

OPERATING AGREEMENT

OF

17 CORPORATE WOODS, LLC

(A New York Limited Liability Company)

Dated as of June 15, 1995

among

JOHN D. PICOTTE
MICHAEL B. PICOTTE and
WEST BRADFORD CORP.

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OPERATING AGREEMENT

OF 17 CORPORATE WOODS, LLC

(A New York Limited Liability Company)

THIS OPERATING AGREEMENT dated as of June 15, 1995 (the "Agreement"), of 17 Corporate Woods, LLC (the "Company") is hereby entered into by and among JOHN D. PICOTTE, an individual ("John"), and MICHAEL B. PICOTTE, an individual ("Michael"), as members and managers, and WEST BRADFORD CORP., a New York corporation ("WBC"), as member, (John and Michael, in their capacity as managers, are referred to collectively herein as "Managers" and individually as a "Manager," and John, Michael and WBC, in their capacity as members, are referred to herein collectively as "Members" and individually as a "Member").

W I T N E S S E T H :

WHEREAS, the parties desire to form a limited liability company under the laws of the State of New York for the purposes of succeeding to the ownership of certain real estate and other assets previously owned by Corporate Woods Partners ("Prior Owner") and owning, managing, leasing and operating such real estate and other assets; and

WHEREAS, the parties wish to set forth their mutual rights, duties and obligations regarding the foregoing in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements and covenants herein contained, the parties hereby agree, each with the other, as follows:

ARTICLE I

DEFINITIONS

Section 1.1.

As used in this Agreement, the following terms have the meanings specified unless the context otherwise requires:

1.1.1. Act: The New York Limited Liability Company Law, comprising Chapter 34 of the New York Consolidated Laws.

1.1.2. Agreement: This Agreement, as amended, modified or supplemented from time to time.

1.1.3. Articles of Organization: The Articles of Organization of the Company filed with the New York State Department of State pursuant to Sections 203 and 209 of the Act, as amended from time to time in the manner provided in the Act and this Agreement.

1.1.4. Capital Contribution: The total amount of money and fair market value of property contributed (net of liabilities assumed by the Company in connection with such contribution or to which such property is subject) to the Company by each Member or the successor in interest to such Member.

1.1.5. Cash from Capital Items: The proceeds of a sale of the Property, Company borrowings (other than Member's Loans) or insurance or condemnation proceeds available to the Company (other than business or rental interruption insurance proceeds), including interest upon any purchase money obligation received in consideration of any sale, in each instance, less (i) expenses incurred in connection therewith, (ii) the amount of any obligations (other than Member's Loans) paid out of such proceeds, (iii) the cost of restoration and repair of the Property caused by such casualty or condemnation, (iv) the cost of construction of any improvement for which the proceeds of any borrowing are intended and (v) any amounts required to be paid in escrow and reserve accounts set up pursuant to the terms of any mortgage affecting the Property or determined to be appropriate by the Managers in their sole discretion.

1.1.6. Cash from Operations: With respect to any fiscal period, the excess, if any, of the Revenues (as defined in this Paragraph 1.1.6.) of the Company over the Expenses (as defined in this Paragraph 1.1.6.) of the Company for such period, determined on a cash basis.

The term "Revenues" shall have its customary meaning, but shall also include previously accumulated reserves and deposits no longer required and shall exclude the following:

- (i) Cash from Capital Items,
- (ii) Borrowings, and
- (iii) Capital Contributions.

The term "Expenses" shall have its customary meaning, but shall also include, without limitation, the following:

- (a) capital expenditures and reserve accounts necessary to maintain, preserve or restore any portion of the Property not paid for out of the proceeds of any mortgage loan or other third-party borrowings, casualty loss recovery or condemnation award;

(b) amounts required to be paid in escrow and reserve accounts set up pursuant to the terms of any mortgage affecting the Property or determined to be appropriate by the Managers in their sole discretion;

(c) sums credited to reserves for working capital or for expenses incurred but unpaid, but excluding any portion of working capital derived from Company borrowings;

(d) management, supervisory or administrative fees; and

(e) interest and amortization to the extent required to be currently paid on mortgages or loans affecting the Property or on any other indebtedness of the Company.

Expenses shall exclude depreciation and other non-cash items.

1.1.7. Certificate of Value: The document that sets forth the gross value of the real property owned by the Company (disregarding liabilities to which such real property is subject) from time to time in the form attached hereto as Exhibit B. The following procedures shall be followed with respect to the Certificate of Value:

(a) The Certificate of Value signed by all the Members shall be filed with the Company within one hundred and fifty (150) days following the end of each fiscal year of the Company;

(b) The Members may, at their option, file with the Company a similar Certificate or Certificates of Value on other dates or at more frequent intervals;

(c) The value of the real property owned by the Company reflected in the Certificate of Value shall be determined in a manner consistent with the method of valuation used by affiliates of Picotte Management Company, Inc. in valuing the real estate investments of such affiliates.

1.1.8. Certified Value: The value of the real property owned by the Company agreed to by all of the Members as set forth in the most recent Certificate of Value filed with the Company in accordance with Paragraph 1.1.7. herein, except that in the event of any circumstance requiring the use of Computed Value pursuant to Article VIII hereof or otherwise: (a) the Members may execute and file with the Company a new Certificate of Value as of a more recent date up to and including the date of the event requiring the use of Computed Value, and such more recent value shall then

be Certified Value; and (b) if there is no Certificate of Value fixing a value as of a date less than eighteen months prior to the date of the event requiring the use of Computed Value, then Certified Value shall be fixed by arbitration pursuant to Article XI hereof unless all Members agree to a new Certified Value within 30 days.

1.1.9. Code: The Internal Revenue Code of 1986, as amended (or any corresponding provision or provisions of succeeding law).

1.1.10. Company: 17 Corporate Woods, LLC, the limited liability company which is the subject of the Agreement.

1.1.11. Computed Value: The value of all of the assets of the Company, net of liabilities, consisting of the sum of: (a) the net book value of the Company, excluding assets reflected in Certified Value, as determined by the Company's independent accountants, or as the Members may otherwise agree, as of the end of the calendar month next preceding the date of any event requiring the use of Computed Value; plus (b) Certified Value. Such net book value shall be determined in a manner consistent with that utilized to determine such value for affiliates of Picotte Management Company, Inc. If such accountants do not determine such net book value or the Members do not agree to such net book value within 30 days after the date of the event requiring the use of Computed Value, then Computed Value shall be determined by arbitration pursuant to Article XI hereof.

1.1.12. Disability or Disabled: A Member shall be deemed to be disabled if two licensed physicians (each of whom represents that he or she is certified by a recognized medical board) each certifies that such physician has examined the Member and that the Member is unable to function as a Member by reason of physical or mental disability, which disability continues for a period of one year. Any physician's aforesaid certificate may be revoked by a similar certificate to the effect that the Member is no longer thus Disabled executed either (i) by the originally certifying physicians, or (ii) by two other licensed, board-certified physicians.

