) for judicial review with respect to such request;
- (5) to enter into an agreement with the IRS to extend the period for assessing any tax which is attributable to any item required to be taken account of by a Partner for tax purposes, or an item affected by such item; and
- (6) to take any other action on behalf of the Partners or the Partnership in connection with any tax audit or judicial review proceeding to the extent permitted by applicable law or regulations.

The taking of any action and the incurring of any expense by the tax matters partner in connection with any such proceeding, except to the extent required by law, is a matter in the sole and absolute discretion of the tax matters partner and the provisions relating to indemnification of the General Partner set forth in Section 7.7 of this Agreement shall be fully applicable to the tax matters partner in its capacity as such.

C. The tax matters partner shall receive no compensation for its services. All third party costs and expenses incurred by the tax matters partner in performing its duties as such (including legal and accounting fees and expenses) shall be borne by the Partnership. Nothing

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herein shall be construed to restrict the Partnership from engaging an accounting firm to assist the tax matters partner in discharging its duties hereunder, so long as the compensation paid by the Partnership for such services is reasonable.

Section 10.4 Organizational Expenses

The Partnership shall elect to deduct expenses, if any, incurred by it in organizing the Partnership ratably over a sixty (60) month period as provided in Section 709 of the Code.

Section 10.5 Withholding

Each Limited Partner hereby authorizes the Partnership to withhold from, or pay on behalf of or with respect to, such Limited Partner any amount of federal, state, local, or foreign taxes that the General Partner determines that the Partnership is required to withhold or pay with respect to any amount distributable or allocable to such Limited Partner pursuant to this Agreement, including, without limitation, any taxes required to be withheld or paid by the Partnership pursuant to Sections 1441, 1442, 1445, or 1446 of the Code. Any amount paid on behalf of or with respect to a Limited Partner shall constitute a loan by the Partnership to such Limited Partner, which loan shall be repaid by such Limited Partner within fifteen (15) days after notice from the General Partner that such payment must be made unless (i) the Partnership withholds such payment from a distribution which would otherwise be made to the Limited Partner; or (ii) the General Partner determines, in its sole and absolute discretion, that such payment may be satisfied out of the available funds of the Partnership which would, but for such payment, be distributed to the Limited Partner. Any amounts withheld pursuant to the foregoing clauses (i) or (ii) shall be treated as having been distributed to such Limited Partner. Each Limited Partner hereby unconditionally and irrevocably grants to the Partnership a security interest in such Limited Partner's Partnership Interest to secure such Limited Partner's obligation to pay to the Partnership any amounts required to be paid pursuant to this Section 10.5. In the event that a Limited Partner fails to pay any amounts owed to the Partnership pursuant to this Section 10.5 when due, the General Partner may, in its sole and absolute discretion, elect to make the payment to the Partnership on behalf of such defaulting Limited Partner, and in such event shall be deemed to have loaned such amount to such defaulting Limited Partner and shall succeed to all rights and remedies of the Partnership as against such defaulting Limited Partner. Without limitation, in such event the General Partner shall have the right to receive distributions that would otherwise be distributable to such defaulting Limited Partner until such time as such loan, together with all interest thereon, has been paid in full, and any such distributions so received by the General Partner shall be treated as having been distributed to the defaulting Limited Partner and immediately paid by the defaulting Limited Partner to the General Partner in repayment of such loan. Any amounts payable by a Limited Partner hereunder shall bear interest at the lesser of (A) the base rate on corporate loans at large United States money center commercial banks, as published from time to time in

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The Wall Street Journal, plus four (4) percentage points, or (B) the maximum lawful rate of interest on such obligation, such interest to accrue from the date such amount is due (i.e., fifteen (15) days after demand) until such amount is paid in full. Each Limited Partner shall take such actions as the Partnership or the General Partner shall request in order to perfect or enforce the security interest created hereunder.

ARTICLE 11
TRANSFERS AND WITHDRAWALS

Section 11.1 Transfer

A. The term "transfer," when used in this Article 11 with respect to a Partnership Unit, shall be deemed to refer to a transaction by which the General Partner purports to assign all or any part of its General Partner Interest to another Person or by which a Limited Partner purports to assign all or any part of its Limited Partner Interest to another Person, and includes a sale, assignment, gift, pledge, encumbrance, hypothecation, mortgage, exchange or any other disposition by operation of law or otherwise. The term "transfer" when used in this Article 11 does not include any redemption of Partnership Interests by the Partnership from a Limited Partner or any acquisition of Partnership Units from a Limited Partner by the Company pursuant to Section 8.6. No part of the interest of a Limited Partner shall be subject to the claims of any creditor, any spouse for alimony or support, or to legal process, and may not be voluntarily or involuntarily alienated or encumbered except as may be specifically provided for in this Agreement or consented to by the General Partner.

B. No Partnership Interest shall be transferred, in whole or in part, except in accordance with the terms and conditions set forth in this Article 11. Any transfer or purported transfer of a Partnership Interest not made in accordance with this Article 11 shall be null and void.

Section 11.2 Transfer of the Company's General Partner Interest and

Limited Partner Interest; Extraordinary Transactions

A. The Company may not transfer any of its General Partner Interest or withdraw as General Partner, or transfer any of its Limited Partner Interest, or engage in an Extraordinary Transaction, except, in any such case, (i) if such Extraordinary Transaction is, or such transfer or withdrawal is pursuant to an Extraordinary Transaction that is, permitted under Section 11.2(B) or (ii) if Limited Partners holding at least three-fourths of the Percentage Interests of the Limited Partners (other than Limited Partner Interests held by the Company or its Affiliates) consent to such transfer or withdrawal or Extraordinary

Transaction, or (iii) if such transfer is to an entity that is wholly-owned by the Company and is a Qualified REIT Subsidiary under Section 856(i) of the Code.

B. The General Partner is permitted to engage in the following Extraordinary Transactions without the approval or vote of the Limited Partners except as provided in Section 11.2(C):

- (i) an Extraordinary Transaction in connection with which all Limited Partners either will receive, or will have the right to elect to receive, for each Partnership Unit an amount of cash, securities, or other property equal to the product of the REIT Shares Amount and the greatest amount of cash, securities or other property paid to a holder of one REIT Share in consideration of one REIT Share pursuant to the terms of the Extraordinary Transaction; provided that, if, in -----
connection with the Extraordinary Transaction, a purchase, tender or exchange offer shall have been made to and accepted by the holders of the outstanding REIT Shares, each holder of Partnership Units shall receive, or shall have the right to elect to receive, the greatest amount of cash, securities, or other property which such holder would have received had it exercised its right to Redemption (as set forth in Section 8.6) and received REIT Shares in exchange for its Partnership Units immediately prior to the expiration of such purchase, tender or exchange offer and had thereupon accepted such purchase, tender or exchange offer and then such Extraordinary Transaction shall have been consummated; and
- (ii) a merger, or other combination of assets, with another entity if: (w) immediately after such Extraordinary Transaction, substantially all of the assets directly or indirectly owned by the surviving entity, other than Partnership Units held by such General Partner, are owned directly or indirectly by the Partnership or another limited partnership or limited liability company which is the survivor of a merger, consolidation or combination of assets with the Partnership (in each case, the "Surviving Partnership"); (x) the Limited Partners own a percentage interest of the Surviving Partnership based on the relative fair market value of the net assets of the Partnership (as determined pursuant to Section 11.2.E) and the other net assets of the Surviving Partnership (as determined pursuant to Section 11.2.E) immediately prior to the consummation of such transaction; (y) the rights preferences and privileges of the Limited Partners in the Surviving Partnership are at least as favorable as those in effect immediately prior to the consummation of such transaction and as those applicable to any other limited partners or non-managing members

of the Surviving Partnership; and (z) such rights of the Limited Partners include the right to exchange their interests in the Surviving Partnership for at least one of: (a) the consideration available to such Limited Partners pursuant to Section 11.2.B(i) or (b) if the ultimate controlling person of the Surviving Partnership has publicly traded common equity securities, such common equity securities, with an exchange ratio based on the relative fair market value of such securities (as determined pursuant to Section 11.2.E) and the REIT Shares.

