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UNITED STATES BANKRUPTCY COURT
For the Northern District of Alabama

I, William C. Redden, Clerk of Bankruptcy Court in and for said District, do hereby certify that the attached copy of ORDER CONFIRMING SECOND MODIFIED PLAN OF REORGANIZATION WITH FIRST AMENDMENT AND CORRECTIONS AND CLARIFICATIONS in the case of TURTLE LAKE, LTD. debtor, No. 89-13330 has been compared with the original thereof and that it is a complete and correct copy of such original as it appears of record and on file in my office.

In testimony whereof I have hereunto set my hand at Decatur, Alabama in said District, this 14th day of June, 1991.

William C. Redden,
Clerk of Bankruptcy Court

Tina Gibson
Deputy Clerk

[Seal of the U.S. Bankruptcy Court]

Date of issuance: June 14, 1991

JOHN D. CLEMENT, JR.
ATTORNEY AT LAW
201 NORTH WATER STREET
TUSCUMBIA, ALABAMA 35674

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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ALABAMA, NORTHERN DIVISION

In re:

TURTLE LAKE, LTD.

Debtor

No. 89-13330

Chapter 11

ORDER CONFIRMING SECOND MODIFIED PLAN OF REORGANIZATION
WITH FIRST AMENDMENT AND CORRECTIONS AND CLARIFICATIONS

This cause came on for hearing in open Court on June 5, 1991, upon Debtor's Second Modified Plan of Reorganization. Debtor, through counsel, announced to the Court the filing of a First Amendment to Second Modified Plan of Reorganization and the agreement of Debtor to make certain corrections and clarifications which were clerical and nonsubstantive or which did not adversely affect any creditor or entity not consenting thereto. The First Amendment was read into the record and the corrections and clarifications stated on the record. All major creditors and parties in interest were present in Court or represented by counsel and made no objection to said First Amendment or the corrections and clarifications. Accordingly, Debtor's Second Modified Plan of Reorganization with First Amendment and Corrections and Clarifications, including corrections and clarifications to the Second Restated and Amended Agreement and Certificate of Limited Partnership for Turtle Lake, Ltd., an Alabama Limited Partnership and the Amended and Restated Management Agreement will be and hereby is defined as the "Plan" for purposes of this confirmation order.

Objections to confirmation of the Plan were filed by R&S Electrical Co., H&M Mechanical Co., Daviston Insulation Company, Inc., and the Limited Partners. After the announcement of the First Amendment and the corrections and clarifications all objections were withdrawn provided that confirmation was to await the change in the ballot of the limited partners as equity security holders so that class of interests will accept the Plan by the requisite vote pursuant to 11 U.S.C. §1126. Accordingly, all classes of creditors and interest holders have now accepted the Plan by the number and amount required pursuant to 11 U.S.C. §1126. Since unsecured creditors as a class, however, will not receive or retain any property under the Plan on account of such unsecured claims, that class is deemed not have accepted the plan. The Court finds, nevertheless, that the Plan should be confirmed pursuant to §1129(b) in that new capital contributions are being made and the new capital contributions are equivalent to the interest received or retained by any lower class of claims or interests.

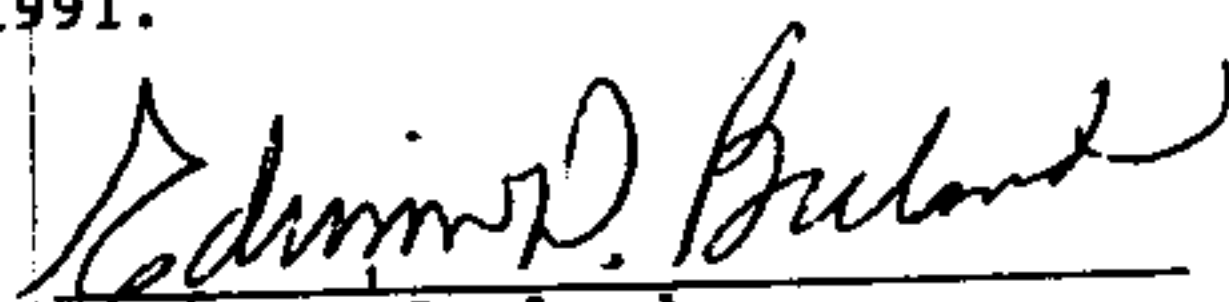
Upon consideration of the foregoing and other matters the Court has determined after hearing on notice that:

1. The plan has been accepted in writing by the creditors and equity security holders whose acceptance is required by law;
2. The provisions of Chapter 11 of the Bankruptcy Code have been complied with; that the Plan has been proposed in good faith and not by any means forbidden by law;
3. Each holder of a claim or interest has accepted the Plan or will receive or retain under the Plan property of a value, as of the Effective Date of the Plan, that is not less than the amount that such holder would receive or retain if Debtor were liquidated under Chapter 7 of the Code on such date, and the Plan does not discriminate unfairly and is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted the Plan;
4. All payments made or promised by Debtor or by a person issuing securities or acquiring property under the Plan or by any other person for services or for costs and expenses in, or in connection with, the Plan and incident to the case, have been fully disclosed to the Court and are reasonable or, if to be fixed after confirmation of the Plan, will be subject to approval of the Court;
5. The identity, qualifications, and affiliations of the persons who are to be general partners of Debtor after confirmation of the Plan have been fully disclosed, and the appointment of such persons to such offices, and their continuance therein, is equitable and consistent with the interests and equity security holders and with public policy;
6. The identity of any insider that will be employed or retained by Debtor and his compensation has been fully disclosed;
7. No regulatory commission has jurisdiction over Debtor;
8. Confirmation of the Plan is not likely to be followed by liquidation or the need for further financial reorganization of Debtor;
9. All fees payable under 11 U.S.C. §1930 will be paid on the Effective Date of the Plan; and
10. The requirements of 11 U.S.C. §1129(a)(13) are not applicable to Debtor.

Accordingly, Debtor's Second Modified Plan of Reorganization with First Amendment and Corrections and Clarifications, including Exhibit A, the Second Restated and Amended Agreement and Certificate of Limited Partnership for Turtle Lake, Ltd., an Alabama Limited Partnership, and Exhibit B, the Amended and Restated Management Agreement, a copy of all of which is attached

hereto, shall be and hereby is approved and confirmed.

ENTER this 14th day of June, 1991.

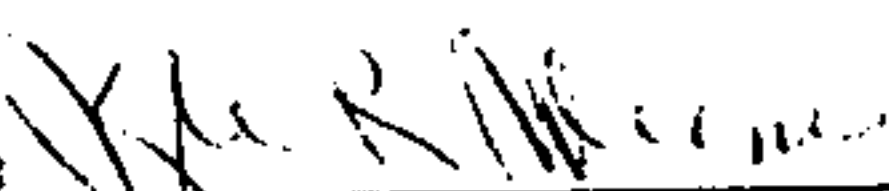


Edwin D. Breland,
United States Bankruptcy Judge

PREPARED BY:

WEEMS & BECKHAM

By:


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Clark Hammond, Esquire
Steven Griffis, Esquire

FILED

JUN 14 1991

Clerk, U. S. Bankruptcy Court
Northern District of Alabama

By:  Deputy Clerk

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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ALABAMA
NORTHERN DIVISION

In re

TURTLE LAKE, LTD.,

Debtor.

Chapter 11 Case
No. 89-13330

FILED

JUN 14 1991

Clerk, U. S. Bankruptcy Court
Northern District of Alabama

By: Deputy Clerk

DEBTOR'S SECOND MODIFIED PLAN OF REORGANIZATION
WITH CORRECTIONS AND CLARIFICATIONS

On November 9, 1989, Turtle Lake, Ltd., an Alabama limited partnership (the "Debtor" or the "Partnership"), commenced the above-styled case by filing a voluntary petition for relief in this Court under Chapter 11 of Title 11, United States Code (the "Bankruptcy Code" or the "Code"), and has continued to operate its business as a debtor in possession. The Debtor hereby proposes this modified plan of reorganization, pursuant to Section 1127(a) of the Bankruptcy Code.

Article I: Definitions and Rules of Construction

1.01. Definitions. As used herein --

- (a) "Additional General Partner" shall mean DAB & Co. or Borden following its or his admission to the Partnership as a new General Partner as prescribed by Section 302(a) of the Restated Partnership Agreement but before becoming a Successor General Partner;
- (b) "Administrative Expense Claim" shall mean any Claim that is allowed pursuant to Section 503(b) of the Bankruptcy Code, other than ordinary and recurring pre-Confirmation expenses of operation, which are current and payable in accordance with customary business terms prior to the Effective Date; the Administrative Expense Claims shall include the allowed Claim of Rives and Peterson, counsel for certain of the Existing Partners, for compensation for services rendered and reimbursement of expenses incurred in making a substantial contribution to

this case as provided by Section 503(b)(3) and (4) of the Code;

- (c) "Bar Date" shall mean the deadline for filing certain proofs of claim in this case established by the Order and Notice of Hearing on Disclosure Statement and Order for Bar Date that was entered in this case on May 16, 1990;
- (d) "Borden" shall mean Das A. Borden, who is a debtor in possession in a separate Chapter 11 case (No. 88-03764) pending in this Court and who is the individual General Partner in the Partnership;
- (e) "Claim" shall mean a claim against the Debtor or its bankruptcy estate;
- (f) "Class" shall mean one of the classes of allowed Claims or Equity Interests established by Article III hereof;
- (g) "Class A Unit" shall mean one of the 100 units of the new interest in the Partnership created as prescribed by Section 302(c) of the Restated Partnership Agreement;
- (h) "Class A Limited Partner" shall mean a holder of one or more Class A Units to be acquired pursuant to Section 2.01 hereof and Section 302(d) of the Restated Partnership Agreement;
- (i) "Class B Unit" shall mean one of the 100 existing units of interest in the Partnership following the creation of the new Class A Limited Partner interest as prescribed by Section 302(c) of the Restated Partnership Agreement;
- (j) "Class B Limited Partner" shall mean a holder of one or more existing Units after the creation of the new Class A Limited Partner interest as prescribed by Section 302(c) of the Restated Partnership Agreement;
- (k) "Confirmation" shall mean the entry of the Confirmation Order;
- (l) "Confirmation Date" shall mean the date upon which the Confirmation Order is entered;

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- (m) "Confirmation Order" shall mean the Final Order confirming this plan;
- (n) "Contract Claim" shall mean any allowed Claim for an amount owed by the Debtor under any of the executory contracts or unexpired leases to be assumed under Section 5.01 hereof, whether accruing before or after the commencement of this case;
- (o) "DAB & Co." shall mean Das A. Borden & Company, a corporation which is a debtor in possession in a separate Chapter 11 case (No. 88-06467) pending in this Court and which is the managing General Partner in the Partnership;
- (p) "Development Escrow Account" shall mean that certain fund, including interest earned to the Effective Date, held and not yet expended by Secor Bank in connection with the acquisition, development, construction, repair, improvement, or leasing of the Property;
- (q) "Disbursing Agent" shall mean the Debtor, who shall have the responsibility for distributing the Development Escrow Account in accordance with §4.03(b) hereof;
- (r) "Disclosure Statement" shall mean the Debtor's Disclosure Statement that was filed in this case on May 15, 1990, as supplemented by the Supplement to Debtor's Disclosure Statement that was filed herein on July 16, 1990, which disclosure statement, as supplemented, was approved by the Order Approving Disclosure Statement as Supplemented that was entered herein on July 20, 1990;
- (s) "Effective Date" shall mean the date 30 days after the date the Confirmation Order becomes a Final Order, provided that, if such 30th day is a Saturday, Sunday, or legal holiday, the next business day shall be the Effective Date, and further provided that the Effective Date is not postponed pursuant to Section 2.01(e)(2) hereof;
- (t) "Engineer" shall mean the consulting engineer to be retained by the Debtor pursuant to order of this Court;

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- (u) "Equity Interest" shall mean an existing beneficial interest in the Partnership held by virtue of the ownership of one or more existing Units;
- (v) "Existing General Partner" shall mean DAB & Co. or Borden in its or his present capacity as a General Partner;
- (w) "Final Order" shall mean an order of this Court that is conclusive of all matters adjudicated thereby and that has become final and non-appealable and is, therefore, in full force and effect;
- (x) "General Partner" shall mean any entity as has heretofore been admitted, or as hereafter may be admitted, to the Partnership as a general partner, including an Existing General Partner, an Additional General Partner, and a Successor General Partner;
- (y) "Gentrac" shall mean Gentrac, Inc., the Alabama corporation that was the general contractor for the Project, and which is the principal Lien Claimant;
- (z) "Internal Revenue Code" shall mean Title 26 of the United States Code;
- (aa) "Lien Claim" shall mean an allowed Claim secured by a valid and enforceable mechanic's or materialman's lien in the Property;
- (bb) "Lien Claimant" shall mean a holder of a Lien Claim;
- (cc) "Lien Claim Fund" shall mean (1) the balance (including earned interest) remaining in the Development Escrow Account, less (2) the cost of repairs necessary to remedy the Property's settlement problems as estimated by the Engineer to the extent that the Engineer determines that the Lien Claimants' workmanship is the proximate cause of such problems;
- (dd) "Limited Partner" shall mean any of the limited partners in the Partnership, including a Class A Limited Partner and a Class B Limited Partner;
- (ee) "Priority Claim" shall mean an unsecured Claim that is allowed as being entitled to priority pursuant

to Section 507(a) of the Bankruptcy Code, other than an Administrative Expense Claim;