1.1.13. Fleet Bank: Fleet Bank of New York, or its successor.

1.1.14. Governmental Requirements: Requirements contained in any statute, ordinance, regulation, rule, order or directive promulgated by any Federal, state, county or municipal body, whether legislative, executive or judicial, or by any quasi-governmental body, in any event having jurisdiction.

1.1.15. Interest or Interests: The entire ownership interest of a Member in the Company at any particular time (or a portion thereof, if so provided), including the right of such Member to any and all benefits to which a Member may be entitled as

provided in the Agreement, together with the obligations, duties and liabilities of such Member to comply with all the terms and provisions of the Agreement.

1.1.16. Manager: John or Michael, in their capacity as and while serving as managers of the Company in accordance with this Agreement, or any other person or entity admitted to the Company as a Member and appointed as a Manager in accordance with this Agreement.

1.1.17. Member: Any person admitted as a member of the Company, including all present parties to the Agreement (including the Managers in their capacity as members of the Company), and any person or entity who becomes a member of the Company pursuant to the provisions of the Agreement either in an individual or a fiduciary capacity.

1.1.18. Member's Loan: Loans described in Paragraph 4.3.2. hereof.

1.1.19. Notice: A notice given as set forth in Section 12.2. herein.

1.1.20. Percentage Interest: The interest of each Member in certain allocations and distributions of the Company as set forth in Section 3.2.2. hereof, expressed as a percentage.

1.1.21. Permitted Transferee: Any successor to the Interest in the Company of a Member by reason of the death, Disability, dissolution or bankruptcy of a Member or otherwise by operation of law (but not through voluntary transfer by such Member of all or any part of his Interest), including the estate of a deceased or Disabled Member or such Member's legal representative or the purchaser of the Interest of a deceased or Disabled Member pursuant to Section 8.7.3. hereof.

1.1.22. Personal Representatives: The duly appointed Executors or Administrators of the Estate of a deceased Member, or the Committee, Conservator or Guardian of a Disabled Member.

1.1.23. Prior Owner: Corporate Woods Partners, a New York general partnership.

1.1.24. Property: The land described on Exhibit A hereto, generally known as 17 Corporate Woods Blvd., Albany, New York, and any present or future improvements thereon.

1.1.25. Taxable Income or Taxable Loss: The income, gain, loss or deduction of the Company for any Company fiscal year, as determined by the accountants of the Company for Federal income tax purposes, including, without limitation, any such items attributable to transactions described in Paragraph 1.1.5.

Interest on Member's Loans is intended to be a deduction in computing Taxable Income or Taxable Loss.

1.1.26. Treasury Regulations. Final, temporary, or proposed regulations promulgated by the Department of the Treasury under the Code.

Section 1.2. Rules of Construction.

1.2.1. The singular shall be deemed to refer to the plural and the masculine to the feminine and neuter and vice versa as the context requires throughout the Agreement.

Section 1.3. Captions.

1.3.1. The captions used herein are intended for convenience of reference only, shall not constitute any part of the Agreement and shall not modify or affect in any manner the meaning or interpretation of any of the provisions of the Agreement.

Section 1.4. Separability.

1.4.1. If any one or more of the provisions of the Agreement shall be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of the Agreement will not in any way be affected or impaired thereby.

Section 1.5. Governing Law.

1.5.1. The Agreement shall be construed in accordance with the Act and the other laws of the State of New York.

ARTICLE II

FORMATION, NAME, PLACE
OF BUSINESS, PURPOSE AND TERM

Section 2.1. Formation of Company and Purpose.

2.1.1. The Members have caused the Articles of Organization of the Company to be filed with the New York State Department of State pursuant to Sections 203 and 209 of the Act in order to form the Company as a limited liability company under the name "17 Corporate Woods, LLC" under the Act and the other laws of the State of New York.

2.1.2. Each of the Members shall duly and promptly execute and deliver to the Company any and all documents and papers necessary to ensure the continued qualification of the Company as a limited liability company under New York law and the treatment of the

Company as a partnership for Federal income tax purposes under the Code.

2.1.3. The Members do hereby execute and agree to the terms of this Agreement in accordance with Section 417 of the Act in order to (i) ratify the formation of the Company as described in Section 2.1.1. hereof; and (ii) provide for the conduct of the Company's business and affairs and for the rights, powers, and responsibilities of its Members and Managers.

2.1.4. The purpose of the Company shall be to acquire the Property, and thereafter to own, operate, maintain, improve, manage, lease, deal with, finance, pledge, sell, exchange, and dispose of the Property, and to carry out all other activities necessary or ancillary thereto.

Section 2.2. Term.

2.2.1. The term of the Company shall continue until the sooner to occur of: (a) December 31, 2045; (b) one Member owns all of the Company Interests; or (c) termination pursuant to the provisions of Article X hereof.

Section 2.3. Name.

2.3.1. The Company shall conduct business under the name and style of "17 Corporate Woods, LLC."

Section 2.4. Place of Business.

2.4.1. The Company maintains its principal office at c/o Picotte Companies, 20 Corporate Woods Blvd., Albany, New York 12211. The Managers may establish the principal office of the Company at such other location as shall be determined by the Managers from time to time with Notice to the Members.

Section 2.5. Agent

2.5.1. The Managers, or either of them, shall be the agent to receive service of process upon the Company.

ARTICLE III

CLASSES OF MEMBERS;
LIABILITY OF MEMBERS

Section 3.1. Managers.

3.1.1. The Managers shall be the managers of the Company as provided in Article V hereof. As of the date hereof, John and Michael are the Managers.

3.1.2. The liability of the Managers for the debts, obligations or liabilities of the Company, whether in their capacities as Managers or Members, shall be limited to the fullest extent permitted by Section 609 of the Act. Specifically, and without limitation, the Managers shall have no liability, personal or otherwise, for any debts, obligations or liabilities of the Company or each other, whether arising in tort, contract or otherwise, solely by reason of being Managers or Members or acting or omitting to act in such capacities or participating in any capacity in the conduct of the business of the Company, except as specifically provided in Section 3.2.3 hereof.

3.1.3. To the fullest extent permitted by Section 417 of the Act, any liability of any Manager to the Company or to the Members for any breach of duty in such capacity is hereby eliminated.

Section 3.2. Members.

3.2.1. The Members shall be the members of the Company and shall have no liability as such for any debts, obligations or liabilities of the Company, or each other, whether arising in tort, contract or otherwise, solely by reason of being Members of the Company or acting in such capacity or participating in any capacity in the conduct of the business of the Company, except as may be expressly agreed by them in writing, as provided by the Act, or as provided in Section 3.2.3. hereof. Except as so agreed or provided, it is the intention of the parties that the liability of the Members for the debts, obligations or liabilities of the Company shall be limited to the fullest extent permitted by Section 609 of the Act.