C. The General Partner shall not consummate any Extraordinary Transaction in connection with which it conducted a vote of its stockholders (a "Stockholder Vote") unless the General Partner also conducts a vote of the Partners of the Partnership (the "Partnership Vote") in which (i) the General Partner provides the Partners with advance notice equal in time to the advance notice given in the case of the Stockholder Vote, (ii) in connection with such advance notice the General Partner provides the Partners with written materials describing the proposed Extraordinary Transaction as well as the tax effect of the consummation thereof on the Limited Partners, (iii) in such vote of the Partners, the General Partner votes all Partnership Interests (General and Limited) held by it in proportion to the manner in which all outstanding shares of capital stock of the General Partner were voted at the Stockholder Meeting (such votes to be "For," "Against," "Abstain" and "Not Present"), and (iv) the total votes of the General and Limited Partners voted "For," "Against," "Abstain" and "Not Present" would be sufficient (measured in percentage terms), if such vote were a vote by the Company of its stockholders, to approve the Extraordinary Transaction. For purposes of the Partnership Vote, each holder of a Partnership Interest shall be entitled to a number of votes equal to the total votes such holder would have been entitled to at the Stockholder Meeting had such holder presented its Partnership Interest for redemption and such Partnership Interest had been acquired by the Company for the REIT Shares Amount of REIT Shares prior to the record date therefor.

D. Without in any way limiting the exculpation from liability set forth in Section 7.1.D and 7.8.B, in connection with any transaction permitted by Section 11.2.B or Section 11.2.C hereof, the General Partner shall use its commercially reasonable efforts to structure such Extraordinary Transaction to avoid causing the Limited Partners to recognize gain for federal income tax purposes by virtue of the occurrence of or their participation in such Extraordinary Transaction.

E. In connection with any transaction permitted by Section 11.2.B or 11.2.C, the relative fair market values shall be reasonably determined by the General Partner as of the time of such transaction and, to the extent applicable, shall be no less favorable to the Limited Partners than the relative values reflected in the terms of such transaction.

Section 11.3 Limited Partners' Rights to Transfer

A. Subject to the provisions of Sections 11.3.C, 11.3.D, 11.3.E, and 11.4, a Limited Partner (other than the Company) may transfer, with or without the consent of the General Partner, all or any portion of its Partnership Interest, or any of such Limited Partner's economic rights as a Limited Partner.

B. If a Limited Partner is subject to Incapacity, the executor, administrator, trustee, committee, guardian, conservator or receiver of such Limited Partner's estate shall have all of the rights of a Limited Partner, but not more rights than those enjoyed by other Limited Partners, for the purpose of settling or managing the estate and such power as the Incapacitated Limited Partner possessed to transfer all or any part of his or its interest in the Partnership. The Incapacity of a Limited Partner, in and of itself, shall not dissolve or terminate the Partnership.

C. The General Partner may prohibit any transfer by a Limited Partner of its Partnership Units if, in the opinion of legal counsel to the Partnership, such transfer would require filing of a registration statement under the Securities Act of 1933 or would otherwise violate any federal or state securities laws or regulations applicable to the Partnership or the Partnership Units.

D. No transfer by a Limited Partner of its Partnership Units may be made to any Person if (i) in the opinion of legal counsel for the Partnership, it would result in the Partnership being treated as an association taxable as a corporation; (ii) it is made within one year after the consummation of the initial public offering of the Company; (iii) such transfer is effectuated through an "established securities market" or a "secondary market (or the substantial equivalent thereof)" with the meaning of Section 7704 of the Code; (iv) such transfer would cause the Partnership to become, with respect to any employee benefit plan subject to Title I of ERISA, a "party-in-interest" (as defined in Section 3(14) of ERISA) or a "disqualified person" (as defined in Section 4975(c) of the Code); (v) such transfer would, in the opinion of legal counsel for the Partnership, cause any portion of the assets of the Partnership to constitute assets of any employee benefit plan pursuant to Department of Labor Regulations Section 2510.2-101; or (vi) such transfer would subject the Partnership to be regulated under the Investment Company Act of 1940, the Investment Advisors Act of 1940 or the Employee Retirement Income Security Act of 1974, each as amended.

E. No transfer of any Partnership Units may be made to a lender to the Partnership or any Person who is related (within the meaning of Section 1.752-4(b) of the Regulations) to any lender to the Partnership whose loan constitutes a Nonrecourse Liability, without the consent of the General Partner, in its sole and absolute discretion; provided that as a condition to such consent the lender

will be required to enter into an arrangement with the Partnership

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and the General Partner to redeem for the Cash Amount any Partnership Units in which a security interest is held simultaneously with the time at which such lender would be deemed to be a partner in the Partnership for purposes of allocating liabilities to such lender under Section 752 of the Code.

Section 11.4 Substituted Limited Partners

A. No Limited Partner shall have the right to substitute a transferee as a Limited Partner in his place. The General Partner shall, however, have the right to consent to the admission of a transferee of the interest of a Limited Partner pursuant to this Section 11.4 as a Substituted Limited Partner, which consent may be given or withheld by the General Partner in its sole and absolute discretion. The General Partner's failure or refusal to permit a transferee of any such interests to become a Substituted Limited Partner shall not give rise to any cause of action against the Partnership or any Partner.

B. A transferee who has been admitted as a Substituted Limited Partner in accordance with this Article 11 shall have all the rights and powers and be subject to all the restrictions and liabilities of a Limited Partner under this Agreement.

C. Upon the admission of a Substituted Limited Partner, the General Partner shall amend Exhibit A to reflect the name, address, number of

Partnership Units, and Percentage Interest of such Substituted Limited Partner and to eliminate or adjust, if necessary, the name, address and interest of the predecessor of such Substituted Limited Partner.

Section 11.5 Assignees

If the General Partner, in its sole and absolute discretion, does not consent to the admission of any permitted transferee as a Substituted Limited Partner, as described in Section 11.4, such transferee shall be considered an Assignee for purposes of this Agreement. An Assignee shall be deemed to have had assigned to it, and shall be entitled to receive distributions from the Partnership and the share of Net Income, Net Losses, Recapture Income, and any other items, gain, loss deduction and credit of the Partnership attributable to the Partnership Units assigned to such transferee, but except as otherwise provided in Section 8.6.A hereof shall not be deemed to be a holder of Partnership Units for any other purpose under this Agreement, and shall not be entitled to vote such Partnership Units in any matter presented to the Limited Partners for a vote (such Partnership Units being deemed to have been voted on such matter in the same proportion as all other Partnership Units held by Limited Partners are voted). In the event any such transferee desires to make a further assignment of any such Partnership Units, such transferee shall be subject to all of the provisions of this Article 11 to the same extent and in the same manner as any Limited Partner desiring to make an assignment of Partnership Units.

Section 11.6 General Provisions

A. No Limited Partner may withdraw from the Partnership other than as a result of a permitted transfer of all of such Limited Partner's Partnership Units in accordance with this Article 11 or pursuant to redemption of all of its Partnership Units under Section 8.6.

B. Any Limited Partner who shall transfer all of its Partnership Units in a transfer permitted pursuant to this Article 11 shall cease to be a Limited Partner upon the admission of all Assignees of such Partnership Units as Substitute Limited Partners. Similarly, any Limited Partner who shall transfer all of its Partnership Units pursuant to a redemption of all of its Partnership Units under Section 8.6 shall cease to be a Limited Partner.

C. Transfers pursuant to this Article 11 may only be made on the first day of a fiscal quarter of the Partnership, unless the General Partner otherwise agrees.