- (ff) "Project" shall mean the construction of the Property;
- (gg) "Property" shall mean the land, improvements, fixtures, and personal property comprising the Debtor's 184-unit apartment project located approximately 12 miles southeast of Birmingham, Alabama, known as Turtle Lake Apartments;
- (hh) "Restated Partnership Agreement" shall mean an agreement substantially in the form of the Second Restated and Amended Agreement and Certificate of Limited Partnership for Turtle Lake, Ltd., an Alabama Limited Partnership, that is attached as Exhibit A hereto and incorporated herein by reference;
- (ii) "Restated Management Agreement" shall mean an agreement substantially in the form of the Amended and Restated Management Agreement that is attached as Exhibit B hereto and incorporated herein by reference;
- (jj) "Restructuring Date" shall mean the date 30 days after the Confirmation Order becomes a Final Order, provided that, if such 30th day is a Saturday, Sunday, or legal holiday, the next business day shall be the Restructuring Date;
- (kk) "Secor Bank" shall mean Secor Bank, Federal Savings Bank, formerly Alabama Federal Savings & Loan Association, which is the holder of a valid and enforceable first-priority mortgage and security interest on and in the Property;
- (ll) "Secured Claim" shall mean an allowed Claim secured by a valid, enforceable lien on property in which the Debtor's estate has an interest, to the extent of the value of the lienholder's interest in the estate's interest in the property; the Secured Claims shall consist of the following:
 - (1) The Claim of Secor Bank and Union Bank;
 - (2) The Lien Claims, but only to the extent of the Lien Claim Fund; and

(3) Allowed Claims secured by security interests in Equity Interests;

- (mm) "Successor General Partner" shall mean an Additional General Partner following the conversion of the interests of the Existing General Partners to Limited Partner interests as prescribed by Section 302(b) of the Restated Partnership Agreement;
- (nn) "Union Bank" shall mean Union Bank and Trust Company, Montgomery, Alabama, which is the trustee for the holders of those certain multi-family residential development bonds issued by the Alabama Housing Finance Authority pursuant to the Preliminary Official Statement Dated December 6, 1985, which bonds financed, *inter alia*, the mortgage loan made to the Partnership originated by Secor Bank;
- (oo) "Unit" shall mean a unit of beneficial interest in the Partnership's capital, Profits, Losses, and Cash Flow, including each Class A Unit and each Class B Unit; and
- (pp) "Unsecured Claim" shall mean an allowed Claim that is not an Administrative Expense Claim, a Priority Claim, a Secured Claim, or a Contract Claim.

1.02. Rules of Construction

(a) Except where otherwise indicated herein, the terms used herein shall have the same meanings as defined in the Bankruptcy Code, the Restated Partnership Agreement, and the Restated Management Agreement.

(b) A Claim is "allowed" if (1) either (A) a proof of claim has been filed with respect thereto on or before the Bar Date, or (B) the Claim is set forth in the schedules of liabilities filed by the Debtor in accordance with Bankruptcy Rule 1007(b)(1), unless such schedules indicate that such Claim is disputed, contingent, or unliquidated, and (2) either

(A) no objection to the allowance of the Claim has been filed within any applicable period of limitation fixed by order of this Court, or (B) if such an objection has been filed, if and to the extent that a Final Order overruling such objection is entered.

(c) References herein to "this case" are references to the Debtor's above-styled case pending in this Court under Chapter 11 of the Bankruptcy Code.

(d) References herein to "this Court" are references to the United States Bankruptcy Court for the Northern District of Georgia.

(e) References herein to "Class ____ Claims" are references to the allowed Claims designated as falling within the indicated Class by Article II hereof.

(f) The words "herein," "hereto," "hereof," "hereunder," "hereby," and the like indicate references to this modified plan.

Article II: Means of Implementation, General Description of the Plan, and Establishment of Funding

2.01. Restructuring of the Partnership

(a) On the Restructuring Date, DAB & Co. and Borden shall be admitted to the Partnership as Additional General Partners.

(b) Immediately thereafter, the Existing General Partners shall become Limited Partners and shall release all

rights that they may presently hold as General Partners to collect from the Partnership any and all sums then due and owing by the Partnership to the General Partners, including (1) unpaid loans and accounts receivable, and (2) accrued and unpaid fees, including unpaid organization fees, administrative management fees, acquisition fees, lease-up fees, operating deficit guaranty fees, working capital loan guaranty and incentive fees, and guaranty fees incurred in lieu of the payment of a premium for a surety bond.

(c) Immediately thereafter, there shall be created a new class of Limited Partner interests, namely Class A, and all existing Units [including that held by DAB & Co. and Borden after the conversion of their interest as Existing General Partners to a Limited Partner interest as prescribed by Subsection (b) of this section, as well as any Units held by DAB & Co. and Borden as Limited Partners prior to such conversion of their interest as Existing General Partners] shall be deemed to constitute Class B Units, provided that --

- (1) an existing Limited Partner's interest in the Partnership by virtue of its ownership of Class B Unit(s) shall not be affected by the existence of any default by such Limited Partner under any promissory note heretofore given by it in consideration for its existing Unit(s); and
- (2) all non-ownership interests (including security interests) in existing Units held by third parties shall continue in the rights of Class B Limited Partners to receive distributions under the Restated Partnership Agreement on

account of their Class B Units, and no such interests shall attach to any Class A Units that may be acquired by existing Partners pursuant to Subsection (d) of this section.

(d) (1) On or before the Restructuring Date, DAB & Co. and Borden shall contribute additional capital to the Partnership aggregating \$125,000, and certain of the existing Limited Partners shall contribute additional capital to the Partnership aggregating \$250,000.

(2) In consideration for such additional capital contributions, DAB & Co. and Borden shall receive 33-1/3 Class A Units, and such existing Limited Partners shall receive 66-2/3 Class A Units.

(3) The additional capital contributions required by Paragraph (1) of this subsection shall be made only in cash.

(e) In the event that the additional capital contributions required by Subsection (d)(1) of this section are not fully paid on or before the Restructuring Date, then --

(1) other entities qualified to become Limited Partners may purchase (in cash) the Class A Unit(s) that any General Partner or Limited Partner is obligated to acquire but that it fails to purchase; and

(2) the Effective Date shall be postponed by 30 days.

(f) It is the intention of the Partners that the Partnership have General Partners continuously throughout the

process required by this section to take place on the Effective Date.

2.02. Use of Additional Capital Contributions. The additional capital contributions to be made pursuant to Section 2.01(d)(1) hereof in consideration for Class A Units shall be used for the payment of --

- (a) prepetition real and personal property ad valorem taxes, fire, utility, and library district assessments and dues, and all other prepetition tax claims;
- (b) all postpetition amounts due and all escrow deposits for postpetition taxes, fire, utility, and library district dues and assessments and fire and casualty insurance premiums;
- (c) Interest payments to Secor Bank in the amount of \$47,500.00 for each of the months of November and December, 1989;
- (d) Administrative Expense Claims;
- (e) The cost of cosmetic improvements to the Property; and
- (f) Working capital for the reorganized and reconstituted Partnership.

2.03. Distribution of Lien Claim Fund

- (a) The Debtor will retain the Engineer to determine the extent of the Property's settlement problems and the extent to which such problems are a result of defective workmanship by the Lien Claimants, and to estimate the costs of remedying such problems. The Debtor believes that, to the extent that the settlement problems are the result of defective workman-

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ship by the Lien Claimants, the cost of remedying such problems should be borne by the Lien Claimants.

(b) Gentrac, which is the principal Lien Claimant, entered into a contract with the developer of the Property or the Existing General Partners for the construction of the Property, and has obtained a partial summary judgment against the Debtor in connection with the Project in litigation in the Circuit Court of Shelby County, Alabama (No. 88-074), which judgment is in the amount of \$336,429.66. However, Gentrac failed to complete the Project within the time provided therefor, and so the Debtor believes that Gentrac's Claim in the amount of \$512,712.02 is subject to the Debtor's liquidated damage claim for "delay" damages in the amount of \$224,880.00.

(c) In light of the disputes described in Subsections (a) and (b) of this section, the Debtor proposes to distribute to Gentrac and the other Lien Claimants the balance in the Development Escrow Account as of the Effective Date, including earned interest, less a deduction for the cost of remedying the settlement problems to the extent that the Engineer determines that such problems are attributable to the Lien Claimants' workmanship. Such distributions will be made in full and final satisfaction of the Lien Claims and all mechanic's and materialman's liens in the Property in accordance with Sections 506(d), 1111(b)(2), and 1129(b) of the

Bankruptcy Code, and Gentrac and all other Lien Claimants will be required to dismiss with prejudice all state court litigation presently pending that arises out of or is related to the Project.

2.04. Treatment of Secor Bank. The Debtor's obligations to Secor Bank (including any obligation of the Debtor to Union Bank) shall remain in full force and effect and shall not be restructured or reconstituted except for the treatment afforded to its arrearage Claim and the limitation on interest increases described in Section 4.03(a) hereof.

Article III: Classification of Claims
and Equity Interests: Impairment

3.01. Administrative Expense Claims. Class 1 shall consist of all Administrative Expense Claims. This Class is not impaired hereunder.

3.02. Priority Claims. Class 2 shall consist of all Priority Claims. To the best of the Debtor's knowledge, this Class is comprised solely of Claims for wages, employee benefits, and taxes entitled to priority under Section 507(a)(3), (4), and (7) of the Bankruptcy Code. This Class is not impaired hereunder.

3.03. Secured Claim. There shall be three classes of Secured Claims, each of which is impaired hereunder:

- (a) Class 3A shall consist of the Secured Claim of Secor Bank and Union Bank;
- (b) Class 3B shall consist of all Lien Claims; and

(c) Class 3C shall consist of all Claims secured by security interests in Equity Interests.

3.04. Contract Claims. Class 4 shall consist of all Contract Claims. This Class is not impaired hereunder.

3.05. Unsecured Claims. Class 5 shall consist of all Unsecured Claims. This Class is impaired hereunder.

3.06. Equity Interests. Class 6 shall consist of all Equity Interests. This Class is impaired hereunder.

Article IV: Treatment of Classes

4.01. Administrative Expense Claims

(a) To the extent that they have by then been allowed, all Class 1 Claims shall be paid in full on or about the Effective Date.

(b) Except as provided in Section 5.02 hereof, to the extent that Class 1 Claims are allowed after the Effective Date, all such Claims shall be paid in full promptly after the entry of a Final Order allowing such Claims or upon such other terms as may be agreed between the holder of the Claim and the Debtor pursuant to Section 1129(a)(9) of the Bankruptcy Code.

4.02. Priority Claims. All Class 2 Claims shall be paid in full on or about the Effective Date.

4.03. Secured Claims.

(a) The Class 3A Claim shall be treated as follows:

(1) On or about the Effective Date, Secor Bank shall receive the sum of \$95,000.00 in payment

of the unpaid interest payments due to it for the months of November and December, 1989;

- (2) The remainder of the arrearage on the Class 3A Claim (\$177,000.00) plus additional interest thereon at the rate of 11% per annum shall be paid at the maturity of such Claim;
- (3) Except as provided in Paragraph (2) of this subsection, the rate of interest on the Class 3A Claim shall not exceed 7-7/8% per annum irrespective of the results of the interest rate recomputation to be made on or about October 1, 1991; and
- (4) The Debtor's obligation to Secor Bank shall not otherwise be altered.