3.2.2. The Percentage Interests of each of the Members in the Company is as follows:

(a)	John	40%
(b)	Michael	40%
(c)	WBC	<u>20%</u>
	Total	<u>100%</u>

3.2.3. If any Member or Manager is required to guarantee any Company debt, all Members will guarantee the same severally, pro rata to their Percentage Interests.

Section 3.3. Indemnification.

3.3.1. The Company shall, to the extent of the assets of the Company, and to the fullest extent permitted under Section 420 of the Act, indemnify and save harmless, and advance expenses to, the Managers and Members, their successors and assigns from any loss, claim, damage, liability, cost or expense (including reasonable counsel fees), at any time, including the period prior to the commencement of the term of the Company, paid or incurred by them in connection with acting as Manager or Member or the performance of their duties hereunder, if any, or in furtherance of the business of the Company, including any liabilities for breach of duty in any capacity, except to the extent that such loss, claim, damage, liability, cost or expense is determined to be caused by a violation of the material provisions of the Agreement, or willful misconduct or gross negligence of any Manager or Member or except as they may have expressly undertaken to bear hereunder.

ARTICLE IV

COMPANY CAPITAL

Section 4.1. Initial Cash Capital.

4.1.1. The Initial Cash Capital of the Company shall be the sum of \$25,000, to be contributed upon the execution of this Agreement by the Members in amounts pro rata to their Percentage Interests.

Section 4.2. Acquisition of Property

4.2.1. The Members have caused the Property to be conveyed to the Company as a Capital Contribution on behalf of the Members, such Property to be valued and initially carried on the books of the Company at its fair market value unless a different value is determined to be appropriate and permissible by the Company's accountants and approved by the Managers, and said Capital Contribution to be deemed made by the Members pro rata to their respective Percentage Interests.

Section 4.3. Additional Funding.

4.3.1. Except as otherwise expressly provided in the Agreement, no Member shall be required to make any additional Capital Contributions to the Company.

4.3.2. If funds, additional to Capital Contributions herein provided and borrowings from third parties are required for the business of the Company, the same may, in the discretion of the Managers, be contributed by the Members pro rata to their

Percentage Interests or borrowed from any Member as a Member's Loan. Such Member's Loan shall bear interest at a rate one percentage point above the "prime" rate charged by Fleet Bank, from time to time. No Member shall be liable for the repayment of any Member's Loans, which shall be paid solely out of Capital Contributions, Cash from Operations or Cash from Capital Items before any allocation or distribution to the Members under Article VI herein.

4.3.3. If the Company requires funds additional to Capital Contributions, borrowings from third parties and Member's Loans, the Managers, acting jointly, may offer additional Interests in the Company and admit additional Members purchasing such Interests, provided that existing Members shall first be afforded a reasonable opportunity to purchase such Interests pro rata to their Percentage Interests at the time of such offer and on terms and conditions no less favorable than those to be offered to third parties. Any purchasers of Interests offered pursuant to this Paragraph 4.3.3. who are not already Members may be admitted as additional Members in the Company.

Section 4.4. Miscellaneous Capital Provisions.

4.4.1. No Member shall be entitled to receive the return of his capital contribution or any compensation, profit or income with respect to his Capital Contribution or other distribution or payment except as expressly set forth in this Agreement.

4.4.2. Except as expressly provided in this Agreement, no Member shall be entitled to receive any distribution from the Company or the return of his Capital Contribution in kind.

ARTICLE V

MANAGEMENT OF THE COMPANY

Section 5.1. Company Powers.

5.1.1. Except as otherwise restricted by the Agreement, the Company shall have all powers with respect to its business and property which a limited liability company may possess under the Act, including, without limitation, all powers which a limited liability company may possess under Section 202 or any other provision of the Act and, to the extent not provided or prohibited by the Act, the power to:

- (i) Acquire by purchase, lease, exchange or otherwise any real or personal property which may be necessary, convenient or incidental to the accomplishment of the purposes of the Company.

(ii) Operate, maintain, finance, improve, own, grant options with respect to, sell, convey, assign, mortgage, exchange or lease any real property and any personal property necessary, convenient or incidental to the accomplishment of the purposes of the Company.

(iii) Execute any and all agreements, contracts, documents, certifications and instruments necessary or convenient in connection with the acquisition, financing, management, maintenance and operation of the Property.

(iv) Borrow money and issue evidences of indebtedness necessary, convenient or incidental to the accomplishment of the purposes of the Company and secure the same by mortgage, pledge or other lien on the Property or other assets of the Company, and enter into interest rate swap arrangements or similar interest rate protection agreements with respect to any such indebtedness.

(v) Execute, in furtherance of any or all of the purposes of the Company, any deed, lease, mortgage, mortgage note, bill of sale, contract or other instrument purporting to convey, exchange or encumber the real or personal property of the Company.

(vi) Prepay in whole or in part, refinance, recast, increase, modify or extend any mortgages affecting the Property and in connection therewith execute any extensions, consolidations, subordinations, modifications or renewals of mortgages on the Property.

(vii) Deal with, or otherwise engage in business with, or provide services to and receive compensation from, any person who has provided or may in the future provide services, lend money or sell property to or purchase property from a Manager.

(viii) Engage in any kind of activity and perform and carry out contracts of any kind necessary to, or in connection with, or incidental to the accomplishment of the purposes of the Company, as may be lawfully carried on or performed by a limited liability company under the laws of each State in which the Company is then formed or qualified.

(ix) Construct improvements and demolish or alter existing improvements or any new improvements.

(x) Lease, sublease or sell all or any portion of the Property upon any terms, notwithstanding that the term of any lease or mortgage may extend beyond the term of the Company.

- (xi) Grant or acquire rights by way of easement, covenant or restriction.
- (xii) Pay taxes and other governmental charges and contest the imposition of the same and enter into agreements for abatement, reduction or exemption therefrom.
- (xiii) Make payments or provide facilities or services to governmental and eleemosynary entities for less than adequate consideration or for no consideration.
- (xiv) Convey title to nominees for the purpose of financing.
- (xv) Invest Company funds in U.S. government securities, securities issued or guaranteed by U.S. government agencies, stocks and bonds, securities issued or guaranteed by states or municipalities, certificates of deposit and time or demand deposits in commercial banks, bankers' acceptances, bank commercial paper, savings and loan association deposits or deposits in members of the Federal Home Loan Bank System, securities of any regulated investment company registered with the Securities and Exchange Commission, the investments and funds of which are in the custody of an independent trustee, and the funds of which are invested exclusively in securities of such types, or in any other securities or investments whatsoever approved by both Managers.
- (xvi) Conduct all activities necessary, advisable or appropriate to the operation of the Property, the conduct of the business of the Company or to carry out the purposes for which the Company was formed.

Section 5.2. Authority of Managers.