D. If any Partnership Interest is transferred or assigned during any quarterly segment of the Partnership's fiscal year in compliance with the provisions of this Article 11 or redeemed or transferred pursuant to Section 8.6 on any day other than the first day of a Partnership Year, then Net Income, Net Losses, each item thereof and all other items attributable to such interest for such Partnership Year shall be divided and allocated between the transferor Partner and the transferee Partner by taking into account their varying interests during the Partnership Year in accordance with Section 706(d) of the Code, using the interim closing of the books method. Solely for purposes of making such allocations, each of such items for the calendar month in which the transfer or assignment occurs shall be allocated to the transferee Partner, and none of such items for the calendar month in which a redemption occurs shall be allocated to the Redeeming Partner; provided, however, that the General Partner

may adopt such other conventions relating to allocations in connection with transfers, assignments or redemptions as it determines are necessary or appropriate. All distributions of Available Cash attributable to such Partnership Unit with respect to which the Partnership Record Date is before the date of such transfer, assignment, or redemption shall be made to the transferor Partner or the Redeeming Partner, as the case may be, and in the case of a transfer or assignment other than a redemption, all distributions of Available Cash thereafter attributable to such Partnership Unit shall be made to the transferee Partner.

ARTICLE 12
ADMISSION OF PARTNERS

Section 12.1 Admission of Successor General Partner

A successor to all of the General Partner Interest pursuant to Section 11.2 hereof who is proposed to be admitted as a successor General Partner shall be admitted to the Partnership as the General Partner, effective upon such transfer. Any such transferee shall carry on the business of the Partnership without dissolution. In each case, the admission shall be subject to the successor General Partner executing and delivering to the Partnership an acceptance of all of the terms and conditions of this Agreement and such other documents or instruments as may be required to effect the admission. In the case of such admission on any day other than the first day of a Partnership Year, all items attributable to the General Partner Interest for such Partnership Year shall be allocated between the transferring General Partner and such successor as provided in Section 11.6.D hereof.

Section 12.2 Admission of Additional Limited Partners

A. After the admission to the Partnership of the initial Limited Partners on the date hereof, a Person who makes a Capital Contribution to the Partnership in accordance with this Agreement shall be admitted to the Partnership as an Additional Limited Partner only upon furnishing to the General Partner (i) evidence of acceptance in form satisfactory to the General Partner of all of the terms and conditions of this Agreement, including, without limitation, the power of attorney granted in Section 2.4 hereof and (ii) such other documents or instruments as may be required in the discretion of the General Partner in order to effect such Person's admission as an Additional Limited Partner.

B. Notwithstanding anything to the contrary in this Section 12.2, no Person shall be admitted as an Additional Limited Partner without the consent of the General Partner, which consent may be given or withheld in the General Partner's sole and absolute discretion. The admission of any Person as an Additional Limited Partner shall become effective on the date upon which the name of such Person is recorded on the books and records of the Partnership, following the consent of the General Partner to such admission.

C. If any Additional Limited Partner is admitted to the Partnership on any day other than the first day of a Partnership Year, then Net Income, Net Losses, each item thereof and all other items allocable among Partners and Assignees for such Partnership Year shall be allocated among such Additional Limited Partner and all other Partners and Assignees by taking into account their varying interests during the Partnership Year in accordance with Section 706(d) of the Code, using any convention permitted by law and selected by the General Partner. Solely for purposes of making such allocations, each such item for the calendar

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month in which an admission of any Additional Limited Partner occurs shall be allocated among all of the Partners and Assignees, including such Additional Limited Partner; provided, however, that the General Partner may adopt such

other conventions relating to allocations to Additional Limited Partners as it determines are necessary or appropriate. All distributions of Available Cash with respect to which the Partnership Record Date is before the date of such admission shall be made solely to Partners and Assignees, other than the Additional Limited Partner, and all distributions of Available Cash thereafter shall be made to all of the Partners and Assignees, including such Additional Limited Partner.

Section 12.3 Amendment of Agreement and Certificate of Limited Partnership

For the admission to the Partnership of any Partner, the General Partner shall take all steps necessary and appropriate under the Act to amend the records of the Partnership and, if necessary, to prepare as soon as practical an amendment of this Agreement (including an amendment of Exhibit A) and, if

required by law, shall prepare and file an amendment to the Certificate of Limited Partnership and may for this purpose exercise the power of attorney granted pursuant to Section 2.4 hereof.

ARTICLE 13
DISSOLUTION, LIQUIDATION AND TERMINATION

Section 13.1 Dissolution

The Partnership shall not be dissolved by the admission of Substituted Limited Partners or Additional Limited Partners or by the admission of a successor General Partner in accordance with the terms of this Agreement. Upon the withdrawal of the General Partner, any successor General Partner shall continue the business of the Partnership. The Partnership shall dissolve, and its affairs shall be wound up, only upon the first to occur of any of the following ("Liquidating Events"):

A. the expiration of its term as provided in Section 2.5 hereof;

B. an event of withdrawal of the General Partner, as defined in the Act (other than an event of bankruptcy), unless, within ninety (90) days after such event of withdrawal a majority in interest of the remaining Partners agree in writing to continue the business of the Partnership and to the appointment, effective as of the date of withdrawal, of a successor General Partner;

C. from and after the date of this Agreement through December 31, 2055, an election to dissolve the Partnership made by the General Partner with the Consent of Partners

[Operating Partnership Agreement]

holding eighty-five percent (85%) of the Percentage Interests of the Limited Partners (including Limited Partner Interests held by the Company);

D. on or after January 1, 2056, an election to dissolve the Partnership made by the General Partner, in its sole and absolute discretion;

E. entry of a decree of judicial dissolution of the Partnership pursuant to the provisions of the Act;

F. the sale of all or substantially all of the assets and properties of the Partnership; or

G. a final and non-appealable judgment is entered by a court of competent jurisdiction ruling that the General Partner is bankrupt or insolvent, or a final and non-appealable order for relief is entered by a court with appropriate jurisdiction against the General Partner, in each case under any federal or state bankruptcy or insolvency laws as now or hereafter in effect, unless prior to the entry of such order or judgment all of the remaining Partners agree in writing to continue the business of the Partnership and to the appointment, effective as of a date prior to the date of such order or judgment, of a substitute General Partner.

Section 13.2 Winding Up

A. Upon the occurrence of a Liquidating Event, the Partnership shall continue solely for the purposes of winding up its affairs in an orderly manner, liquidating its assets, and satisfying the claims of its creditors and Partners. No Partner shall take any action that is inconsistent with, or not necessary to or appropriate for, the winding up of the Partnership's business and affairs. The General Partner, or, in the event there is no remaining General Partner, any Person elected by a majority in interest of the Limited Partners (the General Partner or such other Person being referred to herein as the "Liquidator"), shall be responsible for overseeing the winding up and dissolution of the Partnership and shall take full account of the Partnership's liabilities and property and the Partnership property shall be liquidated as promptly as is consistent with obtaining the fair value thereof, and the proceeds therefrom (which may, to the extent determined by the General Partner, include shares of common stock in the Company) shall be applied and distributed in the following order:

- (1) First, to the payment and discharge of all of the Partnership's debts and liabilities to creditors other than the Partners;
- (2) Second, to the payment and discharge of all of the Partnership's debts and liabilities to the General Partner;

[Operating Partnership Agreement]

- (3) Third, to the payment and discharge of all of the Partnership's debts and liabilities to the other Partners; and
- (4) The balance, if any, to the General Partner and Limited Partners in accordance with their Capital Accounts, after giving effect to all contributions, distributions, and allocations for all periods.

The General Partner shall not receive any additional compensation for any services performed pursuant to this Article 13.

B. Notwithstanding the provisions of Section 13.2.A hereof which require liquidation of the assets of the Partnership, but subject to the order of priorities set forth therein, if prior to or upon dissolution of the Partnership the Liquidator determines that an immediate sale of part or all of the Partnership's assets would be impractical or would cause undue loss to the Partners, the Liquidator may, in its sole and absolute discretion, defer for a reasonable time the liquidation of any assets except those necessary to satisfy liabilities of the Partnership (including to those Partners as creditors) and/or distribute to the Partners, in lieu of cash, as tenants in common and in accordance with the provisions of Section 13.2.A hereof, undivided interests in such Partnership assets as the Liquidator deems not suitable for liquidation. Any such distributions in kind shall be made only if, in the good faith judgment of the Liquidator, such distributions in kind are in the best interest of the Partners, and shall be subject to such conditions relating to the disposition and management of such properties as the Liquidator deems reasonable and equitable and to any agreements governing the operation of such properties at such time. The Liquidator shall determine the fair market value of any property distributed in kind using such reasonable method of valuation as it may adopt.