(b) By virtue of a contractor's lien obtained in state court litigation against Debtor, Gentrac has a claim upon the balance of the Development Escrow Account, including earned interest. At the present time, Secor Bank is holding approximately \$406,886.84 in the Development Escrow Account. The Class 3B Claims shall be treated as follows:

- (1) After the date the confirmation order becomes a final order, Secor Bank shall remit to Debtor as the Disbursing Agent the balance in the Development Escrow Account, including earned interest;

- (2) Promptly thereafter, Debtor shall distribute, the Development Escrow Account, including earned interest to the Lien Claimants named below in the amounts stated herein with proration of any additional interest earned:

<u>LIEN CLAIMANTS</u>	<u>AMOUNT</u>
Gentrac	\$250,720.84
R & S Electrical Co.	62,159.81
H & M Mechanical Contractors	66,511.37
Southern Construction Products	2,400.00
McAdams Carpet	6,674.25
Stanley Smith	1,608.00
The Rogers Group, Inc.	16,092.22
Daviston Insulation Co., Inc.	720.35
	<u>\$406,886.84</u>

- (3) In consideration of the receipt of the above referenced payments, the above named Lien Claimants shall release of record their liens filed in any probate county of the State of Alabama against the Property and shall dismiss with prejudice any lawsuits pending in any court in the State of Alabama pending against the Property or seeking the recovery of any monies from Gentrac, Secor Bank, Debtor, or Safeco Insurance Company;
- (4) Upon Confirmation, the Property shall vest in the Debtor free and clear of all mechanic's and materialman's liens against the Property,

and the Debtor's recordation in the Shelby County, Alabama, real property records of certified copies of this Plan and of the Confirmation Order shall have the effect of releasing such liens of record; and

- (5) All valid claims of any Lien Claimant in this case shall be reduced by the amount of money received pursuant to this provision and any amounts still outstanding shall be reclassified as unsecured claims for purposes of confirmation of this Plan.

(c) The holders of Class 3C Claims shall be afforded the rights of secured parties to receive distributions under applicable security agreements and as further set forth in the Restated Partnership Agreement and particularly in Section 302(c)(2) thereof.

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4.04. Contract Claims. On or about the Effective Date, the Debtor shall cure any default under each of the executory contracts and unexpired leases that it shall assume pursuant to Section 5.01 hereof.

4.05. Unsecured Claims. Except to the extent paid or payable in the ordinary course of business operations, there shall be no distribution hereunder on account of Class 5 Claims.

4.06. Equity Interests

The Class '6 Equity Interests shall be treated as set forth in Section 2.01 hereof and in the Restated Partnership Agreement.

Article V: Other Provisions

5.01. Executory Contracts and Unexpired Leases. The Debtor shall assume all leases of the Property and all other executory contracts and unexpired leases that the Disclosure Statement indicates the Debtor intends to assume, provided that the Debtor's limited partnership and management agreement shall be amended substantially to conform to the forms of the Restated Partnership Agreement and the Restated Management Agreement. All of the Debtor's other executory contracts and unexpired leases shall be rejected.

5.02. Employment and Payment of Professionals

(a) During the period between the Confirmation Date and the closing of this case, the Debtor may (1) continue to avail itself of the services of professional persons whose employment was approved at or prior to Confirmation in completing the administration of this case and in the consummation and performance hereof, and (2) if necessary and with the approval of this Court, employ additional professional persons to render such services.

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(b) With respect to services rendered and expenses incurred in or in connection with this case during such period by any such professional person, the professional person may render periodic billings therefor to the Debtor and the Debtor shall promptly pay the same, but each such payment shall be subject to review and approval by this Court as to the reasonableness thereof in the manner prescribed by Subsection (c) of this section.

(c) Section 7.02(b) hereof requires that the Debtor's application for a final decree detail all compensation and reimbursement of expenses paid to professional persons after the Effective Date. At the hearing on the Debtor's application for a final decree, this Court shall consider and determine whether such payments shall be approved as reasonable.

5.03. Transfer Avoidance. The Debtor does not intend to seek the avoidance or recovery of any payments or other transfers that may be preferential, fraudulent, or otherwise avoidable or recoverable under Chapter 5 of the Bankruptcy Code.

5.04. Tax Escrows. On or about the Effective Date, the Debtor shall establish an escrow account for the monthly deposit of real property taxes and fire, utility, and library district assessments and dues. The aggregate amount of each monthly escrow deposit shall be equal to 1/12 of the aggregate amount of such taxes, assessments, and dues imposed for 1990.

Article VI: Modification and Confirmation of Plan

6.01. Pre-Confirmation Modifications. The Debtor may propose further modifications hereof at any time prior to Confirmation with leave of this Court, upon such notice as may be required by this Court. If such a modification is made after acceptance hereof, this plan as so modified shall be deemed accepted by all holders of Claims and Equity Interests that have previously accepted this plan, provided that this Court finds that such modification would not materially and adversely change the treatment of the Claims or Equity Interests of holders that have not accepted such modification in writing.

6.02. Post-Confirmation Modifications

(a) Except as provided in Subsection (b) of this section, the Debtor may further modify this plan after Confirmation only if this Court determines that this plan as so modified meets all of the requirements for confirmation.

(b) Notwithstanding Subsection (a) of this section, the Debtor may further modify this plan during the period between the Confirmation Date and the Effective Date, provided that this Court determines only that such a modification does not materially and adversely change the treatment of Claims or Equity Interests but merely remedies a defect or omission or reconciles an inconsistency in or between this plan and/or the Confirmation Order in such manner as may be necessary to carry out the purposes and effect hereof.

6.03. Effect of Confirmation

(a) Upon Confirmation, the provisions hereof shall bind the Debtor, each entity acquiring property (including Class A Units and Class B Units) hereunder, and each holder of a Claim or Equity Interest, whether or not (1) the Claim or Equity Interest of such holder is impaired hereunder, or (2) such holder has accepted this plan.

(b) Except as otherwise provided herein or in the Confirmation Order, Confirmation vests all of the property of the estate in the Debtor, free and clear of all Claims and Equity Interests, and shall effect the avoidance of all mechanic's and materialman's liens in the Property (but not in the Lien Claim Fund).

(c) Except as otherwise provided herein or in the Confirmation Order, Confirmation discharges the Debtor from any debt that arose before the Confirmation Date and any Claim of a kind specified in Section 502(g), 502(h), or 502(i) of the Bankruptcy Code, whether or not (1) a proof of claim is filed with respect thereto, (2) the debt appears in the schedules of liabilities filed by the Debtor, (3) the debt is allowed, or (4) the holder of such debt has accepted this plan.

(d) (1) Subject to Paragraphs (2) and (3) of this subsection and Sections 4.03(b)(4) and 4.06(b) hereof, Confirmation does not discharge the Debtor's Equity

Interest holders, management, or any other entity other than the Debtor from any liability that such entity might have for any obligation of the Debtor.

(2) Notwithstanding Paragraph (1) of this subsection, the holder of a debt and an entity other than the Debtor that may be liable therefor may agree that such entity is discharged from such liability.

(3) Notwithstanding Paragraph (1) of this subsection, so long as the Debtor meets its obligations hereunder with respect to the holder of (A) a Priority Claim for which the Debtor's management or Equity Interest holders are "responsible persons" under the Internal Revenue Code, other federal laws, or applicable state statutes, or (B) any other Claim for which third parties are or may be alleged to be liable, the holder of such Claim shall not be entitled to pursue any remedy (other than preservation of its rights under any applicable saving statute of limitation) against any such "responsible person" or other third-party obligor.

(e) Confirmation shall constitute approval or ratification by this Court of the assumption or rejection of the Debtor's executory contracts and unexpired leases pursuant to Section 5.01 hereof.

(f) Confirmation shall constitute approval by this Court of all financing arrangements, leases, contracts, and other

actions that the Debtor or either General Partner proposes, in the Disclosure Statement or herein, to enter into, make, or take in connection with the implementation hereof, including the execution of the Restated Partnership Agreement and the Restated Management Agreement.

6.04. Default

(a) An event of default hereunder shall occur if (1) the Debtor fails to perform any of its obligations hereunder, and (2) such failure has not been cured within 10 days after the Debtor's receipt, through counsel, of a written notice of the default.

(b) Upon the occurrence of an event of default, each affected creditor shall be free to exercise any rights or remedies available to it under its agreements with the Debtor or applicable law, including (1) rights under security documents, and (2) rights against third parties notwithstanding the limitation set forth in Section 6.03(d)(3) hereof (which shall become inapplicable upon the occurrence of an event of default).

Article VII: Jurisdiction of Court and Closing of Case

7.01. Continuing Jurisdiction of Court. In addition to this Court's continuing jurisdiction after Confirmation that is provided for as a matter of law by the Bankruptcy Code and Bankruptcy Rules

or otherwise herein, this Court shall retain jurisdiction for the following purposes:

- (a) To classify any Claim or Equity Interest and to determine such objections as may be filed with respect to the allowance thereof;
- (b) To correct any defect, cure any omission, or reconcile any inconsistency in or between this plan and/or the Confirmation Order as may be necessary to carry out the purposes and intent hereof;
- (c) To determine the nature, extent, allowability, and provisions hereunder for any priority tax or other Claim and the liability for such Claim or the amount thereof of any third party, including any guarantor and any "responsible person" as defined under the Internal Revenue Code or other applicable tax laws;
- (d) To enforce and interpret the terms and conditions hereof;
- (e) To enter any orders, including injunctions, necessary to enforce the title, rights, and powers of the Debtor and to impose such limitations and terms of such title, rights, and powers as this Court may deem necessary or appropriate;
- (f) To determine any claims asserted by the Debtor against any other person or entity, if such claims are pursued in this Court prior to the closing of this case;
- (g) To compel the dismissals of litigation required by Sections 4.03(b)(4) and 4.06(b) hereof, and to enforce the stay imposed by Section 6.03(d)(3) hereof; and
- (h) To enter a final decree closing this case.

7.02. Procedure for Closing Case

- (a) At such time as this plan has been consummated, the Debtor shall file an application for a final decree.

(b) Such application shall set forth information showing that this plan has been consummated, the information with regard to payments to professional persons required by Section 5.03(c) hereof, and such other facts as may be necessary to enable this Court to pass on the provisions to be included in the final decree.

(c) This Court shall then conduct a hearing upon such application after notice to all persons specially requesting notices, after which an order approving such application and closing this case (final decree) may be entered.

TURTLE LAKE, LTD., by Das A.
Borden & Company, Its Managing
General Partner

By: *Das A. Borden*
Das A. Borden, President

Kyle R. Weems
Kyle R. Weems, Attorney for
Debtor

Of Counsel:

WEEMS & BECKHAM
1810 McCallie Avenue
Chattanooga, Tennessee 37404
615/624-1000

JOHN D. CLEMENT, JR., ESQUIRE
201 North Water Street
Tuscumbia, Alabama 35674
205/383-6128

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Debtor's Plan of Reorganization with Corrections and Clarifications was served on counsel for parties in interest and on the Estate Analyst by mailing copies thereof to them at the following respective addresses:

William S. Pritchard, Jr., Esquire
Pritchard, McCall & Jones
800 Financial Center
505 North 20th Street
Birmingham, Alabama 35203-2605

Ted L. Mann, Esquire
Sadler, Sullivan, Herring & Sharp, P.C.
2500 SouthTrust Tower
420 20th Street, North
Birmingham, Alabama 35203-3204

Clark R. Hammond, Esquire
Balch & Bingham
Post Office Box 306
Birmingham, Alabama 35201

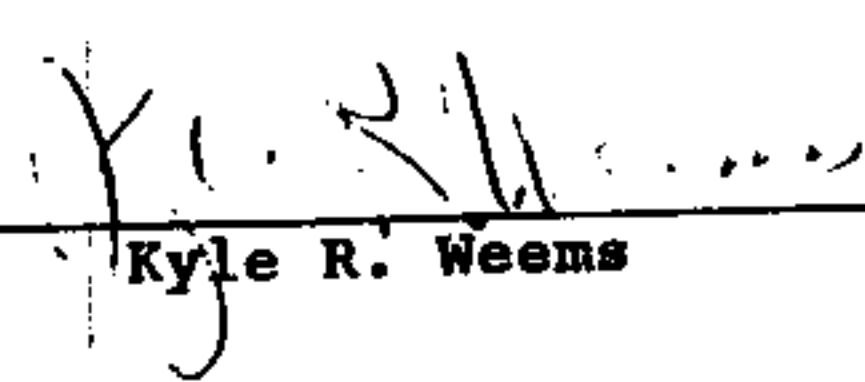
Robert L. Shields, III, Esquire
Berkowitz, Lefkovits, Isom & Kushner
1100 Financial Center
Birmingham, Alabama 35203

David B. Anderson, Esquire
Cabaniss, Johnston, Gardner, Dumas & O'Neal
1900 First National-Southern National Building
Birmingham, Alabama 35203

Garland C. Hall, III, Esquire
Chenault, Hammond, Buck & Hall
Post Office Box 1906
Decatur, Alabama 35602

Robert Long, Jr.
Estate Analyst
United States Bankruptcy Court
Post Office Box 1289
Decatur, Alabama 35601.

This the 14th day of June, 1991.