5.2.1. The business and affairs of the Company shall be conducted and managed solely by the Managers, acting jointly, except as hereinafter provided. Managers must also be Members of the Company. John and Michael shall be the initial Managers and shall each continue to serve as Managers for an unlimited term, without being required to be reelected or reappointed, until their death, Disability, resignation or removal as provided herein. No person may act as a manager of the Company unless admitted to the Company as a Member and appointed as a Manager as hereinafter provided. The Members, unless they are also Managers, shall not take part in the conduct or control or affairs of the Company. The Managers, acting jointly, shall possess all of the powers conferred upon managers of a limited liability company by the Act, subject only to such restrictions as are expressly set forth in the Agreement.

5.2.2. Any party dealing with the Company may rely upon a certificate signed by either Manager as to:

(i) the existence or non-existence of any fact or facts which constitute a condition precedent to acts by a Manager or is in any other manner relevant to the affairs of the Company;

(ii) the persons who are authorized to execute and deliver any instrument or document of the Company; or

(iii) any act or failure to act by the Company or as to any other matter whatsoever involving the Company or any Member.

5.2.3. The Managers shall, without the approval of the Members, except as expressly provided in this Agreement, have full power and authority to exercise all of the powers of the Company provided in Section 5.1 hereof, including, without limitation, the power to cause the Property to be sold, leased, conveyed or encumbered, and, in such connection, execute and deliver, on behalf of the Company, any and all documents required in connection with the business of the Company, including, without limitation, deeds, leases, mortgages, deeds of trust, security agreements, checks or other instruments for the payment of Company funds, notes or other evidences of indebtedness of the Company and contracts and commitments of every kind and nature and to cause the Company to be merged or consolidated with or into another domestic or foreign limited liability company or other business entity and to cause the Company to be liquidated and dissolved.

5.2.4. The Managers may employ agents and may delegate to such agents the powers to hire and discharge personnel, lease space in the Property, disburse Company funds, pay Company debts and enter into contracts and commitments on behalf of the Company, but all of the foregoing only in connection with the ordinary course of the operation of the Property.

5.2.5. The Managers may establish such reserves as they shall deem appropriate to pay current and future, definite and contingent and possible obligations of the Company. The Managers may cause these reserves and other funds not currently required for the business of the Company to be invested as provided in clause (xv) of Paragraph 5.1.1. herein.

5.2.6. The Managers shall have the full power and authority to prosecute and settle all claims by or against the Company, to confess judgment and to convey the Property in settlement of Company indebtedness.

5.2.7. Without the written consent to or ratification of the specific act by all the Members, the Managers may not:

(i) Do any act in contravention of the Agreement;

(ii) Possess Company property, or assign to any Member or Manager rights in specific Company property, for other than a Company purpose.

Section 5.3. Duties and Obligations of the Managers.

5.3.1. The Managers shall take all action which may be necessary or appropriate (i) for the continuation of the Company's valid existence as a limited liability company under the laws of New York, (ii) for the continued classification of the Company as a partnership, for Federal income tax purposes under the Code, and (iii) for the acquisition, development, maintenance, preservation and operation of the Property in accordance with the provisions of the Agreement and Governmental Requirements.

5.3.2. The Managers shall cause to be prepared and shall file on or before the due date (or any extension thereof) any Federal, state or local tax returns required to be filed by the Company. The Managers shall cause the Company to pay any taxes payable by the Company.

5.3.3. The Managers shall obtain and keep in force, or cause to be obtained and kept in force, during the term hereof, fire and extended coverage, worker's compensation and public liability insurance in favor of the Company with such insurers and in such amounts as they shall deem advisable, but in amounts not less (and with deductible amounts not greater) than those customarily maintained with respect to properties comparable to the Property and in compliance with those required by the mortgagees of the Property.

5.3.4. The Managers shall be under a fiduciary duty to conduct the affairs of the Company in the best interests of the Company and of the Members, including the safekeeping and use of all Company funds and assets and the use thereof for the exclusive benefit of the Company.

5.3.5. In carrying out their duties, the Managers shall not be liable to the Company or to any other Member for any actions taken in good faith and reasonably believed to be in the best interests of the Company, or for errors of judgment, neglect, omission, or wrongdoing, except to the extent such liability is imposed by Section 417 of the Act.

Section 5.4. Other Business.

5.4.1. Some of the Members (including the Managers) and their affiliates are and will continue to be engaged in the ownership and management of commercial real estate in the Albany, New York area and elsewhere which may be competitive with the Property. Some of the Members (including the Managers) and their affiliates may form and/or own interests in existing or future partnerships, limited liability companies or other entities which may engage in the acquisition and operation of other properties, which may include properties competitive with the Property. Such Members shall not be required to offer the same to the Company or to any Member and all the Members hereby consent to such activities.

Section 5.5. Transactions Between the Managers and the Company.

5.5.1. The Managers may cause management and other necessary special services to be performed for the Company by affiliates of the Managers and may cause the Company to pay reasonable compensation therefor.

5.5.2. Neither the Managers nor their affiliates shall receive any payments from the Company except as provided herein or except for such Managers's share of Company allocations as provided in Article VI herein, except as determined by the Managers in their sole discretion.

5.5.3. If either of the Managers or any of his affiliates necessarily incurs any expenses in connection with rendering his duties to the Company, such expenses shall be reimbursed to said individual or entity by the Company.

5.5.4. Overhead shall be allocated as may be determined by the Managers.

Section 5.6. Resignation of Managers.

5.6.1. A Manager may resign as Manager at any time upon thirty (30) days prior written notice to all Members. Upon such resignation a successor Manager or Managers may be appointed as provided in Section 8.2. hereof. Resignation as a Manager shall not affect such Manager's ownership of his Percentage Interest or his rights or obligations as a Member.

Section 5.7. Meetings of and Action by Members.

5.7.1. The Company shall not be required to hold meetings of Members annually or at regular intervals. Upon the request of Members holding a majority of the Percentage Interests, the Company shall hold meetings of Members at its principal offices or at such other location as shall be determined by the Members requesting the meeting. Notice of a meeting of Members shall be

given not less than ten (10) nor more than sixty (60) days before the meeting in the manner provided in Section 405 of the Act.

5.7.2. Members of the Company may participate in a meeting by means of conference telephone or similar equipment by means of which all participating persons can hear each other, and such participation shall constitute presence in person at the meeting.

5.7.3. Members owning two-thirds of the Percentage Interests shall constitute a quorum at a meeting of Members for the transaction of any business.

5.7.4. Action by the Members may be taken without a meeting upon written consent of Members owning not less than the minimum number of votes required for the action taken, such consent to be given pursuant to Section 407 of the Act.

5.7.5. Except as otherwise expressly provided by this Agreement, the vote of Members owning two-thirds of the Percentage Interests in the Company shall be required for any action by the Members.

ARTICLE VI

ALLOCATIONS AND DISTRIBUTIONS

Section 6.1. Capital Accounts.