C. In the discretion of the Liquidator, a pro rata portion of the distributions that would otherwise be made to the General Partner and Limited Partners pursuant to this Article 13 may be:

- (1) distributed to a trust established for the benefit of the General Partner and Limited Partners for the purposes of liquidating Partnership assets, collecting amounts owed to the Partnership, and paying any contingent or unforeseen liabilities or obligations of the Partnership or the General Partner arising out of or in connection with the Partnership. The assets of any such trust shall be distributed to the General Partner and Limited Partners from time to time, in the reasonable discretion of the Liquidator, in the same proportions as the amount distributed to such trust by the Partnership would otherwise have been distributed to the General Partner and Limited Partners pursuant to this Agreement; or

- (2) withheld or escrowed to provide a reasonable reserve for Partnership liabilities (contingent or otherwise) and to reflect the unrealized portion of any installment obligations owed to the Partnership, provided that such withheld or -----
escrowed amounts shall be distributed to the General Partner and Limited Partners in the manner and order of priority set forth in Section 13.2.A as soon as practicable.

Section 13.3 Compliance with Timing Requirements of Regulations

In the event the Partnership is "liquidated" within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g), distributions shall be made pursuant to this Article 13 to the General Partner and Limited Partners who have positive Capital Accounts in compliance with Regulations Section 1.704-1(b)(2)(ii)(b)(2).

If the General Partner has a deficit balance in his Capital Account (after giving effect to all contributions, distributions and allocations for all Fiscal Years or portions thereof, including the year during which such liquidation occurs, the General Partner shall contribute to the capital of the Partnership the amount necessary to restore such deficit balance to zero in compliance with Treasury Regulations Section 1.704-1(b)(2)(ii)(b)(3)). If any Limited Partner

has a deficit balance in its Capital Account (after giving effect to all contributions, distributions and allocations for all Fiscal Years or portions thereof, including the year during which such liquidation occurs), each such Limited Partner shall be obligated to contribute cash to the capital of the Partnership in an amount equal to the lesser of (i) the amount required to increase its Capital Account as of such date to zero or (ii) such Limited Partner's Limited Partner Recourse Debt Percentage multiplied by the Recourse Debt Amount. Any such contribution required of a Partner hereunder shall be made on or before the later of (i) the end of the Partnership Year in which the interest of such Partner is liquidated or (ii) the ninetieth (90th) day following the date of such liquidation. Notwithstanding any provision hereof to the contrary, all amounts so contributed by a Limited Partner to the capital of the Partnership shall, upon the liquidation of the Partnership under Article XIII, be paid only to any then creditors of the Partnership, including Partners that are Partnership creditors (in the order provided in Section 13.2 hereof), and shall not be distributed to the other Partners then having positive balances in their respective Capital Accounts.

After the death of a Limited Partner, the executor of the estate of such Limited Partner may elect to reduce (or eliminate) the deficit Capital Account restoration obligation of such Limited Partner pursuant to this Section 13.3. Such election may be made by such executor by delivering to the General Partner within two hundred seventy (270) days of the death of such Limited Partner a written notice setting forth the maximum deficit balance in his Capital Account that such executor agrees to restore under Section 13.3, if any. If such executor does not make a timely election pursuant to this Section 13.3 (whether or not the balance in his

Capital Account is negative at such time), then such Limited Partner's estate (and the beneficiaries thereof who receive distribution of Partnership Interests therefrom) shall be deemed to have a deficit Capital Account restoration obligation as set forth pursuant to the terms of Section 13.3. Any Limited Partner which is itself a partnership may likewise elect, after the death of its respective partner, to reduce (or eliminate) its deficit Capital Account restoration obligation pursuant to Section 13.3 by delivering a similar written notice to the General Partner within the time period specified herein. Any such partnership that does not make any such timely election shall similarly be deemed to have a deficit Capital Account restoration obligation as set forth pursuant to the terms of Section 13.3.

Section 13.4 Deemed Distribution and Recontribution

Notwithstanding any other provision of this Article 13, in the event the Partnership is considered "liquidated" within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g), but no Liquidating Event has occurred, the Partnership's property shall not be liquidated, the Partnership's liabilities shall not be paid or discharged, and the Partnership's affairs shall not be wound up. Instead, for federal income tax purposes and for purposes of maintaining Capital Accounts pursuant to Exhibit B hereto, the Partnership shall be deemed to have

distributed the property in kind to the General Partner and Limited Partners, who shall be deemed to have assumed and taken such property subject to all Partnership liabilities, all in accordance with their respective Capital Accounts. Immediately thereafter, the General Partner and Limited Partners shall be deemed to have recontributed the Partnership property in kind to the Partnership, which shall be deemed to have assumed and taken such property subject to all such liabilities.

Section 13.5 Rights of Limited Partners

Except as otherwise provided in this Agreement, each Limited Partner shall look solely to the assets of the Partnership for the return of its Capital Contributions and shall have no right or power to demand or receive property other than cash from the Partnership. Except as otherwise provided in this Agreement, no Limited Partner shall have priority over any other Partner as to the return of its Capital Contributions, distributions, or allocations.

Section 13.6 Notice of Dissolution

In the event a Liquidating Event occurs or an event occurs that would, but for the provisions of an election or objection by one or more Partners pursuant to Section 13.1, result in a dissolution of the Partnership, the General Partner shall, within thirty (30) days thereafter, provide written notice thereof to each of the Partners.

Section 13.7 Termination of Partnership and Cancellation of

Certificate of Limited Partnership

Upon the completion of the liquidation of the Partnership's assets, as provided in Section 13.2 hereof, the Partnership shall be terminated, a certificate of cancellation shall be filed, and all qualifications of the Partnership as a foreign limited partnership in jurisdictions other than the State of Delaware shall be canceled and such other actions as may be necessary to terminate the Partnership shall be taken.

Section 13.8 Reasonable Time for Winding-Up

A reasonable time shall be allowed for the orderly winding-up of the business and affairs of the Partnership and the liquidation of its assets pursuant to Section 13.2 hereof, in order to minimize any losses otherwise attendant upon such winding-up, and the provisions of this Agreement shall remain in effect between the Partners during the period of liquidation.

Section 13.9 Waiver of Partition

Each Partner hereby waives any right to partition of the Partnership property.

ARTICLE 14
AMENDMENT OF PARTNERSHIP AGREEMENT; MEETINGS

Section 14.1 Amendments

A. Amendments to this Agreement may be proposed by the General Partner or by any Limited Partners (other than the Company) holding twenty percent (20%) or more of the Partnership Interests. Following such proposal, the General Partner shall submit any proposed amendment to the Limited Partners. The General Partner shall seek the written vote of the Partners on the proposed amendment or shall call a meeting to vote thereon and to transact any other business that it may deem appropriate. For purposes of obtaining a written vote, the General Partner may require a response within a reasonable specified time, but not less than fifteen (15) days, and failure to respond in such time period shall constitute a vote which is consistent with the General Partner's recommendation with respect to the proposal. Except as provided in Section 13.1.C, 14.1.B, 14.1.C or 14.1.D, a proposed amendment shall be adopted and be effective as an amendment hereto if it is approved by the General Partner and it receives the Consent of Partners holding a majority of the Percentage Interests of the Limited Partners (including Limited Partner Interests held by the Company); provided, that, an action shall become effective at such time as the

requisite consents are received even if prior to such specified time.