Kyle R. Weems

THESE SECURITIES HAVE BEEN ISSUED OR SOLD IN RELIANCE UPON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS UNDER FEDERAL AND STATE SECURITIES LAWS. THESE SECURITIES MAY NOT BE SOLD OR TRANSFERRED EXCEPT IN A TRANSACTION THAT IS (1) EXEMPT UNDER FEDERAL AND STATE SECURITIES LAWS, OR PURSUANT TO AN EFFECTIVE REGISTRATION UNDER FEDERAL AND STATE SECURITIES LAWS, OR OTHERWISE IN COMPLIANCE WITH FEDERAL AND STATE SECURITIES LAWS, AND (2) IN COMPLIANCE WITH THIS AGREEMENT AND CERTIFICATE OF LIMITED PARTNERSHIP.

**SECOND RESTATED AND AMENDED AGREEMENT
AND CERTIFICATE OF LIMITED PARTNERSHIP FOR
TURTLE LAKE, LTD., AN ALABAMA LIMITED PARTNERSHIP**

This Second Restated and Amended Agreement and Certificate of Limited Partnership is entered into this ____ day of _____, 1991, by and among the following: Das A. Borden & Company, an Alabama corporation whose principal place of business is Suite 200, 404 Avalon Avenue, Muscle Shoals, Alabama 35660 ("DAB & Co."); Das A. Borden, whose principal place of residence is _____, Alabama _____ ("Borden"); and such other investors as have heretofore been admitted, or as hereafter may be admitted, to the Partnership as limited partners (the "Limited Partners").

Witnesseth:

Whereas, Turtle Lake, Ltd., an Alabama Limited Partnership (the "Partnership"), DAB & Co., and Borden are all debtors-in-possession in Chapter 11 bankruptcy cases pending in the United States Bankruptcy Court for the Northern District of Alabama, Northern Division (the "Bankruptcy Court");

Whereas, the parties hereto desire further to restate and amend the previous formation of the Partnership under the laws of the State of Alabama for the purposes set forth herein; and

Whereas, the parties hereto contemplate the restructuring of the Partnership by the admission of a new class of partners who shall contribute additional capital to the Partnership;

Now, therefore, in consideration of the mutual covenants herein contained and intending to be legally bound hereby, the parties hereto, after being duly sworn, do covenant, agree, and certify as follows.

Article I: Definitions

101. Affiliate. "Affiliate" shall mean (a) any person directly or indirectly controlling, controlled by, or under common control with another person, (b) any person owning or controlling 10% or more of the outstanding voting securities of such other person, (c) any officer, director, or partner of such person, and (d) if such other person is an officer, director, or partner, any business or entity for which such person acts in any such capacity.

102. Cash Flow. "Cash Flow" shall mean (a) the net profits (or losses) as shown on the books of the Partnership (1) increased by (A) the amount of depreciation and amortization deductions taken in computing such net profits (or losses), and (B) any non-taxable income or receipts of the Partnership (excluding capital contributions, and the proceeds of any mortgages or of any other Partnership obligations or loans to the extent used to finance capital improvements or replacements), and (2) reduced by (A) payments upon the principal of any mortgages upon the Property or of any other Partnership obligations or loans, (B) expenditures for the acquisition of the Property financed through capital contributions or loans, or reserves previously set aside by the Partnership for such purposes, and (C) such reserves for new construction, capital improvements, replacements, or repairs, or to meet anticipated expenses as the Managing General Partner shall deem to be reasonably necessary in the efficient conduct of the Partnership business, plus (b) any other funds (including funds obtained from financing and amounts previously set aside as reserves by the Managing General Partner, where and to the extent it no longer regards such reserves as reasonably necessary in the efficient conduct of the Partnership business) deemed available for distribution and designated as cash flow by the Managing General Partner.

103. Certified Public Accountant. "Certified Public Accountants" shall mean an independent firm of certified public accountants selected by the general partners; provided, however, the general partners shall obtain the advice and consent of the Class A limited partners to the certified public accounting firm selected.

104. Effective Date. "Effective Date" shall mean the date that the amendments effected hereby shall become effective, which shall be the same as the "Restructuring Date" as defined in the Debtor's Second Modified Plan of Reorganization as heretofore or hereafter modified and confirmed the Bankruptcy Court in the Partnership's Chapter 11 bankruptcy case.

105. General Partner. "General Partner" shall mean any entity as has heretofore been admitted, or as hereafter may be admitted, to the Partnership as a general partner, including an Existing General Partner, an Additional General Partner, and a Successor General Partner.

(a) "Additional General Partner" shall mean DAB & Co. or Borden following its or his admission to the Partnership as a new General Partner as prescribed by Section 302(a) of this agreement but before becoming a Successor General Partner.

(b) "Existing General Partner" shall mean DAB & Co. or Borden in its or his present capacity as a General Partner.

(c) "Successor General Partner" shall mean an Additional General Partner following the conversion of the interest of the Existing General Partners to a Limited Partner interest as prescribed by Section 302(b) of this agreement.

106. Code. "Code" shall mean the Internal Revenue Code of 1954, as amended, and shall include Treasury Regulations promulgated thereunder and administrative guidelines and interpretations issued with respect thereto.

107. Limited Partner. "Limited Partner" shall mean any of the Limited Partners, as heretofore defined, including a Class B Limited Partner and a Class A Limited Partner.

(a) "Class A Limited Partner" shall mean a holder of one or more Class A Units acquired pursuant to Section 302(d) of this agreement.

(b) "Class B Limited Partner" shall mean a holder of one or more existing Units after the creation of the new Class A Limited Partner interest as prescribed by Section 302(c) of this agreement.

108. Managing General Partner. "Managing General Partner" shall mean DAB & Co. or any other General Partner as may be designated the managing general partner of the Partnership.

109. Partners. "Partners" shall mean the General Partners and the Limited Partners.

110. Profits and Losses. "Profits" and "Losses" shall mean the net profits or net losses of the Partnership, respectively, as shown on its books of account after deduction of expenses, depreciation, and such other charges or additions as are appropriate under generally accepted accounting principles consistently applied.

111. Property. "Property" shall mean that certain 184-unit apartment project developed on that certain parcel of land in Shelby County, Alabama, as more particularly described on Exhibit A attached hereto and incorporated herein by reference, together with all real and personal property used in connection therewith or in the operation thereof.

112. Unit. "Unit" shall mean a unit of interest in the Partnership's capital, Profits, Losses, and Cash Flow, including a Class B Unit and a Class A Unit.

(a) "Class A Unit" shall mean one of the 100 units of the new interest in the Partnership created as prescribed by Section 302(c) of this agreement.

(b) "Class B Unit" shall mean one of the 100 existing units of interest in the Partnership following the creation of the new Class A Limited Partner interest as prescribed by Section 302(c) of this agreement.

Article II: Formation of the Partnership

201. Ratification of Formation. The Partners do hereby ratify the formation of the Partnership as a limited partnership pursuant to the laws of the State of Alabama in order to carry on the business purposes for which provision is made herein. It is the intent of the Partners that this agreement shall constitute a certificate of limited partnership within the meaning of applicable laws.

202. Name. The name and style under which the Partnership shall be conducted is "Turtle Lake, Ltd."

203. Purpose. The general character of the business of the Partnership shall be to own, operate, and hold for investment income-producing residential real property. In connection therewith, the Partnership shall have the authority to carry out any and all activities not prohibited to limited partnerships under applicable laws.

204. Term. The term of the Partnership shall continue until December 31, 2016, on which date it shall be dissolved, provided, however, that the Partnership shall be terminated and dissolved prior to such date as a result of the occurrence of any of the events set forth in Section 701 of this agreement.

205. Principal Place of Business. The Partnership shall maintain its principal place of business at Suite 200, 404 Avalon Avenue, Muscle Shoals, Alabama 35660, and at the Property. The Partnership may relocate its office from time to time or have such additional offices as the Managing General Partner may determine.

Article III: Capital Contributions and Partnership Interests

301. Existing Interests. The General Partners are presently DAB & Co. and Borden, which jointly hold one Unit. The Limited Partners presently hold an aggregate of 99 Units.

302. Effective Date Transactions

(a) On the Effective Date, DAB & Co. and Borden shall be admitted to the Partnership as Additional General Partners.

(b) Immediately thereafter, the Existing General Partners shall become Limited Partners, and shall release all rights that they may presently hold as General Partners to collect from the Partnership any and all sums then due and owing by the Partnership to the General Partners, including (1) unpaid loans and accounts receivable, and (2) accrued and unpaid fees, including unpaid organization fees, administrative management fees, acquisition fees, lease-up fees, operating deficit guaranty fees, working capital loan guaranty and incentive fees, and guaranty fees incurred in lieu of the payment of a premium for a surety bond.

(c) Immediately thereafter, there shall be created a new class of Limited Partner interests, namely Class A, and all existing Units [including that held by DAB & Co. and Borden after the conversion of their interest as Existing General Partners to a Limited Partner interest as prescribed by Subsection (b) of this section, as well as any Units held by DAB & Co. and Borden as Limited Partners prior to such conversion of their interest as Existing General Partners] shall be deemed to constitute Class B Units, provided that --

- (1) an existing Limited Partner's interest in the Partnership by virtue of its ownership of Class B Unit(s) shall not be affected by the existence of any default by such Limited Partner under any promissory note heretofore given by it in consideration for its existing Unit(s); and
- (2) all non-ownership interests (including security interests) in existing Units held by third parties shall continue in the rights of Class B Limited Partners to receive distributions under this agreement on account of their Class B Units, and no such interests shall attach to any Class A Units that may be acquired by existing Partners pursuant to Subsection (d) of this section.

(d) (1) On or before the Effective Date, DAB & Co. and Borden shall contribute additional capital to the Partnership aggregating \$125,000, and certain of the existing Limited Partners shall contribute additional capital to the Partnership aggregating \$250,000.

(2) In consideration for such additional capital contributions, DAB & Co. and Borden shall receive 33-1/3 Class A Units, and such existing Limited Partners shall receive 66-2/3 Class A Units.

(3) The additional capital contributions required by Paragraph (1) of this subsection shall be made only in cash.

(e) In the event that the additional capital contributions required by Subsection (d)(1) of this section are not fully paid on or before the Effective Date, then other entities qualified to become Limited Partners may purchase (in cash) the Class A Unit(s) that any General Partner or Limited Partner is obligated to acquire but that it fails to purchase.

(f) It is the intention of the Partners that the Partnership have general partners continuously throughout the process required by this section to take place on the Effective Date.

303. Status of Partnership Interests. Except as maybe otherwise provided in this agreement, the Partnership interests shall be fully paid and non-assessable. No Partner shall have the right to withdraw or reduce its capital contribution to the Partnership except as a result of (a) the dissolution and termination of the Partnership, (b) in the case of the General Partners, their removal from the Partnership as General Partners as provided in Section 504 of this agreement, or (c) as otherwise provided in this agreement and in accordance with applicable law.

304. No Further Capital Contributions Required. Except as otherwise may be required by law, neither the General Partners nor the Limited Partners shall be required to make any further capital contributions to the Partnership.

305. Capital Accounts

(a) A separate capital account shall be maintained and adjusted for each Partner.

(b) Each Partner's capital account shall include (1) the amount of money contributed by the Partner to the Partnership, (2) the fair market value of property contributed by the Partner to the Partnership (net of liabilities securing such property that the Partnership is considered to assume or take subject to), and (3) allocations to the Partner of Profits.

(c) Each Partner's capital account shall be reduced by (1) the amount of money distributed to the Partner by the Partnership, (2) the fair market value of property distributed to the Partner by the Partnership (net of liabilities securing such property that such Partner is considered to assume or take subject to), (3) allocations to the Partner of expenditures of the Partnership described in Section 705(a)(2)(B) of the Code, and (4) allocations of Losses.

(d) The capital account of each Partner shall be maintained and adjusted in accordance with the Code.

Article IV: Allocations and Distributions

401. Profits and Losses

(a) Profits shall be distributed to the Partners from Cash Flow on an annual basis, provided that the Managing General Partner may set aside such reserves as are required by law or as it deems appropriate or necessary for working capital or to meet liabilities and obligations of the Partnership, whether contingent or otherwise.

(b) Subject to Section 402 of this agreement, Profits shall be allocated among and distributed to the Partners as follows:

- (1) To Class A Limited Partners, until their distributions under this subsection and under Section 402(b) of this agreement aggregate (A) the amounts of their contributions to the Partnership on the Effective Date pursuant to and in accordance with Section 302(d)(1) of this agreement, plus (B) a return of 15% per annum thereon; then
- (2) 50% to Class A Limited Partners and 50% to Class B Limited Partners.