6.1.1. A separate "Capital Account" shall be established and maintained for each Member as provided in this Section 6.1. Unless otherwise determined by the Company's accountants and approved by the Managers, the Capital Account of each Member shall be credited with the cash and the fair market value of any property (net of liabilities assumed by the Company and liabilities to which such property is subject) contributed to the Company by such Member, plus all Taxable Income or other income, gain, or profits of the Company allocated to such Member pursuant to this Article VI (including for purposes of this Section 6.1 income and gain exempt from tax), and shall be debited with the sum of (i) all Taxable Loss or deductions of the Company allocated to such Member pursuant to this Article VI, (ii) such Member's distributive share of expenditures of the Company described in Section 705(a)(2)(B) of the Code, and (iii) all cash and the fair market value of any property (net of liabilities assumed by such Member and the liabilities to which such property is subject) distributed by the Company to such Member (excluding payment of principal or interest on Member's Loans) pursuant to this Article VI or Article X. Capital Accounts shall be maintained in accordance with the rules set forth in Treasury Regulations promulgated under Sections 704 and 752 of the Code, and to the extent that the Managers determine that any adjustment

to any provision of this Article VI is necessary in order to so comply, then such adjustment may be made, subject to subsections 6.1.4. and 6.5.4. hereof. Any references in this Agreement to the Capital Account of a Member shall be deemed to refer to such Capital Account as the same may be credited or debited from time to time as set forth above.

6.1.2. The following additional rules shall apply in maintaining Capital Accounts:

(a) Amounts described in Section 709 of the Code (other than amounts with respect to which an election is in effect under Section 709(b) of the Code) shall be treated as described in Section 705(a) (2) (B) of the Code.

(b) If money or other property is contributed to the Company, a distribution of money or other property is made by the Company to a retiring or continuing Member in consideration for all or part of its Interest, or upon the liquidation of the Company, Capital Accounts shall, in the discretion of the Managers, be adjusted to reflect the fair market value of the assets of the Company in accordance with Treasury Regulation Sections 1.704-1(b) (2) (iv) (d), (f), (g), or (q).

(c) If, in any fiscal year of the Company, the Company has in effect an election under Section 754 of the Code, Capital Accounts shall be adjusted in accordance with Treasury Regulation Section 1.704-1(b) (2) (iv) (m).

6.1.3. Except as may otherwise be provided in this Agreement, whenever it is necessary to determine the Capital Account of a Member, the Capital Account of such Member shall be determined after giving effect to all allocations and distributions for transactions effected prior to the time as of which such determination is to be made. As of the end of each fiscal year of the Company or upon an event described in Paragraph 1.1.5., Capital Accounts shall be adjusted for allocations of Taxable Income or Taxable Loss prior to any adjustment for distributions of Cash from Operations or Cash from Capital Items, and shall be adjusted for distributions of Cash from Operations prior to adjustment for distributions of Cash from Capital Items. No adjustment to Capital Accounts shall be made for payments of principal or interest on Member's Loans. Any Member, including any successor Member, who shall acquire an Interest or whose Interest shall be increased by means of a transfer to him of all or part of the interest of another Member, shall have a Capital Account which reflects such transfer.

6.1.4. It is the intention of the Members to satisfy the capital account maintenance requirements of Treasury Regulation Section 1.704-(b) (2) (iv), and the foregoing provisions defining Capital Accounts are intended to comply with such provisions. If

the Managers determine that adjustments to Capital Accounts are necessary to comply with such regulations, then the adjustments shall be made provided it does not materially impact upon the intended economic interests of the Members in the Company.

Section 6.2. Cash from Operations and Cash from Capital Items.

6.2.1. Unless the Company is being liquidated and dissolved, Cash from Operations for each fiscal year of the Company shall be distributed at such time or times and in such amounts as shall be determined by the Managers in their discretion, and to the extent distributed shall be first applied to payment of interest upon and principal of Member's Loans and next allocated and distributed to the Members in accordance with their respective Percentage Interests in the Company.

6.2.2. Unless the Company is being liquidated and dissolved, Cash from Capital Items shall be distributed at such times and in such amounts as shall be determined by the Managers, in their discretion, and to the extent distributed shall be first applied to payment of interest and principal on Member's Loans and then shall be distributed pro rata among the Members based on their respective Percentage Interests in the Company.

6.2.3. The Managers shall attempt to make sufficient cash distributions under Paragraphs 6.2.1. and 6.2.2. to meet the Members' tax obligations attributable to the Company, but shall not be required to do so.

6.2.4. If the Company is being liquidated and dissolved, the assets of the Company including Cash from Operations and Cash from Capital Items shall be distributed as provided in Section 10.2 hereof.

Section 6.3. Taxable Income or Taxable Loss.

6.3.1. (a) Taxable Loss for each fiscal year will be allocated to the Members in accordance with their respective positive Capital Account balances in the Company to the extent thereof and then in accordance with their respective Percentage Interests, provided, that no Taxable Loss shall be allocated to any Member if the effect of such allocation would be to create or increase a deficit Capital Account balance of such Member at a time when any other Member has a positive Capital Account Balance and such Taxable Loss shall instead be allocated to the Member(s) with positive Capital Account balance(s) (pro rata to such positive balances) until such balances have been reduced to zero, and any remaining Taxable Loss shall be allocated to the Members in accordance with their respective Percentage Interests.

(b) Taxable Income and income exempt from taxation shall be allocated to the Members in accordance with their

respective Percentage Interests, except that if any Member has a deficit Capital Account balance, Taxable Income and income exempt from taxation shall first be allocated to the Members with such deficit balances, to the extent of and in proportion thereto, until such deficit Capital Account balances have been eliminated, and then shall be allocated among the Members in accordance with their respective Percentage Interests.

Section 6.4. Recapture and Investment Credits.

6.4.1. Investment tax credits, if any, shall be allocated in the same manner as Taxable Income.

6.4.2. Any recapture of depreciation deductions or investment tax credits shall be allocated to the Members to whom (or to the predecessors in interest of whom) were allocated the prior depreciation deductions or investment tax credits, as the case may be.

Section 6.5. Special Allocation Provisions.

6.5.1. Notwithstanding Sections 6.3. through 6.4. herein, income, gain, loss, deduction or credit attributable to property contributed to the Company by a Member shall be allocated in accordance with Code Section 704(c)(1)(A) (and any replacement or successor provision) and applicable Treasury Regulations thereunder.

6.5.2. Notwithstanding Sections 6.3. through 6.4. herein, if any deduction claimed by the Company for interest or other amounts paid or payable to a Member is disallowed for Federal income tax purposes, an amount of Company gross income equal to the amount so disallowed multiplied by the Percentage Interests of the other Members shall be allocated to the Member to whom such disallowed amount was paid or payable, for the year in which the disallowance is made and for subsequent years, if necessary, until the total amount to be so allocated has been allocated to such Member.

6.5.3. Notwithstanding any other provisions of this Agreement: (i) the provisions of Treasury Regulations Section 1.704-1 (b)(2)(ii)(d) and Section 1.704-2(f), relating to, respectively, a "qualified income offset" and "minimum gain chargeback" are incorporated herein and made a part of this Agreement by reference; and (ii) Taxable Income or Taxable Loss of the Company (including that arising upon a transaction described in Paragraph 1.1.5 herein or the dissolution of the Company) shall be allocated in accordance with the provisions of Treasury Regulations 1.704-1(b) and Section 1.704-2 and the Managers are authorized to make such allocations as they determine, in their discretion, are necessary to carry out those Regulations.