[Operating Partnership Agreement]

B. Notwithstanding Section 14.1.A, the General Partner shall have the power, without the consent of the Limited Partners, to amend this Agreement as may be required to facilitate or implement any of the following purposes:

- (1) to add to the obligations of the General Partner or surrender any right or power granted to the General Partner or any Affiliate of the General Partner for the benefit of the Limited Partners;
- (2) to reflect the admission, substitution, termination, or withdrawal of Partners in accordance with this Agreement;
- (3) to set forth and reflect in the Agreement the designations, rights, powers, duties, and preferences of the holders of any additional Partnership Interests issued pursuant to Section 4.2.A hereof;
- (4) to reflect a change that is of an inconsequential nature and does not adversely affect the Limited Partners in any material respect, or to cure any ambiguity, correct or supplement any provision in this Agreement not inconsistent with law or with other provisions, or make other changes with respect to matters arising under this Agreement that will not be inconsistent with law or with the provisions of this Agreement; and
- (5) to satisfy any requirements, conditions, or guidelines contained in any order, directive, opinion, ruling or regulation of a federal or state agency or contained in federal or state law.

The General Partner shall provide notice to the Limited Partners when any action under this Section 14.1.B is taken.

C. Notwithstanding Section 14.1.A and 14.1.B hereof, this Agreement shall not be amended without the Consent of each Partner adversely affected if such amendment would (i) convert a Limited Partner's interest in the Partnership into a General Partner Interest; (ii) modify the limited liability of a Limited Partner in a manner adverse to such Limited Partner; (iii) alter rights of the Partner (other than as a result of the issuance of Partnership Interests) to receive distributions pursuant to Article 5 or Article 13 or the allocations specified in Article 6 (except as permitted pursuant to Section 4.2 and Section 14.1.B(3) hereof); (iv) alter or modify the Redemption Right and REIT Shares Amount as set forth in Sections 8.6 and 11.2.B, and the related definitions, in a manner adverse to such Partner; (v) cause the termination of the Partnership prior to the time set forth in Sections 2.5 or 13.1; or (vi) amend this Section 14.1.C. Further, no amendment may alter the restrictions on the General Partner's authority

set forth in Section 7.3.B without the Consent specified in that section. In addition, Section 8.7 may only be amended as provided therein.

D. Notwithstanding Section 14.1.A or Section 14.1.B hereof, the General Partner shall not (except in connection with amendments made to reflect the issuance of additional Partnership Interests and the relative rights, powers and duties incident thereto) amend Sections 4.2.A, 7.5, 7.6, 11.2 or 14.2 without the Consent of Limited Partners holding a majority of the Percentage Interests of the Limited Partners, excluding Limited Partner Interests held by the General Partner or its Affiliates.

Section 14.2 Meetings of the Partners

A. Meetings of the Partners may be called by the General Partner and shall be called upon the receipt by the General Partner of a written request by Limited Partners (other than the Company) holding twenty percent (20%) or more of the Partnership Interests. The request shall state the nature of the business to be transacted. Notice of any such meeting shall be given to all Partners not less than seven (7) days nor more than thirty (30) days prior to the date of such meeting. Partners may vote in person or by proxy at such meeting. Whenever the vote or Consent of the Partners is permitted or required under this Agreement, such vote or Consent may be given at a meeting of the Partners or may be given in accordance with the procedure prescribed in Section 14.1.A hereof. Except as otherwise expressly provided in this Agreement, the Consent of holders of a majority of the Percentage Interests held by Limited Partners (including Limited Partnership Interests held by the Company) shall control.

B. Any action required or permitted to be taken at a meeting of the Partners may be taken without a meeting if a written consent setting forth the action so taken is signed by a majority of the Percentage Interests of the Partners (or such other percentage as is expressly required by this Agreement). Such consent may be in one instrument or in several instruments, and shall have the same force and effect as a vote of a majority of the Percentage Interests of the Partners (or such other percentage as is expressly required by this Agreement). Such consent shall be filed with the General Partner. An action so taken shall be deemed to have been taken at a meeting held on the effective date so certified.

C. Each Limited Partner may authorize any Person or Persons to act for him by proxy on all matters in which a Limited Partner is entitled to participate, including waiving notice of any meeting, or voting or participating at a meeting. Every proxy must be signed by the Limited Partner or his attorney-in-fact. No proxy shall be valid after the expiration of twelve (12) months from the date thereof unless otherwise provided in the proxy. Every proxy shall be revocable at the pleasure of the Limited Partner executing it, such revocation to be effective upon the Partnership's receipt of written notice of such revocation from the Limited Partner executing such proxy.

D. Each meeting of the Partners shall be conducted by the General Partner or such other Person as the General Partner may appoint pursuant to such rules for the conduct of the meeting as the General Partner or such other Person deems appropriate. Without limitation, meetings of Partners may be conducted in the same manner as meetings of the shareholders of the Company and may be held at the same time, and as part of, meetings of the shareholders of the Company.

ARTICLE 15
GENERAL PROVISIONS

Section 15.1 Addresses and Notice

Any notice, demand, request or report required or permitted to be given or made to a Partner or Assignee under this Agreement shall be in writing and shall be deemed given or made when delivered in person or when sent by first class United States mail or by other means of written communication to the Partner or Assignee at the address set forth in Exhibit A or such other address

of which the Partner shall notify the General Partner in writing.

Section 15.2 Titles and Captions

All article or section titles or captions in this Agreement are for convenience only. They shall not be deemed part of this Agreement and in no way define, limit, extend or describe the scope or intent of any provisions hereof. Except as specifically provided otherwise, references to "Articles" and "Sections" are to Articles and Sections of this Agreement.

Section 15.3 Pronouns and Plurals

Whenever the context may require, any pronoun used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa.

Section 15.4 Further Action

The parties shall execute and deliver all documents, provide all information and take or refrain from taking action as may be necessary or appropriate to achieve the purposes of this Agreement.

[Operating Partnership Agreement]

Section 15.5 Binding Effect

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors, legal representatives and permitted assigns.

Section 15.6 Creditors

Other than as expressly set forth herein with respect to the Indemnities, none of the provisions of this Agreement shall be for the benefit of, or shall be enforceable by, any creditor of the Partnership.

Section 15.7 Waiver

No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute waiver of any such breach or any other covenant, duty, agreement or condition.

Section 15.8 Counterparts

This Agreement may be executed in counterparts, all of which together shall constitute one agreement binding on all of the parties hereto, notwithstanding that all such parties are not signatories to the original or the same counterpart. Each party shall become bound by this Agreement immediately upon affixing its signature hereto.

Section 15.9 Applicable Law

This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Delaware, without regard to the principles of conflicts of law.

Section 15.10 Invalidity of Provisions

If any provision of this Agreement shall to any extent be held void or unenforceable (as to duration, scope, activity, subject or otherwise) by a court of competent jurisdiction, such provision shall be deemed to be modified so as to constitute a provision conforming as nearly as possible to the original provision while still remaining valid and enforceable. In such event, the remainder of this Agreement (or the application of such provision to persons or circumstances other than those in respect of which it is deemed to be void or unenforceable) shall not be affected thereby. Each other provision of this Agreement, unless specifically conditioned upon the voided aspect of such provision, shall remain valid and enforceable to the fullest extent permitted by law; any other provisions of this Agreement that are specifically conditioned on the voided aspect of such invalid provision shall also be deemed to be modified so as to constitute a provision conforming as nearly as possible to the original provision while still remaining valid and enforceable to the fullest extent permitted by law.

Section 15.11 Entire Agreement

This Agreement contains the entire understanding and agreement among the Partners with respect to the subject matter hereof and supersedes the Prior Agreement, any other prior written or oral understandings or agreements among them with respect thereto.

[Operating Partnership Agreement]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

GENERAL PARTNER:

BOSTON PROPERTIES, INC.

By:

Name: Edward H. Linde
Title: President and
Chief Executive Officer

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LIMITED PARTNER SIGNATURE PAGE

The undersigned, desiring to become one of the within named Limited Partners of Boston Properties Limited Partnership, hereby becomes a party to the Amended and Restated Agreement of Limited Partnership of Boston Properties Limited Partnership by and among Boston Properties, Inc. and such Limited Partners, dated as of _____, 1997. The undersigned agrees that this signature page may be attached to any counterpart of said Agreement of Limited Partnership.

Signature Line for Limited Partner:

BOSTON PROPERTIES, INC.