402. Profits from Sale or Other Disposition of Partnership Assets

(a) Subject to Subsection (d) of this section, in the event of the sale of all or substantially all of the assets of the Partnership, refinancing of the Property, condemnation by governmental authority or pursuant to a private right of condemnation, or receipt of insurance funds from casualty in excess of the expense of repair or replacement to the extent permitted by the holder of any mortgage on the Property, the net proceeds realized shall first be distributed to the payment of any debts and liabilities of the Partnership and to the establishment of any reserve that the Managing General Partner deems reasonably necessary to provide for any contingent or unforeseen liabilities or obligations of the Partnership.

(b) Subject to Subsection (d) of this section, to the extent that such net proceeds exceed such debts and liabilities and reserves therefor, such proceeds shall be allocated among and distributed to the Partners in the manner set forth in Section 401(b) of this agreement with respect to annual allocations and distributions of Profits from Cash Flow.

(c) The distributions prescribed by Subsection (b) of this section shall be made promptly upon the receipt of such net proceeds, provided that any remaining balances of any reserves for

debts and liabilities shall be distributed promptly upon the determination by the Managing General Partner that it is no longer necessary or appropriate to maintain such reserves.

(d) The Managing General Partner or an affiliate thereof is presently entitled to a commission not to exceed 3% of the gross sale price in the event that it renders brokerage services in connection with the sale of all or substantially all of the assets of the Partnership. As of the Effective Date, the Managing General Partner assigns such right as follows: 50% to the General Partners; and 50% to the Class A Limited Partners.

403. Tax Treatment of Allocations. The Partners understand and agree that the allocations of Profits and Losses prescribed by this agreement apply for federal income tax purposes, as well as for Partnership accounting purposes. The allocations set forth in tax information returns to be filed by the Partnership shall be determined in accordance with this agreement, and each of the Partners agrees to report on its federal income tax return its share of Profits or Losses in accordance with such Partnership information returns.

404. Return of Capital Contributions

(a) The General Partners shall not be personally liable for the return of the capital contributions of the Partners, if and to the extent that any return is required, and any such return shall be made solely from the assets of the Partnership.

(b) If any Partner shall receive the return of all or a part of its capital contributions, it shall nevertheless be liable to the Partnership for the sum returned, together with interest thereon, to the extent necessary to discharge the Partnership's liabilities to creditors who extend credit or whose claims arose prior to such return of capital contributions or as otherwise provided under applicable law.

(c) The Partnership shall not pay interest on capital contributions of any Partner except as otherwise provided herein as to Class A Limited Partners at the time of the sale or refinancing.

Article V: Rights and Responsibilities of the General Partners

501. Rights and Responsibilities of General Partners. The General Partners and each of them shall have the following rights and responsibilities:

- (a) To supervise and operate the Partnership business;
- (b) To represent the Partnership in all transactions and dealings with other parties consistent with their fiduciary obligation to the Partnership;

- (c) To establish and maintain checking, savings, and other banking accounts on behalf of the Partnership, as they may deem appropriate;
- (d) To cause to be prepared and filed all federal and state tax information returns;
- (e) To furnish the Partners with all information and accounting of the business of the Partnership on a timely basis and when and if requested by any Partner;
- (f) To devote such time to the Partnership business as may be necessary to carry on and conduct such business consistent with their fiduciary obligation to the Partnership;
- (g) To maintain and review all books of account for all costs and expenses incurred in connection with the business of the Partnership;
- (h) To maintain their net worth at levels in conformity with the published audit guidelines or other rulings of the Internal Revenue Service in order for the Partnership to be classified and treated for federal income tax purposes as a partnership; and
- (i) To take no actions to cause any non-recourse mortgage indebtedness of the Partnership on the Property to become recourse indebtedness of the Partnership.

502. Additional Rights and Responsibilities of Managing General Partner

(a) The Managing General Partner shall be solely responsible for the management of the Partnership business.

(b) In addition to any other rights and powers that it may possess under applicable law or pursuant to this agreement, the Managing General Partner (either directly or through a designee) shall have all specific rights and powers required or appropriate to its management of the Partnership business, which shall include, without limitation, the following rights and powers on behalf of the Partnership:

- (1) To acquire, hold, lease, encumber, pledge, option, exchange, or otherwise dispose of real property (or rights or interests therein) of any nature whatsoever, as may be necessary or advisable for the operation of the Partnership business;

- (2) To borrow money for Partnership purposes and, if security is required therefor, to execute and deliver all instruments, deeds of trust, mortgages, security agreements, assignments, or other security documents relating to all or a portion of the assets of the Partnership, as may be necessary or advisable for the operation of the Partnership business;
- (3) To enter into contracts, agreements, or arrangements concerning the assets of the Partnership, as may be necessary or advisable for the operation of the Partnership business;
- (4) To employ such persons, agents, or independent contractors as may be necessary or advisable for the operation of the Partnership business;
- (5) To pay all expenses reasonably incurred in the operation or administration of the Partnership business and to establish reserves for liabilities and obligations of the Partnership, whether contingent or otherwise;
- (6) To place record title to, or the right to use, any assets of the Partnership in the name(s) of such nominee(s) as may be necessary or advisable for the operation of the Partnership business; and
- (7) To execute and deliver any and all instruments to effectuate the foregoing and to take all such actions as may be necessary or advisable for the operation of the Partnership business.

(c) The partnership shall enter into a management agreement with the Managing General Partner, as Property manager.

(1) Such agreement shall provide for a management fee in a monthly amount equal to 4% of monthly gross income collected from the Property, provided that the management fee is subject to future increases after three (3) years from the Effective Date.

(2) The Property manager shall provide, at its own expense, management personnel who will be responsible for supervision of on-site personnel and other administrative duties, and will bear in-house accounting, bookkeeping, and clerical expenses. The Partnership will bear the expense of the salaries for on-site personnel, such as resident managers and maintenance personnel, and all operating expenses including, without limitation, advertising, office supplies, repair, and maintenance expenses.

(3) Nothing contained herein shall be deemed to preclude the payment to the General Partners or their affiliates of charges and fees not designated herein, provided that such charges or fees are for goods or services required by the Partnership and are not in excess of the customary market price for similar goods or services as the Partnership may procure from unaffiliated parties.

(4) The Partnership hereby acknowledges that affiliates of the General Partners may perform services on behalf of the Partnership.

503. Limitations on Rights of General Partners. Notwithstanding anything in this agreement to the contrary, the General Partners shall not have the right or authority to --

- (a) do any act in contravention of this agreement;
- (b) do any act that would make it impossible to carry on the ordinary business of the Partnership; subject to Subsection (g) of this section, the sale of all or any portion(s) of the Partnership's property shall not be deemed to be an act making it impossible for the Partnership to carry on its ordinary business;
- (c) confess a judgment against the Partnership;
- (d) possess Partnership property or assign the rights of the Partnership in specific Partnership property for other than Partnership purposes;
- (e) admit a person as a General Partner or Limited Partner except as otherwise provided in this agreement;
- (f) receive any fees or other sums from the Partnership, except as expressly authorized hereby [see § 502(c)]; specifically, the General Partners shall not receive any fees of the types described in Section 302(b)(2) of this agreement; or
- (g) sell all or any portion(s) of the Property other than upon a vote of the Limited Partners (see § 607) and the approval of the Managing General Partner.

504. Removal of General Partners

(a) Upon a vote of the Limited Partners (see § 607), a General Partner may be removed from the Partnership for cause. For purposes of this agreement, "cause" for removal of a General Partner shall be defined as follows:

- (1) Prior to the first annual anniversary of the Effective Date, willful neglect of its duties or fraud; and
- (2) Thereafter, willful misconduct, gross negligence, or fraud.

(b) Written notice of the removal of a General Partner shall be served upon it either by certified or registered mail return receipt requested, or by personal delivery. Such notice shall set forth (1) a detailed statement of the facts upon which the assertion of "cause" is based, (2) a statement of the percentage of Units voting for removal, and (3) the date upon which the removal is to become effective, which date shall not be less than 45 days after the General Partner's receipt of such notice.

(c) Upon receipt by the to-be-removed General Partner of such a notice, the remaining General Partner(s) (or if there be none, then the to-be-removed General Partner) shall cause an accounting to be prepared by a Certified Public Accountant covering the transactions of the Partnership since the end of the previous fiscal year.

(d) Each General Partner expressly reserves the right to contest the existence of "cause" for removal. In the event that the to-be-removed General Partner does so, such dispute shall be resolved by any court of competent jurisdiction other than the United States Bankruptcy Court for the Northern District of Alabama.

505. Liability and Indemnification of General Partners

(a) No General Partner (including any directors, officers, and employees of a General Partner) shall be liable, responsible, or accountable in damages or otherwise to the Partnership or to any Limited Partner for any liability or loss relating to the performance or non-performance of any act concerning the business of the Partnership, provided that the General Partner was acting in good faith and within the scope of its authority, except for acts taken or not taken that would constitute "cause" for the General Partner's removal under Section 504(a) of this agreement.

(b) The Partnership (but not the Limited Partners) shall indemnify and hold harmless each General Partner (including any directors, officers, and employees of a General Partner) against any liability, loss, or threat of liability or loss, including legal fees, as a result of any claim or legal proceeding relating to the performance or non-performance of any act concerning the business of the Partnership, provided that the General Partner was acting in good faith and within the scope of its authority, except for acts taken or not taken that would constitute "cause" for the General Partner's removal under Section 504(a) of this agreement.

(c) The Partnership and the Limited Partners, jointly and severally, hereby release each General Partner (including any directors, officers, and employees of a General Partner) from any liability or loss to the Partnership or the Limited Partners under the circumstances set forth in this section.

(d) Any liability of the Partnership shall first be satisfied out of the income or assets of the Partnership (including the proceeds of any insurance that the Partnership may recover) and, if such assets shall not be sufficient to satisfy such liability, the liability shall be borne by the General Partners.

**506. Voluntary Retirement or Withdrawal
of Individual General Partner**

(a) Borden and any additional or successor General Partner other than the Managing General Partner shall have the right voluntarily to retire or withdraw as a General Partner from the Partnership with the prior consent of the Managing General Partner, provided that the Partnership has received an opinion of counsel selected by the Managing General Partner to the effect that such retirement or withdrawal will not affect the classification of the Partnership as a partnership under the Code. Such General Partner shall not retire or withdraw from the Partnership without 30 days' prior written notice to the other Partners, and the effective date of such retirement or withdrawal shall be no sooner than the expiration of the foregoing 30-day notice period. The Managing General Partner, at such time, shall amend this agreement to reflect the foregoing and so notify all of the Partners and creditors of the Partnership.

(b) Upon such retirement or withdrawal, such retiring or withdrawing General Partner shall not be deemed to be liable with respect to any debts or liabilities that the Partnership incurred in connection with activities occurring subsequent to the date of retirement or withdrawal.

(c) Upon such retirement or withdrawal and the continuance of the Partnership as provided herein, such retiring or withdrawing General Partner's interest in the Partnership shall be transferred to, and paid for by, any remaining or successor General Partner(s) as shall be agreed to by such retiring or withdrawing General Partner and the remaining or successor General Partner(s). In no event, however, shall the remaining General Partner(s) have less than a 1% interest in Profits and Losses for federal income tax purposes.

Article VI: Rights and Responsibilities of the Limited Partners

601. Liability. A Limited Partner shall not be bound by, or be personally liable for, the expenses, liabilities, or obligations of the Partnership except as otherwise provided in this agreement.

602. Management of the Partnership. A Limited Partner shall take no part in the conduct or control of the business of the Partnership, and shall have no right or authority to act for or to bind the Partnership in any manner whatsoever.

603. Assignment of Units

(a) A Limited Partner shall have the right to assign all or any portion of its Units by a written assignment, provided that (1) the terms of such assignment are not in contravention of any of the provisions of this agreement, and (2) such assignment, together with prior assignments, would not result in the sale or exchange of 50% or more of the total interest in the Partnership capital and profits within a 12-month period.

(b) Such an assignment shall become effective on the later of the effective date set forth in the written instrument of assignment, and the satisfaction of all of the following conditions:

- (1) The assignor and assignee execute and acknowledge a written instrument of assignment, together with such other instruments as the Managing General Partner may deem necessary or desirable to effect the admission of the assignee as a substitute Limited Partner;
- (2) Such instrument of assignment has been delivered to and received by the Managing General Partner;
- (3) The written consent of the Managing General Partner to such substitution has been obtained, the granting of which shall not be unreasonably withheld;
- (4) A transfer fee has been paid to the Partnership in an amount sufficient to cover all reasonable expenses connected with such assignment and substitution including, without limitation, attorney's fees and recording costs; and
- (5) The Partnership has received, if required by any Partner, an opinion of counsel selected by the Managing General Partner to the effect that such sale (A) will not result in termination of the Partnership under applicable law, (B) will not result in termination of the Partnership for federal income tax purposes, (C) will not change the status of the Partnership as a partnership for federal income tax purposes, and (D) will not give rise to liability of the Partnership, any Partner, or any

agent or advisor of any Partner for violation of applicable securities laws.