6.5.4. (a) It is the intention of the Members that each Member's distributive share of income, gain, loss, deduction, credit (or item thereof) shall be determined and allocated in accordance with Section 6.3. to the fullest extent permitted by Section 704(b) of the Code. In order to preserve and protect the allocations provided for in Section 6.3., the Managers shall be, and they hereby are, authorized and directed to allocate income, gain, loss, deduction, or credit (or items thereof) arising in any year differently than otherwise provided for in Section 6.3. if, and to the extent that, allocating income, gain, loss, deduction, or credit (or item thereof) in the manner provided for in Section 6.3 would cause the allocations of each Member's distributive shares of income, gain, loss, deduction or credit (or item thereof) not to be permitted by Section 704(b) of the Code and any Treasury Regulations promulgated thereunder. Any allocation made pursuant to Sections 6.5.3. or 6.5.4. hereof shall be deemed to be a complete substitute for any allocation otherwise provided for in Section 6.3, and no amendment of this Agreement or approval of any Member shall be required.

(b) In making any allocation under this Section 6.5.4. (the "New Allocation"), the Managers are authorized to act only after having been advised in writing, both by counsel to the Company and the Company's regular certified public accountant, that in their opinion, after examining Section 704(b) of the Code and any current or future proposed or final Treasury Regulations thereunder, the New Allocation is necessary in order to ensure that, either in the then-current year or in any preceding year, each Member's distributive share of income, gain, loss, deduction, or credit (or item thereof) is determined and allocated in accordance with Section 6.3. to the fullest extent permitted by Section 704(b) of the Code and the Treasury Regulations thereunder.

(c) New Allocations made by the Managers in reliance upon the written advice of the attorneys and accountants described above shall be deemed to be made in the best interests of the Company and the Members in accordance with the fiduciary obligation of the Managers to the Company and the Members, and such New Allocation shall not give rise to any claim or cause of action by any Member.

(d) In the event that the Managers are required to make any New Allocation in a manner less favorable to any Member than is otherwise provided for in Section 6.3, the Managers shall be, and they hereby are, authorized and directed, insofar as it is permitted to do so by Section 704(b) of the Code, to allocate income, gain, loss, deduction, or credit (or item thereof) arising in later years in a manner so as to bring the proportion of income, gain, loss, deduction, or credit (or item thereof) allocated to the Members as nearly as possible to the proportion otherwise contemplated by Section 6.3.

Section 6.6. New York State Gains Tax Allocation.

6.6.1. If there is an acquisition of a Company Interest which requires payment of the New York State Real Property Transfer Gains Tax ("Gains Tax"), then any resulting change in the Company's Gains Tax original purchase price will be allocated to the acquiring Member (or pro rata among the remaining Members, if the Company has acquired the Interest) for purposes of allocating any Gains Tax expense on a subsequent sale of all or a portion of the Property by the Company.

ARTICLE VII

ACCOUNTING PROVISIONS

Section 7.1. Fiscal Year.

7.1.1. The fiscal year of the Company shall be the calendar year.

Section 7.2. Books and Accounts.

7.2.1. Complete and accurate books and accounts for the Company shall be maintained on the accrual basis accounting method (unless otherwise determined by the Managers) and shall include separate accounts for each Member. Any Member or a representative of the Members, shall, at reasonable times, have access to and may inspect and make copies of, such books and accounts; provided, however, that as provided in Section 1102(c) of the Act, the Managers shall have the right in their discretion, for such period of time as the Managers deem reasonable, to keep confidential from the other Members any information which such Managers reasonably believe to be in the nature of trade secrets or other information the disclosure of which such Managers believe in good faith is not in the best interests of the Company or its business or which the Company is required by law or by agreement with a third party to keep confidential.

Section 7.3. Financial Reports.

7.3.1. Each Member shall be furnished with annual financial statements, prepared by the Company or at the Company's expense, with respect to the operations of the Company for the fiscal year then ended.

7.3.2. The Managers, at the expense of the Company, shall cause to be prepared and timely filed, all Federal, State and local tax returns of the Company for each fiscal year and shall furnish the Members with all necessary tax information relating to the Company.

Section 7.4. Elections.

7.4.1. Managers may in their discretion, upon the request of a Member or otherwise, determine to exercise any elections available to the Company under the Code, including, without limitation, any election under Sections 754 or 108 of the Code, and may also in their discretion make any and all other determinations whatsoever with respect to any tax matter affecting or relating to the Company. Such determinations shall be made in good faith by the Managers, taking account of the interests of the Members after consultation with the accountants for the Company.

Section 7.5. Tax Matters Partner

7.5.1. The Managers shall designate the "tax matters partner" for purposes of Section 6231 of the Code.

ARTICLE VIII

ADMISSION OF ADDITIONAL AND SUCCESSOR MEMBERS;
TRANSFERS OR SALES BY A MEMBER;
DEATH, DISABILITY OF A MEMBER, ETC.

Section 8.1. Admission of Members.

8.1.1. Those Members signatory hereto are the Members. Additional Members other than successors in interest to the Members may not be admitted except as provided in Paragraph 4.3.3. herein. Successor Members may be admitted as hereinafter provided.

8.1.2. (a) The rights of Members to transfer or assign Interests in the Company are governed by Sections 8.3. through 8.8. hereof. A party other than a Member, including Permitted Transferees, who acquires all or a portion of a Member's Interest in the Company, whether by transfer or by operation of law, shall not become admitted as a Member of the Company without the written approval of the Managers (or of the other Manager, if a Manager's interest has been transferred) and the written consent of Members owning a majority of the Percentage Interests (determined by disregarding the Percentage Interest owned by the transferring or assigning Member), which approval and consent may be unreasonably withheld.

(b) A party whose admission has been approved shall be admitted to the Company by executing, acknowledging and delivering to the Managers an instrument, satisfactory to the Managers, adopting this Agreement and thereby agreeing to be bound by the terms and provisions hereof, provided, however, that such instrument shall not become effective or binding on the

Company until such instrument is delivered to the Managers and its delivery is acknowledged. A party acquiring all or a portion of a Member's Interest, including Permitted Transferees, whose admission to the Company is not approved as provided herein shall only acquire rights to distributions and allocations under this Agreement to which his assignor would have been entitled but shall have no right to vote or other rights of Members hereunder.

Section 8.2. Additional or Successor Managers; Removal.

8.2.1. Managers may not be removed or discharged, with or without cause, except upon the unanimous vote of all Members. Additional or successor Managers shall not be appointed except upon the approval of all Members, and if so appointed, they shall take part in the management of the Company in such manner as shall be agreed upon by all Members. If the Members do not specify the manner in which Managers shall act, then (i) if there are two Managers, the Managers shall act jointly; and (ii) if there are more than two Managers, the Managers shall act by vote of a majority of the Managers. No person may become a Manager unless such person has been admitted as a Member as provided herein.