By:

Name: Edward H. Linde
Title: President and
Chief Executive Officer

Address of Limited Partner: 8 Arlington Street
Boston, MA 02116

LIMITED PARTNER SIGNATURE PAGE

The undersigned, desiring to become one of the within named Limited Partners of Boston Properties Limited Partnership, hereby becomes a party to the Amended and Restated Agreement of Limited Partnership of Boston Properties Limited Partnership by and among Boston Properties, Inc. and such Limited Partners, dated as of _____, 1997. The undersigned agrees that this signature page may be attached to any counterpart of said Agreement of Limited Partnership.

Signature Line for Limited Partner:

Edward H. Linde

Address of Limited Partner: 8 Arlington Street
 Boston, MA 02116

LIMITED PARTNER SIGNATURE PAGE

The undersigned, desiring to become one of the within named Limited Partners of Boston Properties Limited Partnership, hereby becomes a party to the Amended and Restated Agreement of Limited Partnership of Boston Properties Limited Partnership by and among Boston Properties, Inc. and such Limited Partners, dated as of _____, 1997. The undersigned agrees that this signature page may be attached to any counterpart of said Agreement of Limited Partnership.

Signature Line for Limited Partner:

Mortimer B. Zuckerman

Address of Limited Partner:

8 Arlington Street
Boston, MA 02116

LIMITED PARTNER SIGNATURE PAGES

The undersigned, desiring to become one of the within named Limited Partners of Boston Properties Limited Partnership, hereby becomes a party to the Amended and Restated Agreement of Limited Partnership of Boston Properties Limited Partnership by and among Boston Properties, Inc. and such Limited Partners, dated as of June 23, 1997.

*

Laura Cohen Apelbaum

*

Steven Astrove, Esq.

*

Brian C. Badrigian

*

John J. Baraldi

*

David R. Barrett

*

David H. Boone

*

Jack W. Burkart

*

Robert E. Burke

*

Frank D. Burt

*

John D. Camera, Jr.

*

James A. Canfield

*

Michael A. Cantalupa

*

Stephen R. Clineburg

*

Gerald Cohen

*

Jonathan A. Cohen

*

Melinda Ann Cohen

*

Richard M. Cohen

*

Sharon R. Cohen

*

Sheldon Cohen

*

Chester C. Davenport

*

Guy P. Davis

*

Herbert O. Davis

*

Frederick J. DeAngelis

*

M. Gordon Ehrlich

*

Sergius Gambal

*

David G. Gaw

*

Amy C. Gindel

*

James A. Hart

*

James L. Hudson

*

Thomas P. Hutchinson

*

Peter D. Johnston

*

Pauline S. Kisiel

*

Jonathan B. Kurtis

*

Willie L. Leftwich

*

Douglas T. Linde

*

Richard Linde

*

Thaddeus Lindner

*

Brenda Lipowsky

*

Debra Luks

*

William F. McCall

*

Terence D. McNally

*

Arthur H. Middleton

*

E. Mitchell Norville

*

Leonard C. Owens, Jr.

*

David L. Pergola

*

Clare Probert

*

David Richardson

*

Raymond A. Ritchey

*

James C. Rosenfeld

*

Charlotte Rudden

*

Keith A. Seay

*

Robert Selsam

*

Kathryn R. Stevenson

*

Albert G. Tierney

*

Peter Van, Esq.

*

Michael R. Walsh

*

William J. Wedge

*

William Whitworth

*

Barbara Wolf

R.W. CLAXTON, INC.

By: _____ *
Name:
Title:

FIRST CITY PROPERTIES-E STREET, INC.

By: _____
Name:
Title:

MCCALL & COMPANY

By: _____
Name:
Title:

METROPOLITAN POULTRY COMPANY

By: _____
Name:
Title:

VIATECH SYSTEMS, INC.

By: _____
Name:
Title:

DRB/BP LLC

By: _____
Name:
Title:

DGG/BP LLC

By: _____
Name:
Title:

EMN/BP LLC

By: _____ *

Name:
Title:

FD/BP LLC

By: _____ *

Name:
Title:

JCR/BP LLC

By: _____ *

Name:
Title:

JDC/BP LLC

By: _____ *

Name:
Title:

JJB/BP LLC

By: _____ *

Name:
Title:

RAR/BP LLC

By: _____ *

Name:
Title:

REB/BP LLC

By: _____
Name:
Title:

SQUARE 36 PROPERTIES LIMITED
PARTNERSHIP

By: _____
Name:
Title:

JAMIE MARK COHEN TRUST

By: _____
Name:
Title:

RANDY MICHAEL COHEN TRUST

By: _____
Name:
Title:

THE EDWARD H. LINDE 1984 FAMILY TRUST

By: _____
Name:
Title:

LINDE FAMILY GRANTOR RETAINED
ANNUITY TRUST - LONGWHARF

By: _____
Name: Edward H. Linde
Title: Trustee

LINDE FAMILY GRANTOR RETAINED
ANNUITY TRUST - SOUTHWEST MARKET

By: _____ *

Name: Edward H. Linde
Title: Trustee

TRUSTEES UNDER THE WILL OF IRVING J.
LINDE

By: _____ *

Name:
Title:

BRYAN LIPOWSKY TRUST

By: _____ *

Name:
Title:

DANA ROBIN LIPOWSKY TRUST

By: _____ *

Name:
Title:

ARIEL MATTHEW LUKS TRUST

By: _____ *

Name:
Title:

JORDANA ILENE LUKS TRUST

By: _____ *

Name:
Title:

JOSHUA MICAH LUKS TRUST

By: _____
Name:
Title:

JACK MALES LIVING TRUST

By: _____
Name:
Title:

ESTATE OF ROBERT B. SWETT, JR.

By: _____
Name:
Title:

ROBERT B. SWETT, JR. FAMILY TRUST

By: _____
Name:
Title:

THE MORTIMER B. ZUCKERMAN 1983
FAMILY TRUST

By: _____
Name:
Title:

THE MBZ LONGWHARF TRUST

By: _____
Name: Mortimer B. Zuckerman
Title: Trustee

THE MBZ SOUTHWEST MARKET TRUST

By: _____
Name: Mortimer B. Zuckerman
Title: Trustee

[Operating Partnership Agreement]

*Signed this day by the undersigned: (i) in the capacities indicated above and (ii) pursuant to the power of attorney granted to each of the undersigned pursuant to Article V of that certain Omnibus Option Agreement, dated April 9, 1997, by and among the Partnership and the grantors named therein or that certain Option Agreement, dated April 15, 1997, by and between the Partnership and Square 36 Properties Limited Partnership, a Massachusetts limited partnership, as applicable, as attorney-in-fact for the Limited Partners named above.

*

Mortimer B. Zuckerman

*

Edward H. Linde

Exhibit B

Capital Account Maintenance

1. Capital Accounts of the Partners

A. The Partnership shall maintain for each Partner a separate Capital Account in accordance with the rules of Regulations Section 1.704-1(b)(2)(iv). Such Capital Account shall be increased by (i) the amount of all Capital Contributions and any other deemed contributions made by such Partner to the Partnership pursuant to this Agreement; and (ii) all items of Partnership income and gain (including income and gain exempt from tax) computed in accordance with Section 1.B hereof and allocated to such Partner pursuant to Section 6.1.A of the Agreement and Exhibit C hereof, and decreased by (x) the amount of cash or

Agreed Value of all actual and deemed distributions of cash or property made to such Partner pursuant to this Agreement; and (y) all items of Partnership deduction and loss computed in accordance with Section 1.B hereof and allocated to such Partner pursuant to Section 6.1.B of the Agreement and Exhibit C hereof.