(c) (1) An assignee of a Partner's interest in the Partnership shall be entitled to receive distributions of cash or other property from the Partnership attributable to the interest acquired by reason of such assignment from and after the effective date of the assignment of such interest to it except as provided in Paragraph (2) of this subsection.

(2) The Profits and Losses attributable to the Partnership interest acquired by reason of such assignment and distributions thereof during any fiscal year of the Partnership shall be divided among and allocated between the assignor and assignee of such interest based upon the length of time during such fiscal year, as measured by the effective date of the assignment, that the interest was owned by each of them, and not upon the date(s) during such fiscal year on which income was earned or losses were incurred by the Partnership.

(d) Any and all non-ownership interests (including security interests) in existing Units heretofore granted to third parties shall continue in the rights of Class B Limited Partners to receive distributions under this agreement on account of their Class B Units, but no such interests shall attach to any Class A Units that may be acquired by existing Partners pursuant to Section 302(d) of this agreement.

(e) No Limited Partner shall have the right to bring an action for partition against the Partnership.

604. Appointment of Attorney-in-Fact

(a) Each Limited Partner hereby irrevocably constitutes and appoints the corporate officers of the Managing General Partner and any successor Managing General Partner, its true and lawful attorneys, in its name, place, and stead, to (1) execute, acknowledge, swear to, and file (A) this agreement and all amendments hereto required by provisions hereof or by applicable law, (B) all certificates, documents, or instruments that may be required to qualify or continue the Partnership as a limited partnership, (C) all instruments that effect an amendment or modification of the Partnership pursuant to the terms of this agreement, (D) all instruments necessary to effect the dissolution and termination of the Partnership pursuant to the terms of this agreement, and (E) all such other instruments as may be deemed necessary or appropriate by the Managing General Partner to effectuate the terms of this agreement, and (2) take any and all such other action as the Managing General Partner may deem necessary or desirable fully to carry out this agreement in accordance with its terms.

(b) It is expressly understood and intended by each Limited Partner that the foregoing power of attorney (1) is coupled with an interest and irrevocable, (2) shall survive the death of any

Limited Partner who shall die during the term of the Partnership, (3) may be exercised for each Limited Partner individually or as attorney-in-fact acting for all Limited Partners together, (4) shall survive the delivery of an assignment by a Limited Partner of all or any portion of its Units except that, where the Limited Partner has assigned all of its Units and the assignee thereof has been approved by the Managing General Partner for admission to the Partnership as a substituted Limited Partner, the power of attorney shall survive the delivery of such assignment for the sole purpose of enabling a corporate officer of the Managing General Partner to execute, acknowledge, swear to, and file any document necessary to effect such substitution, (5) shall in no way cause a Limited Partner to be liable in any manner for the acts or omissions of a General Partner, and (6) shall be deemed to be ratified and reaffirmed by each substituted Limited Partner upon its admission to the Partnership.

605. Death, Incapacity, or Dissolution of Limited Partner

(a) Neither the death nor the adjudication of bankruptcy, insanity, or incompetency of a Limited Partner who is a natural person nor the liquidation nor dissolution of a Limited Partner that is not a natural person shall constitute an "event of dissolution" as that term is defined in Section 701 of this agreement nor otherwise affect the continuing existence of the Partnership.

(b) Upon the death or the adjudication of bankruptcy, insanity or incompetency of a Limited Partner who is a natural person, his/her legally-authorized personal representatives shall have all the rights of a Limited Partner for the purpose of settling or managing his/her estate, and shall have such power as such party possessed to make an assignment of his/her interest in the Partnership in accordance with the terms hereof and to join with such assignee in making application to substitute such assignee as a Limited Partner.

(c) Upon the adjudication of bankruptcy, dissolution, or other cessation to exist as a legal entity of any Limited Partner that is not a natural person, the authorized representative of such entity that is authorized to wind up and dispose of the business of such entity shall have such power as such Limited Partner possessed to make an assignment of its interest in the Partnership in accordance with the terms hereof and to join with such assignee in making application to substitute such assignee as a Limited Partner.

606. Representations of Limited Partners. Each of the Class A Limited Partners represents and warrants to the Partnership and the General Partners that --

(a) its net worth and income are adequate to support the obligations incurred by its admission to the Partnership;

- (b) it has read and is familiar with this agreement;
- (c) its address, as stated on its Limited Partner signature page or admission amendment, is its principal place of residence or business, and that it has no intention of moving its principal residence or business from the state noted thereon; and
- (d) it will not sell, transfer, assign, or convey a Class A Unit except (1) pursuant to an effective registration or exemption under applicable federal and state securities laws, and (2) in accordance with the conditions set forth in Section 603 of this agreement.

607. Voting Rights. Whenever a provision of this agreement requires or permits certain action to be taken by or on behalf of the Partnership upon a vote of the Limited Partners [see §§ 103, 503(g), 504(a) & (d), 701(c) & (d) & 901(a)(1)], such provision shall be construed as follows:

- (a) Only Class A Limited Partners shall be entitled to vote until all such holders have received the distributions to which they are entitled under Subsection (b) of Sections 401 and 402 of this agreement, after which time all Limited Partners shall be entitled to vote; and
- (b) The action may be taken by a vote of 51% of the Class A Units or, if all Limited Partners have become entitled to vote, a vote of 2/3 of the Units.

Article VII: Dissolution and Termination of the Partnership

701. Events of Dissolution. The Partnership shall be dissolved and terminated upon the occurrence of any of the following events:

- (a) The expiration of the term of this agreement;
- (b) The removal, retirement, death, adjudication of insanity or incompetency of a General Partner (or other incapacity that prevents a General Partner from effectively discharging the duties set forth in this agreement) unless, within 90 days from such event, the remaining General Partner(s) elect(s) to continue the business of the Partnership;
- (c) The removal, retirement, death, adjudication of insanity or incompetency of the last remaining General Partner (or other incapacity that prevents the last remaining General Partner from effectively

discharging the duties set forth in this agreement) unless the Partnership by a vote of the Limited Partners (see § 607), elects to continue the business of the Partnership and designates one or more successor General Partners at least one of which consents to and accepts such designation subject to the terms of this agreement as of the date of such event necessitating the election to continue the business of the Partnership; or

- (d) The decision by the Managing General Partner that it would be in the best interest of the Partnership for it to dissolve and the approval of the Limited Partners upon a vote thereof (see § 607).

702. Distributions upon Dissolution

(a) Upon the dissolution and termination of the Partnership, the Managing General Partner shall take full account of the Partnership assets and liabilities, the assets shall be liquidated as promptly as is consistent with obtaining fair value therefor, and the proceeds therefrom, to the extent sufficient therefor, shall be applied and distributed in the following order:

- (1) To the payment of all creditors, other than Partners, in the order of priority as provided by law except any claims of secured creditors whose obligations will be assumed or otherwise transferred upon the liquidation of the Partnership assets;
- (2) To the payment of any obligations of the Partnership to any Partner;
- (3) To the establishment of any reserves that the Managing General Partner deems reasonably necessary for any contingencies or unforeseen liabilities or obligations of the Partnership, such reserves to be paid over by the Managing General Partner to an escrow agent or held for the purpose of disbursing such reserves in payment of any of such contingencies and, at the expiration of such period as the Managing General Partner shall deem advisable, the balance thereof to be distributed in accordance with Paragraph (4) of this subsection; and
- (4) To the Partners in accordance with the provisions of Section 402 of this agreement.

(b) In the event that it becomes necessary to make a distribution of the Partnership property in kind, then such property shall be transferred and conveyed to the Partners or their

assigns, so as to vest in each of them, as a tenant-in-common, a percentage interest in the whole of such property equal to the percentage interest such Partner would have received had such property not been distributed in kind.

(c) A reasonable time, as determined by the Managing General Partner not to exceed one year from the date of an event of dissolution, shall be allowed for the orderly liquidation of the assets of the Partnership and the discharge of Partnership liabilities.

703. Deficiencies upon Dissolution. Upon liquidation of the Partnership and the winding up of Partnership affairs (or the liquidation of a Partner's interest in the Partnership), in the event that a Partner has a negative capital account after the allocation of profits (gains) described in Section 402 of this agreement and the distribution of proceeds pursuant to that section, such Partner shall contribute to the Partnership an amount of cash equal to the amount of his negative capital account by the end of the taxable year of the Partnership in which such liquidation occurs (or, if later, within 90 days after the date of such liquidation), which amount shall be distributed to the Partners having positive capital accounts after first applying such amount to pay any outstanding obligations to creditors of the Partnership.

704. Statement of Intention. Each of the Partners shall be furnished by the Managing General Partner with a statement prepared, at Partnership expense, by a Certified Public Accountant, which shall set forth the assets and liabilities of the Partnership as of the date of complete liquidation and distribution as herein provided. Such statement shall also include a schedule of the receipts and disbursements made with respect to the termination hereunder.

705. Certificate of Cancellation. Upon the completion of termination in accordance with the terms hereof, the Partnership shall terminate and the Managing General Partner shall execute, acknowledge, and cause to be filed a certificate of cancellation of the Partnership whereupon the Partnership will cease to exist in all respects.

706. Liquidating Trustee. In the event of a dissolution of the Partnership, liquidation of the assets of the Partnership and discharge of its liabilities may be carried out by a liquidating trustee or receiver, which shall be a bank or trust company or other person or firm having experience in managing, liquidating, or otherwise handling property of the type then owned by the Partnership. Such liquidating trustee or receiver may be designated by the Managing General Partner. A liquidating trustee shall not be personally liable for the debts of the Partnership, but shall have such other obligations and authorities as are given the Managing General Partner pursuant to this agreement or as may be agreed upon between the Partners and the liquidating trustee.

Article VIII: Accounting and Reports

801. Books and Records

(a) The Managing General Partner shall maintain full and accurate books of the Partnership, showing all receipts and expenditures, assets and liabilities, profits and losses, and all other records necessary for recording the Partnership's business and affairs, including those sufficient to record the allocations and distributions as set forth in Article IV of this agreement. Such books and records shall be open for the inspection and examination by any Partner, in person or by its duly-authorized representative, upon reasonable notice and at reasonable times at the offices of the Partnership.

(b) The Partnership books and records shall be kept on the accrual method of accounting for federal income tax reporting purposes, but such method may be changed by the Managing General Partner.

802. Fiscal Year. The annual accounting period of the Partnership shall be the calendar year.

803. Annual Financial Statements and Reports

(a) An annual audited report within ninety (90) days of end of the fiscal year showing the revenue and expenses of the Partnership and the balance sheet thereof shall be prepared for the Partnership by a Certified Public Accountant. Such accountant shall prepare and furnish to each Partner a copy of such balance sheet, a statement of revenue and expenses, a statement of such Partner's share of the Partnership's Profits and Losses and distributions from Cash Flow, if any, a letter of said accountant covering such balance sheet and statements, completed copies of the Partnership's federal information return, and any similar state income tax return required by applicable law.

(b) Each Partner's K-1 will be mailed to it within 75 days of the end of each fiscal year of the Partnership. The annual report shall be sent to the Limited Partners within 120 days of the end of each fiscal year of the Partnership. The Partnership shall also furnish to any Limited Partner such other reports on the operation of the Partnership as may be reasonably requested.

804. Bank Accounts. All funds of the Partnership shall be deposited in its name in such checking and savings accounts or time certificates as shall be designated by the Managing General Partner. Withdrawals therefrom shall be made upon such signature(s) as the Managing General Partner may designate.

805. Tax Returns and Elections

(a) In addition to the annual report, the Managing General Partner shall, at Partnership expense, cause income tax information returns for the Partnership to be prepared and filed with the appropriate authorities.

(b) All elections required or permitted to be made by the Partnership under the Code shall be made by the Managing General Partner in its sole discretion. The Managing General Partner shall be the "tax matters person" as defined under Code Section 6231(a)(7).

Article IX: Miscellaneous

901. Amendments

(a) This agreement may be amended at any time under the following circumstances:

- (1) Upon a vote of the Limited Partners (see § 607) and the concurrent approval of the Managing General Partner; or
- (2) By the Managing Partner without the approval of the Limited Partners whenever --
 - (A) there is a need to include any provision as may be required by applicable law to be included in this agreement;
 - (B) there is a need to correct a false or erroneous statement in this agreement or to clarify a provision of this agreement without changing the substance thereof;
 - (C) it is necessary or appropriate, in the opinion of counsel selected by the Managing General Partner, to satisfy the requirements of the Code, to maintain the status of a partnership or to satisfy the requirements of applicable securities laws; or
 - (D) any other terms of this agreement provide for amendments without the approval of the Limited Partners including, without limitation, the substitution of Limited Partners.