8.2.2. (a) Neither Manager may transfer all or any part of his Interest except to another Member without the prior written consent of the other Manager except: (i) pursuant to Section 8.4. hereof; or (ii) on death or Disability of such Manager subject to Section 8.7.3 hereof; provided, however, that no such transferee or assignee shall be admitted to the Company as a Member except in accordance with Sections 8.1.2. and 8.2.2.(b) hereof.

(b) The transferee of a portion of the Interest of a Manager shall not be admitted as a Member except pursuant to Paragraph 8.1.2. hereof and unless and until so admitted the owner of the Interest so transferred shall only have the rights provided in the last sentence of Section 8.1.2. In the event of any transfer of a Manager's entire interest in the Company, whether or not to another Member or to a Permitted Transferee, such event shall be deemed an "event of withdrawal" of the Manager as a Member for purposes of subparagraph 10.1.1.(iv), the provisions of subparagraph 10.1.1.(iv) will be operative and the transferee shall not become a Member except upon the approval of all other Members.

Section 8.3. Transfers of Company Interests

8.3.1. Except as set forth in this Agreement, a Member may not transfer or assign all or any portion of his Interest other than to another Member or to Permitted Transferees, including, without limitation, a transfer by gift or a pledge of all or part of his Interest, without the prior written consent of the Managers. Admission of Permitted Transferees of Interests as Members shall

in any event remain subject to Section 8.1.2. hereof. A transfer or assignment of all or any portion of a Member's Interest in violation of this Agreement shall be void and shall not bind the Company, and the Company shall not be required to recognize such transfer or assignment in any respect whatsoever.

Section 8.4. Sales of Company Interests by John or Michael

8.4.1. ~~If either John or Michael ("Offering Member") wishes to sell all or a portion of his Interest to a recipient who is not a Permitted Transferee, the Offering Member shall give his brother ("Offeree Member") written Notice of such desire (the "Sale Notice"), and the Offeree Member shall have one hundred and twenty (120) days after his receipt of the Sale Notice to agree to purchase that portion of the Interest that the Offering Member wishes to sell at a price equal to Computed Value multiplied by the portion of the Percentage Interest of the Offering Member to be sold (the "Offer Price").~~

8.4.2. If the Offeree Member does not accept the offer described in Paragraph 8.4.1. herein, the Offering Member may offer for sale his Company Interest to a third party who is not a Permitted Transferee (the "Third-Party"). If said Offering Member receives a valid, written offer ("the Third-Party Offer") to purchase the Interest offered from a Third-Party the Offering Member shall promptly provide the Offeree Member with Notice and a copy thereof, and the Offeree Member shall have thirty (30) days after he receives such Notice and copy to agree to purchase the offered Interest at the same price and upon the same terms and conditions as contained in the Third-Party Offer, and if the Offeree Member does not agree to match the Third-Party Offer, the Offering Member can accept the Third-Party Offer and sell the Interest to the Third-Party but such Third-Party may only be admitted to the Company as a Member subject to the provisions of Section 8.1 and 8.2, including the consent of other Manager, or of the Members, as the case may be.

Section 8.5. Sales of Non-Manager Company Interests.

8.5.1. ~~If a Member other than John or Michael wishes to sell (the "Offering Member") all or a portion of his Interest to a recipient who is not a Permitted Transferee, the Offering Member shall give the Managers written Notice of such desire (the "Sale Notice"), and the Managers shall have one hundred and twenty (120) days after its receipt of the Sale Notice to agree to purchase that portion of the Interest that the Offering Member wishes to sell at the Offer Price (as defined in Paragraph 8.4.1.).~~

→ Computed Value.

8.5.2. If the Managers elect not to purchase the Interest of the Offering Member as above described and if the Offering Member still desires to sell the Interest, the Offering Member shall

give the other Members a Sale Notice, and the other Members shall have thirty (30) days after their receipt of the Sale Notice to agree to purchase that portion of the Interest that the Offering Member wishes to sell at the Offer Price set forth in the Sale Notice, pro rata, according to their respective Company Percentages. A Member electing to purchase all of the Interest of the Offering Member offered to him may include in his acceptance an agreement to purchase such additional Interests of the Offering Member offered to be sold (with or without limitation) not agreed to be purchased by the other Members to whom such offer is made and the other Members so electing shall purchase the Interest of the Offering Member not so accepted by the other Members, pro rata to the extent possible to their respective Percentage Interests.

8.5.3. If the other Members do not accept the offer described in Paragraph 8.5.2. herein, and if the Offering Member still desires to sell the Interest, the Offering Member may offer for sale his Company Interest to a third party who is not a Permitted Transferee (the "Third-Party"), and if said Offering Member receives a valid, written offer (the "Third-Party Offer") to purchase the Interest offered from a Third-Party the Offering Member shall promptly provide the Managers with Notice and a copy of such Third Party Offer and the Managers shall have thirty (30) days after they receive such Notice and copy to agree to purchase the offered Interest at the same price and upon the same terms and conditions as contained in the Third-Party Offer. If the Managers do not agree to match the Third-Party Offer, the Offering Member shall promptly provide the other Members with Notice and a copy of such Third Party Offer and the other Members shall have thirty (30) days after they receive such Notice and copy to agree to purchase the offered Interest at the same price and upon the same terms and conditions as contained in the Third-Party Offer. If the other Members do not agree to match the Third-Party Offer, the Offering Member can accept the Third-Party Offer and sell the Interest to the Third-Party, subject, however, to the provisions of Paragraph 8.1.2. as to admission of such transferee to the Company.

8.5.4. In the event of any offer or right of first refusal made or deemed made to the Managers pursuant to this Section 8.5, such offer may be accepted or right of first refusal exercised by either John or Michael, individually, or by both, in such proportions as they may determine.

Section 8.6. Bankruptcy or Insolvency of a Manager or Member.

8.6.1. In the event of the bankruptcy or insolvency of a Member or the making by a Member of an assignment for the benefit of creditors such event shall be deemed an offer by such Member to sell his entire Interest to a Third Party who is not a Permitted Transferee at the Offer Price (as defined in Paragraph

8.4.1. hereof and treating such Member as the Offering Member) and Section 8.4. or 8.5. herein, as the case may be, shall govern. The provisions of Paragraph 10.1.1.(iv) shall also apply and such Member's successors in interest shall only become a Member of the Company if the Company is not dissolved pursuant thereto and all remaining Members approve such admission.

Section 8.7. Death or Disability of a Member

8.7.1. Death or Disability of a Member , whether or not the Member is a Manager shall not terminate the Company except as provided in Section 10.1.1.(iv).

8.7.2. Subject to Sections 8.1.2., 8.2 and 8.7.3. herein, the Interest of a deceased or Disabled Member shall pass to the Personal Representative or other successor or successors of such Member by will, intestacy or otherwise at law.