B. For purposes of computing the amount of any item of income, gain, deduction or loss to be reflected in the Partners' Capital Accounts, unless otherwise specified in this Agreement, the determination, recognition and classification of any such item shall be the same as its determination, recognition and classification for federal income tax purposes determined in accordance with Section 703(a) of the Code (for this purpose all items of income, gain, loss or deduction required to be stated separately pursuant to Section 703(a)(1) of the Code shall be included in taxable income or loss), with the following adjustments:

- (1) Except as otherwise provided in Regulations Section 1.704-1(b)(2)(iv)(m), the computation of all items of income, gain, loss and deduction shall be made without regard to any election under Section 754 of the Code which may be made by the Partnership, provided that the amounts of any adjustments to the adjusted bases of the assets of the Partnership made pursuant to Section 734 of the Code as a result of the distribution of property by the Partnership to a Partner (to the extent that such adjustments have not previously been reflected in the Partners' Capital Accounts) shall be reflected in the Capital Accounts of the Partners in the manner and subject to the limitations prescribed in Regulations Section 1.704(b)(2)(iv)(m)(4).
- (2) The computation of all items of income, gain, and deduction shall be made without regard to the fact that items described in Sections

705(a)(1)(B) or 705(a)(2)(B) of the Code are not includable gross income or are neither currently deductible nor capitalized for federal income tax purposes.

- (3) Any income, gain or loss attributable to the taxable disposition of any Partnership property shall be determined as if the adjusted basis of such property as of such date of disposition were equal in amount to the Partnership's Carrying Value with respect to such property as of such date.
- (4) In lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such fiscal year.
- (5) In the event the Carrying Value of any Partnership Asset is adjusted pursuant to Section 1.D hereof, the amount of any such adjustment shall be taken into account as gain or loss from the disposition of such asset.

C. Generally, a transferee (including an Assignee) of a Partnership Unit shall succeed to a pro rata portion of the Capital Account of the transferor; provided, however, that, if the transfer causes a termination of the Partnership

under Section 708(b)(1)(B) of the Code, the Partnership's properties shall be deemed solely for federal income tax purposes, to have been distributed in liquidation of the Partnership to the holders of Partnership Units (including such transferee) and recontributed by such Persons in reconstitution of the Partnership. In such event, the Carrying Values of the Partnership properties shall be adjusted immediately prior to such deemed distribution pursuant to Section 1.D(2) hereof. The Capital Accounts of such reconstituted Partnership shall be maintained in accordance with the principles of this Exhibit B.

- D. (1) Consistent with the provisions of Regulations Section 1.704-1(b)(2)(iv)(f), and as provided in Section 1.D(2), the Carrying Value of all Partnership assets shall be adjusted upward or downward to reflect any Unrealized Gain or Unrealized Loss attributable to such Partnership property, as of the times of the adjustments provided in Section 1.D(2) hereof, as if such Unrealized Gain or Unrealized Loss had been recognized on an actual sale of each such property and allocated pursuant to Section 6.1 of the Agreement.
- (2) Such adjustments shall be made as of the following times: (a) immediately prior to the acquisition of an additional interest in the Partnership by any new or existing Partner in exchange for more than a de minimis Capital Contribution; (b) immediately prior to the distribution by the Partnership

to a Partner of more than a de minimis amount of property as consideration for an interest in the Partnership; and (c) immediately prior to the liquidation of the Partnership within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g), provided, however, that adjustments pursuant to clauses (a) and -----

(b) above shall be made only if the General Partner determines that such adjustments are necessary or appropriate to reflect the relative economic interests of the Partners in the Partnership.

(3) In accordance with Regulations Section 1.704-1(b)(2)(iv)(e), the Carrying Value of Partnership assets distributed in kind shall be adjusted upward or downward to reflect any Unrealized Gain or Unrealized Loss attributable to such Partnership property, as of the time any such asset is distributed.

(4) In determining Unrealized Gain or Unrealized Loss for purposes of this Exhibit B, the aggregate cash amount and fair market value -----

of all Partnership assets (including cash or cash equivalents) shall be determined by the General Partner using such reasonable method of valuation as it may adopt, or in the case of a liquidating distribution pursuant to Article 13 of the Agreement, shall be determined and allocated by the Liquidator using such reasonable methods of valuation as it may adopt. The General Partner, or the Liquidator, as the case may be, shall allocate such aggregate value among the assets of the Partnership (in such manner as it determines in its sole and absolute discretion to arrive at a fair market value for individual properties).

E. The provisions of this Agreement (including this Exhibit B and other -----

Exhibits to this Agreement) relating to the maintenance of Capital Accounts are intended to comply with Regulations Section 1.704-1(b), and shall be interpreted and applied in a manner consistent with such Regulations. In the event the General Partner shall determine that it is prudent to modify (i) the manner in which the Capital Accounts, or any debits or credits thereto (including, without limitation, debits or credits relating to liabilities which are secured by contributed or distributed property or which are assumed by the Partnership, the General Partner, or the Limited Partners) are computed; or (ii) the manner in which items are allocated among the Partners for federal income tax purposes in order to comply with such Regulations or to comply with Section 704(c) of the Code, the General Partner may make such modification without regard to Article 14 of the Agreement, provided that it is not likely to have a material effect on the amounts distributable to any Person pursuant to Article 13 of the Agreement upon the dissolution of the Partnership. The General Partner also shall (i) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Partners and the amount of Partnership capital reflected on the Partnership's balance sheet, as computed for book purposes, in accordance with Regulations Section 1.704-1(b)(2)(iv)(q); and (ii) make any

[Operating Partnership Agreement]

appropriate modifications in the event unanticipated events might otherwise cause this Agreement not to comply with Regulations Section 1.704-1(b). In addition, the General Partner may adopt and employ such methods and procedures for (i) the maintenance of book and tax capital accounts; (ii) the determination and allocation of adjustments under Sections 704(c), 734 and 743 of the Code; (iii) the determination of Net Income, Net Loss, taxable loss and items thereof under this Agreement and pursuant to the Code; (iv) the adoption of reasonable conventions and methods for the valuation of assets and the determination of tax basis; (v) the allocation of asset value and tax basis; and (vi) conventions for the determination of cost recovery, depreciation and amortization deductions, as it determines in its sole discretion are necessary or appropriate to execute the provisions of this Agreement, to comply with federal and state tax laws, and are in the best interest of the Partners.

2. No Interest

No interest shall be paid by the Partnership on Capital Contributions or on balances in Partners' Capital Accounts.

3. No Withdrawal

No Partner shall be entitled to withdraw any part of his Capital Contribution or his Capital Account or to receive any distribution from the Partnership, except as provided in Articles 4, 5, 7 and 13 of the Agreement.

Exhibit C

Special Allocation Rules

1. Special Allocation Rules

Notwithstanding any other provision of the Agreement or this Exhibit C, the following special allocations shall be made in the following order:

A. Minimum Gain Chargeback. Notwithstanding the provisions of Section 6.1 of the Agreement or any other provisions of this Exhibit C, if there is a

net decrease in Partnership Minimum Gain during any Partnership taxable year, each Partner shall be specially allocated items of Partnership income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Partner's share of the net decrease in Partnership Minimum Gain, as determined under Regulations Section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Partner pursuant thereto. The items to be so allocated shall be determined in accordance with Regulations Section 1.704-2(f)(6). This Section 1.A is intended to comply with the minimum gain chargeback requirements in Regulations Section 1.704-2(f) and shall be interpreted consistently therewith. Solely for purposes of this Section 1.A, each Partner's Adjusted Capital Account Deficit shall be determined prior to any other allocations pursuant to Section 6.1 of Partner Minimum Gain during such Partnership taxable year.

B. Partner Minimum Gain Chargeback. Notwithstanding any other provision of Section 6.1 of this Agreement or any other provisions of this Exhibit C

(except Section 1.A hereof), if there is a net decrease in Partner Minimum Gain attributable to a Partner Nonrecourse Debt during any Partnership taxable year, each Partner who has a share of the Partner Minimum Gain attributable to such Partner Nonrecourse Debt, determined in accordance with Regulations Section 1.702-2(i)(5), shall be specially allocated items of Partnership income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Partner's share of the net decrease in Partner Minimum Gain attributable to such Partner Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(5). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Partner pursuant thereto. The items to be so allocated shall be determined in accordance with Regulations Section 1.704-2(i)(4). This Section 1.B is intended to comply with the minimum gain chargeback requirement in such Section of the Regulations and shall be interpreted consistently therewith. Solely for purposes of the Section 1.B, each Partner's Adjusted Capital Account Deficit shall be determined prior to any other allocations pursuant to Section 6.1 of the Agreement or this Exhibit with respect to such Partnership taxable year, other than allocations pursuant to Section 1.A hereof.