(b) the procedure regarding amendments to this agreement pursuant to Subsection (a)(1) of this section shall be as follows:

- (1) Such amendments may be proposed by the Managing General Partner or by a proposal in writing, signed by Limited Partners holding at least 20% of the Units entitled to vote (see § 607) and delivered to the Managing General Partner and the Partnership at the addresses herein set forth;
- (2) Within 15 days of its proper proposal, notice of such proposed amendment, the text thereof, and a ballot shall be sent to each Partner entitled to vote (see § 607) by certified mail return receipt requested, at the last known address of such Partner;
 - (A) Such notice shall set forth the recommendation of the Managing General Partner with respect to the passage or rejection of such proposed amendment and a brief explanation of the reasons therefor;
 - (B) The Managing General Partner shall sign the notice to acknowledge its recommendation; and
 - (C) The ballot supplied with the notice of such proposed amendment shall state that the vote of each Partner is due, at the offices of the Partnership, in writing within 15 days of the date of the notice of proposed amendment (which shall be the date of the postmark of such notice), and shall provide that those Partners whose ballots are not received by such date shall be deemed to have voted in accordance with the recommendation of the Managing General Partner; and
- (3) If such amendment is passed in accordance with the foregoing procedure, the Managing General Partner is hereby expressly authorized to amend this agreement by use of the power-of-attorney contained in Section 604 of this agreement.

902. Meetings. Meetings of the Partnership may be called by the Managing General Partner and shall be called by it upon the written request of Limited Partners holding at least 10% of the Units entitled to vote (see § 607).

903. Other Ventures. Except as otherwise provided in this agreement, any of the Partners may engage in or possess an interest in other business ventures of any nature and description, including those that may compete with the Partnership, without any obligation to share any profits therefrom with the Partnership or the Partners.

904. Notices. All notices under this agreement shall be in writing, duly signed by the party giving such notice, and transmitted by registered or certified mail addressed as follows:

- (a) If given to the Partnership or the Managing General Partner, at the addresses set forth in Section 205 of this agreement or at such other address as the Managing General Partner may hereafter designate in writing; and
- (b) If given to any Limited Partner, at the address noted on the Limited Partner signature page or admission amendment for each Limited Partner, or at such other address as it may hereafter designate by notice to the Partnership.

905. Captions. Section titles or captions contained in this agreement are inserted only as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this agreement or the intent of any provision hereof.

906. Identification

(a) Whenever the singular number is used in this agreement and when required by the context, the same shall include the plural.

(b) Whenever the neuter gender is used in this agreement and when required by the context, the same shall include the masculine or feminine gender.

(c) Whenever the term "person" or "party" is used in this agreement, the same shall include corporation, firm, partnership, proprietorship, or other form of association.

907. Binding Agreement

(a) This agreement is subject to the approval of the Bankruptcy Court in the Chapter 11 cases of the Partnership, DAB & Co., and Borden. Upon such approval, this agreement shall be binding upon each of the existing Limited Partners [i.e., the entities that shall become Class B Limited Partners as prescribed by Section 302(c) of this agreement], irrespective of whether it signs a counterpart hereof, a Limited Partner signature page hereto, or an admission amendment hereof, or otherwise accepts the amendments effected by this agreement.

(b) Subject to Subsection (a) of this section, this agreement may be executed in any number of counterparts and all of such counterparts shall be deemed an original and for all purposes constitute one agreement binding on the parties hereto, notwithstanding that all parties are not signatory to the same counterpart.

(c) Except as otherwise provided herein to the contrary, this agreement shall be binding upon and inure to the benefit of the parties hereto, their personal representatives, successors, and assigns.

908. Applicable Law. This agreement shall be governed by and construed in accordance with the laws of the United States and of the State of Alabama.

909. Partner's Age and Competence. Anything in this agreement to the contrary notwithstanding, no Partner or any assignee of the interests thereof shall be a person or organization prohibited by law from becoming such. Any assignment of an interest in the Partnership to any person or organization not meeting such standard shall be void and ineffectual and shall not bind the Partnership.

910. Severability. If any provision of this agreement shall be declared invalid or unenforceable, the remainder of this agreement will continue in full force and effect so far as the intent of the parties can be carried out.

In witness whereof, the parties hereto, after first being duly sworn, have affixed their hands and seals as of the day and year first above written.

MANAGING GENERAL PARTNER:

DAS A. BORDEN & COMPANY

By: _____
Witness _____ Title: _____

STATE OF ALABAMA)
COUNTY OF _____)

I, _____, a Notary Public, hereby certify that _____, whose name as _____ of Das A. Borden & Company, a corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of this instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this _____ day of _____, 1991.

Notary Public
My commission expires: _____

[signatures continued on following page]

[signatures continued from preceding page]

INDIVIDUAL GENERAL PARTNER:

Witness

DAS A. BORDEN

STATE OF ALABAMA)
COUNTY OF _____)

I, _____, a Notary Public hereby certify that Das A. Borden, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of this instrument, he executed the same voluntarily.

Given under my hand this ____ day of _____, 1991.

Notary Public
My commission expires: _____

[Limited Partner signature
pages to follow this page]

LEGAL DESCRIPTION

A tract of land situated in the Southwest Quarter of the Northeast Quarter of Section 5, Township 19 South, Range 1 West, Shelby County, Alabama, more particularly described as follows:

Begin at the Northeast corner of said Southwest Quarter of Northeast Quarter and run West along the North line therefor for 661.23 feet;

THENCE turn left 88 degrees 57 minutes 22 seconds and run Southerly for 330.66 feet;

THENCE turn right 89 degrees 02 minutes 14 seconds and run Westerly for 258.06 feet to a point on the Easterly right-of-way line of U.S. Highway #280;

THENCE turn left 95 degrees 52 minutes 30 seconds and run Southeasterly along said Easterly right-of-way line for 60.32 feet;

THENCE turn left 84 degrees 07 minutes 30 seconds and run Easterly for 286.78 feet to the beginning of a curve to the right having a radius of 189.87 feet and a central angle of 90 degrees 34 minutes 50 seconds;

THENCE Easterly and Southerly along the arc of said curve for 300.17 feet;

THENCE Southerly, tangent to said curve for 148.50 feet;

THENCE turn left 90 degrees and run Easterly for 254.15 feet;

THENCE turn right 90 degrees 27 minutes 45 seconds and run Southerly for 218.26 feet;

THENCE turn left 90 degrees and run Easterly for 176.0 feet to a point on the East line of said Southwest Quarter of Northeast Quarter;

THENCE turn left 90 degrees and run Northerly along said East line for 956 feet to the POINT OF BEGINNING.

Contains 10.7436 acres

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AMENDED AND RESTATED MANAGEMENT AGREEMENT

This agreement is made at Muscle Shoals, Alabama this ____ day of _____, 1991, between Turtle Lake, Ltd. (the "Owner"), and Das A. Borden & Company (the "Agent").

In consideration of the promises hereinafter set forth, the parties hereby agree as follows.

1. Appointment and Acceptance. The Owner appoints the Agent as exclusive agent for the management of the property described in Section 2 of this agreement, and the Agent accepts the appointment, agrees to use diligence in the management of such property for the period and upon the terms herein provided, and further agrees to furnish the services of its organization for the renting, leasing, operating, and managing of such property.

2. Description of Complex. The property to be managed by the Agent under this agreement is a housing development, consisting of the land, building, and other improvements that make up the 184-unit apartment complex known as Turtle Lake Apartments, located in Birmingham, Shelby County, Alabama (the "Complex").

3. Rentals. The Agent shall use all reasonable efforts to keep the Complex rented by procuring tenants for the Complex.

(a) The Agent shall establish, maintain, and execute an advertising program, the expenses of which shall be paid out of the Rental Agency Account (as defined in Section 4 of this agreement) as expenses of the Complex.

(b) The Agent shall show the premises to prospective tenants.

(c) The Agent shall take and process applications for rentals. If an application is rejected, the applicant shall be told the reason for rejection, and the rejected application, with reason for rejection noted thereon, shall be kept in file for one year. A current list of prospective tenants shall be maintained.

(d) The Agent shall prepare all dwelling leases and shall execute the same in its name, identified thereon as agent for the Owner. Dwelling leases shall be in a form approved by the Owner, but individual dwelling leases need not be submitted for the approval of the Owner.

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(e) The Owner shall furnish the Agent with rent schedules showing fair market rents for dwelling units and other charges for facilities and services. In no event shall such fair market rents and other charges be exceeded.

(f) The Agent shall collect, deposit, and disburse security deposits, if required in accordance with the terms of each tenant's lease. Security deposits shall be deposited by the Agent in an account, separate from all other accounts and funds, with a bank or other financial institution whose deposits are insured by an agency of the United States government. This account shall be carried in the Agent's name and designated of record as "Turtle Lake, Ltd., Security Deposit Account" (the "Security Deposit Account").

4. Collection of Rents and Other Receipts. The Agent shall collect when due all rents, charges, and other amounts receivable on the Owner's account in connection with the management and operation of the Complex. Such receipts [except for tenants' security deposits, which shall be handled as specified in Section 3(f) of this agreement] shall be deposited in an account, separate from all other accounts and funds, with a bank whose deposits are insured by the Federal Deposit Insurance Corporation. This account shall be carried in the Agent's name and designated of record as "Turtle Lake, Ltd., Rental Agency Account" (the "Rental Agency Account"). The Rental Agency Account shall at all times be and remain the property of the Owner.

5. Enforcement of Leases. The Agent shall secure full compliance by each tenant with the terms of his/her lease. Voluntary compliance shall be emphasized, and the Agent shall counsel tenants and make referrals to community agencies in cases of financial hardship or other circumstances deemed appropriate by the Agent, to the end that involuntary termination of tenancies may be avoided to the maximum extent consistent with sound management of the Complex. Nevertheless, the Agent may lawfully terminate any tenancy when, in the Agent's judgment, sufficient cause (including but not limited to nonpayment of rent) for such termination occurs under the terms of the tenant's lease. For this purpose, the Agent is authorized to consult with legal counsel to be designated by the Owner, to bring actions for eviction, and to execute notices to vacate and judicial pleadings incident to such actions, provided that the Agent shall keep the Owner informed of such actions and follow such instructions as the Owner may prescribe for the conduct of any such action. Subject to the Owner's approval, attorney's fees and other necessary costs incurred in connection with such actions shall be paid out of the Rental Agency Account as expenses of the Complex.

6. Maintenance and Repair. The Agent shall maintain the Complex in good repair in accordance with local codes and in a condition at all times acceptable to the Owner.

(a) Such maintenance and repair services shall include cleaning, painting, decorating, plumbing, carpentry, grounds care, and such other maintenance and repair work as may be necessary, subject to any limitations imposed by the Owner in addition to those contained herein.

(b) Special attention shall be given to preventive maintenance and, to the greatest extent feasible, the services of regular maintenance employees shall be used.

(c) Subject to the Owner's prior approval, the Agent shall contract with qualified independent contractors for the maintenance and repair of air-conditioning systems and for extraordinary repairs beyond the capability of regular maintenance employees.

(d) The Agent shall systematically and promptly receive and investigate all service requests from tenants and take such action thereon as may be justified, and shall keep records of the same. Emergency requests shall be received and serviced on a 24-hour basis. Complaints of a serious nature shall be reported to the Owner after investigation.

(e) The Agent is authorized to purchase all materials, equipment, tools, appliances, supplies, services, and uniforms necessary to the proper maintenance, repair, and operation of the Complex, provided that the prior approval of the Owner shall be required for any expenditure that exceeds \$1,000 in any one instance for labor, materials, or otherwise in connection with the maintenance and repair of the Complex, except for recurring expenses within the limits of the operating budget and emergency repairs either involving manifest danger to person or property or required to avoid suspension of any necessary service to the Complex. In the latter event, the Agent shall inform the Owner of the facts as promptly as possible.

7. Utilities and Services. The Agent shall make arrangements for water, electricity, gas, fuel oil, sewage and trash disposal, vermin extermination, decorating, laundry facilities, telephone services, and such other services as the Agent may deem advisable. Subject to the Owner's prior approval, the Agent shall make such contracts as may be necessary to secure such utilities and services.

8. Employees. Subject to Subsection (c) of this section, all on-site personnel shall be employees of the Complex and not employees of the Agent, but shall be hired, paid, supervised, and discharged through the Agent, subject to the following conditions.

(a) The Owner shall reimburse the Agent for compensation (including fringe benefits) payable to the on-site management and maintenance employees, and for all local, state, and federal taxes and assessments (including but not limited to Social Security taxes, unemployment insurance, and workers' compensation insurance) incident to the employment of such personnel. Such reimbursements shall be paid out of the Rental Agency Account as expenses of the Complex. The rental value of any dwelling unit furnished rent-free to the resident manager shall be treated as an expense of the Complex.

(b) The Agent shall establish and follow an employment policy that affords residents of the Complex maximum opportunities for employment in the management and operation of the Complex and, to the extent consistent with that consideration, employment opportunities to lower-income persons in the area. While personnel shall be employed primarily on the basis of ability, the Agent shall make a conscientious effort to provide special assistance and training for residents of the Complex and members of minority groups who are not initially qualified.

(c) All bookkeeping, clerical, and accounting personnel shall be employed by the Agent. The compensation (including fringe benefits) of such personnel shall be within the Agent's sole discretion. Such compensation plus all local, state, and federal taxes and assessments incident to the employment of such personnel shall be borne solely by the Agent and not by the Complex.

9. Disbursements from Rental Agency Account

(a) From the funds collected and deposited by the Agent in the Rental Agency Account pursuant to Section 4 of this agreement, the Agent shall make the following disbursements promptly when payable:

- (1) Reimbursement to the Agent for compensation payable to the employees specified in Section 8(a) of this agreement, and for the taxes and assessments payable to local, state, and federal governments in connection with the employment of such personnel;

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- (2) The single aggregate payment required to be made monthly by the Owner to the holder (the "Mortgagee") of that certain indenture of mortgage (the "Mortgage") by and between the Owner, as mortgagor, and the Mortgagee with respect to the Complex, including the amounts due under the Mortgage for principal amortization, interest, mortgage insurance premiums, ground rents, taxes and assessments, fire and other hazard insurance premiums, and the amount specified in or pursuant to the Second Restated and Amended Agreement and Certificate of Limited Partnership for Turtle Lake, Ltd., an Alabama Limited Partnership, for allocation to the reserve for replacements; and
- (3) All sums otherwise due and payable by the Owner as expenses of the Complex authorized to be incurred by the Agent under the terms of this agreement, including compensation payable to the Agent, pursuant to Section 19 of this agreement, for its services hereunder.

(b) Except for the disbursements mentioned in Subsection (a) of this section, funds shall be disbursed or transferred from the Rental Agency Account only as the Owner may from time to time direct in writing.

(c) In the event that the balance in the Rental Agency Account is at any time insufficient to pay the disbursements due and payable under Subsection (a) of this section, the Agent shall inform the Owner of that fact and the Owner shall then remit to the Agent sufficient funds to cover the deficiency. In no event shall the Agent be required to use its own funds to pay such disbursements.

10. Budgets. The Agent shall prepare a recommended operating budget for each month of each succeeding fiscal year beginning during the term of this agreement, and shall submit the same to the Owner at least 30 days before the beginning of such fiscal year. The Owner shall promptly inform the Agent of any changes incorporated into the approved budget, and the Agent shall keep the Owner informed of any anticipated deviation from the receipts and disbursements stated in the approved budget. Except as permitted under Section 7(e) of this agreement, monthly disbursements for each type of operating expense itemized in the budget shall not exceed the amount authorized by the approved budget.

11. Records and Reports

(a) The Agent shall establish and maintain a comprehensive system of records, books, and accounts in a manner satisfactory to the Owner and the Mortgagee. All records, books, and accounts shall be the property of the Owner and shall be subject to examination at reasonable hours by the Owner, any of its partners, the Mortgagee, or any duly-authorized agent of any of them.

(b) With respect to each fiscal year ending during the term of this agreement, the Agent within seventy-five (75) days after the end of the fiscal year shall have an annual audited financial report prepared by an independent firm of certified public accountants designated by the Owner, based upon the preparer's examination of the books and records of the Owner and the Agent. The report shall be certified by the preparer and the Agent, and shall be submitted to the Owner within seventy-five (75) days after the end of the fiscal year for the Owner's further certification and submission to the Owner's partners and to the Mortgagee. Compensation for the preparer's services shall be paid out of the Rental Agency Account as an expense of the Complex.

(c) The Agent shall prepare a quarterly report comparing actual and budgeted figures for receipts and disbursements, and shall submit each such report to the Owner within 15 days after the end of the quarter.

(d) The Agent shall furnish such information (including occupancy reports) as may be required by the Owner from time to time with respect to the financial, physical, or operational condition of the Complex.

(e) By the 15th day of each month, the Agent shall furnish the Owner with an itemized list of all delinquent accounts, including rental accounts, as of the 10th day of the same month.

(f) By the 15th day of each month, the Agent shall furnish the Owner with a statement of receipts and disbursements during the previous month, a schedule of accounts receivable and payable, and reconciled bank statements for the Rental Agency Account and Security Deposit Account as of the end of the previous month.

12. Fidelity Bond; Indemnity

(a) The Agent shall furnish to the Owner, at its own expense, a bond in an amount and with a surety satisfactory to

the Owner insuring that the Agent's employees who handle or are responsible for the Owner's monies shall perform and comply with all conditions and provisions of this agreement and faithfully account to and pay over to the Owner all funds held by them that are due to the Owner.

(b) The Owner shall save the Agent harmless from all damage suits in connection with the management of the Complex and from liability for injury suffered by any employee or other person whomsoever, except for damage suits or liability arising out of willful misconduct, gross negligence, or fraud of the Agent.

13. Bids and Purchase Discounts, Rebates, or Commissions

(a) The Owner and the Agent agree to obtain contract materials, supplies, and services at the lowest possible cost and on the terms most advantageous to the Complex and to secure and credit to the Complex all discounts, rebates, or commissions obtainable with respect thereto. The Owner and the Agent further agree that all goods and services purchased from individuals or companies having an identity-of-interest with the Agent or Owner shall be purchased at costs not in excess of those that would be incurred in making arms-length purchases in the open market.

(b) The Agent shall solicit written cost estimates (i.e., bids) from at least three contractors or suppliers for any work item that the Owner estimates will cost \$5,000 or more and for any contract or ongoing supply or service arrangement that the Owner estimates will exceed \$5,000 per year. The Agent agrees to accept the bid that represents the lowest price, taking into consideration the bidder's reputation for quality of workmanship or materials and timely performance and the time frame within which the services or goods are needed. With respect to all other work items, contracts, and ongoing supply or service arrangements, the Agent shall solicit verbal or written cost estimates as necessary to assure that the Complex is obtaining services, supplies, and purchases at the lowest possible cost, provided that they may be obtained from more than one source. The Agent shall make a written record of any verbal estimate obtained. Copies of all required bids and documentation of all other verbal or written cost comparisons made by the Agent shall be made part of the Complex's records and shall be retained for three years from the date the work was completed.

14. Tenant-Management Relations. The Agent shall encourage and assist residents of the Complex in forming and maintaining representative organizations to promote their common interests, and

shall maintain good-faith communication with such organizations to the end that problems affecting the Complex and its residents may be avoided or solved on the basis of mutual self-interest.

15. On-Site Management Facilities. Subject to the further agreement of the Owner and Agent as to more specific terms, the Agent shall maintain a management office within the Complex and the resident manager may reside in one of the dwelling units in the Complex.

16. Insurance. The Owner shall inform the Agent of insurance coverage required to be carried with respect to the Complex and its operations, and the Agent shall cause such insurance coverage to be obtained and kept in effect at all times. The Agent shall pay premiums out of the Rental Agency Account as expenses of the Complex. All insurance shall be placed with such companies, on such conditions, in such amounts, and with such beneficial interests appearing thereon as shall be acceptable to the Owner and the Mortgagee, and shall be otherwise in conformity with the Mortgage, provided that insurance coverage shall include public liability coverage, with the Agent designated as one of the insureds, in amounts acceptable to the Agent as well as the Owner and the Mortgagee, and required workers' compensation insurance. The Agent shall investigate and furnish the Owner with full reports as to all accidents, claims, and potential claims for damage relating to the Complex, and shall cooperate with the Owner's insurers in connection therewith.

17. Compliance with Governmental Orders. The Agent shall take such actions as may be necessary to comply promptly with any and all governmental orders or other requirements affecting the Complex, whether imposed by federal, state, or local authorities, subject, however, to the limitation stated in Section 6(e) of this agreement with respect to repairs. Nevertheless, the Agent shall take no such action so long as the Owner is contesting, or has affirmed its intention to contest, any such order or requirement. The Agent shall notify the Owner in writing of all notices of such order or other requirements within 72 hours from the time of their receipt.

18. Nondiscrimination. In the performance of its obligations under this agreement, the Agent shall comply with the provisions of all federal, state, and local laws prohibiting discrimination in housing on the grounds of race, color, sex, creed, or national origin, including Title VI of the Civil Rights Act of 1964 (Public Law No. 88-352, 78 Stat. 241), all requirements imposed by or pursuant to the regulations of the Secretary of the United States Department of Housing and Urban Development (24 C.F.R., Subtitle A, Part I) issued pursuant to such Title VI, regulations issued

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pursuant to Executive Order 11063, and Title VIII of the 1968 Civil Rights Act.

19. Agent's Compensation. The Agent shall be compensated for its services under this agreement by monthly fees to be paid out of the Rental Agency Account as expenses of the Complex. Such fees shall be payable five (5) days after the close of each month.

(a) Each such monthly fee shall be in an amount equal to 4½% of gross collections received during the preceding month. Gross collections include rental income and income from other sources such as coin-operated laundry equipment; and

(b) As additional compensation agent shall be \$2.50 per unit per month to share a portion of the cost for a central office accounting system to the complex as an operating expense. This expense will not exceed the actual cost the complex would have to bear if a bookkeeper were on-site.

20. Term of Agreement. This agreement shall remain in effect until terminated in accordance with this section. Upon termination, the parties shall account to each other with respect to all matters outstanding as of the date of termination, and the Owner shall then furnish the Agent security for all obligations and liabilities that the Agent may properly have incurred in behalf of the Owner hereunder.

(a) This agreement may be terminated by the mutual consent of the parties as of the end of any calendar month, provided that at least 30 days' advance written notice thereof is given to the Mortgages.

(b) The Owner shall have the right to terminate the Agent's rights hereunder in the event that the Agent shall commit any act that constitutes fraud, embezzlement, or gross or willful mismanagement of the Complex, or in the event that the Agent shall materially default in the performance of any of its obligations hereunder and fail to cure the same within the time allowed therefor.

(1) In order to terminate the Agent's rights by reason of fraud or embezzlement, the Owner must first give the Agent notice of its intent to do so, setting forth in detail the acts or omissions relied upon as grounds for termination.

(2) In order to terminate the Agent's rights by reason of gross or willful mismanagement, the Owner

must first give the Agent notice of its intent to do so, setting forth in detail the acts or omissions relied upon as grounds for termination.

(3) In order to terminate the Agent's rights by reason of a material default hereunder, the Agent shall be allowed a period of 20 days following notice of such event of default within which to cure the default to the satisfaction of the Owner.

(c) The Owner shall have the right to terminate this agreement in the event that it ceases to be the owner of the Complex.

(d) The Agent shall have the right to terminate this agreement as to itself in the event that the Owner fails to make any of the payments that it may be required to make to the Agent under the terms hereof, provided that such failure continues for a period of 20 days following the giving of notice of default by the Agent to the Owner.

21. Assignment. The Agent's right to assign this agreement to any party (other than a company that it owns or with which it has substantial affiliation) is subject to the prior written approval of the Owner, which shall not be unreasonably withheld.

22. Interpretative Provisions

(a) This agreement shall inure to the benefit of and constitute a binding obligation upon the parties and their respective successors and assigns.

(b) This agreement constitutes the entire agreement between the Owner and the Agent with respect to the management and operation of the Complex, and no change shall be valid unless made by supplemental written agreement, executed and approved by the parties and the Mortgagee.

(c) This agreement may be executed in several counterparts, each of which shall constitute a complete original agreement and may be introduced in evidence or used for any other purpose without production of any of the other counterparts.

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IN WITNESS WHEREOF, the parties (by their duly authorized agents) have executed this agreement as of the date first above written.

WITNESS:

OWNER:

TURTLE LAKE, LTD.
By: Das A. Borden & Company,
General Partner

By:

Das A. Borden, President

AGENT:

WITNESS:

DAS A. BORDEN & COMPANY

By:

Das A. Borden, President

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1. Doc. Fee	
2. State Tax	167.50
3. Local Tax	23.28
4. Notary Fee	
5. Recording Fee	1.00
6. Other	
Total	171.50

STATE OF ALA. SHERIFF
I CERTIFY THIS
INSTRUMENT WAS FILED

91 JUN 18 AM 9:50

JUDGE OF PROBATE