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C. Qualified Income Offset. In the event any Partner unexpectedly

receives any adjustments, allocations or distributions described in Regulations Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), or 1.704-1(b)(2)(ii)(d)(6), and after giving effect to the allocations required under Sections 1.A and 1.B hereof such Partner has an Adjusted Capital Account Deficit, items of Partnership income and gain (consisting of a pro rata portion of each item of Partnership income, including gross income and gain for the Partnership taxable year) shall be specially allocated to such Partner in an amount and manner sufficient to eliminate, to the extent required by the Regulations, its Adjusted Capital Account Deficit created by such adjustments, allocations or distributions as quickly as possible.

D. Nonrecourse Deductions. Nonrecourse Deductions for any Partnership

taxable year shall be allocated to the Partners in accordance with their respective Percentage Interests. If the General Partner determines in its good faith discretion that the Partnership's Nonrecourse Deductions must be allocated in a different ratio to satisfy the safe harbor requirements of the Regulations promulgated under Section 704(b) of the Code, the General Partner is authorized, upon notice to the Limited Partners, to revise the prescribed ratio to the numerically closest ratio for such Partnership taxable year which would satisfy such requirements.

E. Partner Nonrecourse Deductions. Any Partner Nonrecourse Deductions

for any Partnership taxable year shall be specially allocated to the Partner who bears the economic risk of loss with respect to the Partner Nonrecourse Debt to which such Partner Nonrecourse Deductions are attributable in accordance with Regulations Section 1.704-2(i).

F. Code Section 754 Adjustments. To the extent an adjustment to the

adjusted tax basis of any Partnership asset pursuant to Section 734(b) or 743(b) of the Code is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis, and such item of gain or loss shall be specially allocated to the Partners in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to such Section of the Regulations.)

G. Curative Allocations. The allocations set forth in Section 1.A

through 1.F of this Exhibit C (the "Regulatory Allocations") are intended to

comply with certain requirements of the Regulations under Section 704(b) of the Code. The Regulatory Allocations may not be consistent with the manner in which the Partners intend to divide Partnership distributions. Accordingly, the General Partner is hereby authorized to divide other allocations of income, gain, deduction and loss among the Partners so as to prevent the Regulatory Allocations from distorting the manner in which Partnership distributions will be divided among the Partners. In general, the Partners anticipate that, if necessary, this will be accomplished by specially

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allocating other items of income, gain, loss and deduction among the Partners so that the net amount of the Regulatory Allocations and such special allocations to each person is zero. However, the General Partner will have discretion to accomplish this result in any reasonable manner; provided, however, that no

allocation pursuant to this Section 1.G shall cause the Partnership to fail to comply with the requirements of Regulations Sections 1.704-1(b)(2)(ii)(d), -2(e) or -2(i).

2. Allocations for Tax Purposes

A. Except as otherwise provided in this Section 2, for federal income tax purposes, each item of income, gain, loss and deduction shall be allocated among the Partners in the same manner as its correlative item of "book" income, gain, loss or deduction is allocated pursuant to Section 6.1 of the Agreement and Section 1 of this Exhibit C.

B. In an attempt to eliminate Book-Tax Disparities attributable to a Contributed Property or Adjusted Property, items of income, gain, loss, and deduction shall be allocated for federal income tax purposes among the Partners as follows:

- (1) (a) In the case of a Contributed Property, such items attributable thereto shall be allocated among the Partners, consistent with the principles of Section 704(c) of the Code and the Regulations thereunder, to take into account the variation between the 704(c) Value of such property and its adjusted basis at the time of contribution; and
- (b) any item of Residual Gain or Residual Loss attributable to a Contributed Property shall be allocated among the Partners in the same manner as its correlative item of "book" gain or loss is allocated pursuant to Section 6.1 of the Agreement and Section 1 of this Exhibit C.

- (2) (a) In the case of an Adjusted Property, such items shall
 - (1) first, be allocated among the Partners in a manner consistent with the principles of Section 704(c) of the Code and the Regulations thereunder to take into account the Unrealized Gain or Unrealized Loss attributable to such property and the allocations thereof pursuant to Exhibit B;

- and

(2) second, in the event such property was originally a Contributed Property, be allocated among the Partners in a manner consistent with Section 2.B(1) of this Exhibit C; and

(b) any item of Residual Gain or Residual Loss attributable to an Adjusted Property shall be allocated among the Partners in the same manner its correlative item of "book" gain or loss is allocated pursuant to Section 6.1 of the Agreement and Section 1 of this Exhibit C.

(3) all other items of income, gain, loss and deduction shall be allocated among the Partners the same manner as their correlative item of "book" gain or loss is allocated pursuant to Section 6.1 of the Agreement and Section 1 of the Exhibit C .

C. To the extent that the Treasury Regulations promulgated pursuant to Section 704(c) of the Code permit the Partnership to utilize alternative methods to eliminate the disparities between the Carrying Value of property and its adjusted basis, the General Partner shall have the authority to elect the method to be used by the Partnership and such election shall be binding on all Partners.

3. No Withdrawal

No Partner shall be entitled to withdraw any part of his Capital Contribution or his Capital Account or to receive any distribution from the Partnership, except as provided in Articles 4, 5, 8 and 13 of the Agreement.

Exhibit D

Notice of Redemption

The undersigned Limited Partner hereby irrevocably (i) redeems _____ Limited Partnership Units in Boston Properties Limited Partnership in accordance with the terms of the Amended and Restated Agreement of Limited Partnership of Boston Properties Limited Partnership and the Redemption Right referred to therein; (ii) surrenders such Limited Partnership Units and all right, title and interest therein; and (iii) directs that the Cash Amount or REIT Shares Amount (as determined by the General Partner) deliverable upon exercise of the Redemption Right be delivered to the address specified below, and if REIT Shares are to be delivered, such REIT Shares be registered or placed in the name(s) and at the address(es) specified below. The undersigned hereby, represents, warrants, and certifies that the undersigned (a) has marketable and unencumbered title to such Limited Partnership Units, free and clear of the rights or interests of any other person or entity; (b) has the full right, power, and authority to redeem and surrender such Limited Partnership Units as provided herein; and (c) has obtained the consent or approval of all person or entities, if any, having the right to consent or approve such redemption and surrender.

Dated: _____

Name of Limited Partner: _____

Please Print

(Signature of Limited Partner)

(Street Address)

(City) (State) (Zip Code)

Signature Guaranteed by:

[Operating Partnership Agreement]

If REIT Shares are to be issued, issue to:

Name: _____

Please insert social security or identifying number: _____

Exhibit E

Designated Properties

Designated Property

- - - - -

599 Lexington Avenue

One and Two Independence Square

Capital Gallery

Exhibit F

Recourse Debt Level Schedule

Name of Limited Partner	Recourse Debt Percentage	Recourse Debt Amount
Mortimer B. Zuckerman	67%	\$67,000,000
Edward H. Linde	33%	\$33,000,000
	Total	\$100,000,000

THIS SCHEDULE CONTAINS SUMMARY FINANCIAL INFORMATION EXTRACTED FROM CONSOLIDATED COMBINED BALANCE SHEET AS OF JUNE 30, 1997 AND THE COMBINED STATEMENT OF OPERATIONS FOR THE YEAR ENDED JUNE 30, 1997 OF BOSTON PROPERTIES, INC. AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO SUCH FINANCIAL STATEMENTS.

1,000

	3-MOS		
	DEC-31-1997	JAN-01-1997	MAR-31-1997
			184,465
			0
	13,169		0
			0
	0		1,091,283
	276,891		
	1,109,963		
	0		743,282
	0		0
			0
			(848,284)
1,109,963			0
	5,363		0
			0
	0		0
	0		1,340
	1,340		
	9,057		0
	0		0
	7,983		
	0		0
			0
	9,057		
	0		
	0		