8.7.3. Upon the death or Disability of a Member while John or Michael, or both, are Members, the estate or legal representative of such deceased or Disabled Member shall be deemed to have made an irrevocable offer as of the day following the date of death or Disability of such deceased Member to John and Michael, jointly, or the survivor (such person or persons being referred to as the "Offeree") to sell the entire Interest of such deceased or Disabled Member to the Offeree at a price equal to such deceased or Disabled Member's Percentage Interest multiplied by Computed Value as in effect as of the end of the calendar month next preceding the date of death or Disability of such Member. If the Offeree desires to purchase such Interest, the Offeree shall give written notice (the "Acceptance Notice") of its acceptance of such offer to sell to the legal representative of such deceased Member within sixty (60) days after the date of death or Disability of such Member. If both John and Michael are Offerees, they shall purchase such Interest jointly in proportion to their respective Percentage Interests or in such other proportions as they may mutually determine. The closing of such purchase shall take place at the date fixed in the Acceptance Notice, which shall not be less than sixty (60) days nor more than six (6) months following date of the Acceptance Notice. The closing shall occur in accordance with Sections 8.8. and Article IX hereof.

Section 8.8. Miscellaneous Provisions Regarding Transfers.

8.8.1. No Member may withdraw from the Company except upon a transfer of all of such Member's Interest in a manner permitted under this Agreement. A member who purports to withdraw from the Company in violation of this Paragraph 8.8.1. shall not be entitled to any distributions from the Company with respect to

his Interest arising from such purported withdrawal except upon the liquidation and dissolution of the Company pursuant to Article X hereof.

8.8.2. Upon any sale of a Company Interest by reason of the exercise of any option granted to the Managers or to other Members by this Agreement, and if the sale when accomplished represents the sale of all of the Interests of the selling Member, then either (i) the Company shall repay any outstanding Member's Loans owed to the selling Member or (ii) the party purchasing such selling Member's Interest shall also purchase any such outstanding Member's loans owed to the selling Member for the face amount of principal and interest then due thereon, and the selling Member shall repay to the Company any outstanding amounts owed by such Member to the Company.

ARTICLE IX

CLOSING

Section 9.1. Closing.

9.1.1. A closing of a purchase of an Interest acquired pursuant to the provisions of the Agreement shall be held at the office of the Company on a date designated by the purchaser no less than fifteen (15) days nor more than sixty (60) days following acceptance of the offer to sell, except that the Closing of a purchase of an Interest pursuant to Section 8.7.3. hereof shall take place at the time provided therein.

9.1.2. Payment for the Interest sold shall be made against the delivery of an instrument of assignment thereof, and any other such documents as may be reasonably required, in accordance with the terms of the proposal as accepted.

9.1.3. Unless otherwise agreed between the parties, payment in full shall be made at the closing by certified or bank check.

ARTICLE X

DISSOLUTION, TERMINATION AND LIQUIDATION OF THE COMPANY

Section 10.1. Events Causing Dissolution.

10.1.1. The Company shall be terminated and liquidated and dissolved upon the happening of any of the following events:

- (i) Expiration of the term of the Company;

(ii) The disposition and distribution of substantially all the Company's assets;

(iii) A determination of the Managers, with or without the approval of any of the Members; or

(iv) Upon the death, Disability, termination, dissolution or bankruptcy of a Member or the occurrence of another event described in Section 701(d) of the Act with respect to a Member (such event being referred to as an "event of withdrawal"), unless within ninety days after the event of withdrawal, either: (x) remaining Members holding at least a majority of Percentage Interests (or such greater percentage as may be at the time required by the Act); or (y) if at the time any capital or profits interests in the Company are held in a ratio which differs from the Percentage Interests of the Members, remaining Members owning at least a majority of such capital and of such profits interests, agree in writing to continue the business of the Company and to the appointment, effective as of the date of the event of withdrawal, of one or more additional Managers meeting the qualifications set forth in Section 5.2.1. hereof if necessary or desired. If at the time there is at least one remaining Manager or Managers and the Members so vote to continue the business of the Company, such remaining Manager or Managers shall be deemed reappointed and shall continue to serve as such. If at the time there is only one such reappointed Manager, Members owning at least a majority in Percentage Interests may at any time appoint one or more additional Managers meeting the qualifications set forth in Section 5.2.1. hereof, provided, however, that if John or Michael is such reappointed and continuing Manager, then the consent of such reappointed Manager shall also be required for the appointment of any such additional Managers.

Section 10.2. Liquidation Procedure.

10.2.1. The dissolution and liquidation of the Company shall be conducted and supervised by the Managers, and, if both Managers be then deceased or mentally incapacitated, then by a person who shall be designated for such purpose by a majority in Percentage Interest of the remaining Members (the Managers or such person so designated, as the case may be, being herein called the "Liquidating Agent"). The Liquidating Agent shall have all of the rights and powers with respect to the assets and liabilities of the Company, in connection with the liquidation and dissolution of the Company, which the Managers have had with respect to the assets and liabilities of the Company during the term of the Company, and the Liquidating Agent is hereby expressly authorized and empowered to execute any and all documents necessary or desirable to effectuate the orderly dissolution and liquidation of the Company and the transfer of any property of the Company, subject, however, to the approval of

the Managers, or if both Managers are deceased or mentally incapacitated, the approval of a majority in Percentage Interest of the remaining Members, with respect to the sale, exchange, distribution, leasing, pledge or financing of any assets of the Company. The Liquidating Agent shall have the right, from time to time, by revocable powers of attorney, to delegate to one or more persons any or all of such rights and powers and such authority and power to execute documents, and, in connection therewith, to fix the reasonable compensation of each such person, which compensation shall be charged as an expense of liquidation.

10.2.2. The Liquidating Agent shall liquidate the assets of the Company as promptly as shall be practicable. To the extent the proceeds are sufficient therefor, the proceeds of such liquidation shall be applied in the following order of priority:

(a) First, to the payment of matured debts and liabilities of the Company to third parties and the costs and expenses of the dissolution and liquidation;

(b) Second, to the setting up of any reserves which the Liquidating Agent deems appropriate;

(c) Third, in payment of any outstanding loans to the Company by any Member;

(d) Fourth, to the Members in proportion to and to the extent of their respective Capital Account balances, after making all adjustments for allocations and prior distributions pursuant to Article VI herein; and

(e) Any balance to the Members in proportion to their respective Percentage Interests.

10.2.3. A reasonable time shall be allowed for the orderly liquidation of the assets of the Company and the discharge of liabilities to creditors so as to minimize the losses normally attendant upon a liquidation.

10.2.4. Each of the Members shall be furnished with a statement, prepared by the accountants for the Company, which shall set forth the assets and liabilities of the Company as at the date of complete liquidation, and each Member's share thereof.

Section 10.3. Distribution in Kind.

10.3.1. Upon the dissolution and liquidation of the Company, the Liquidating Agent may make distributions in liquidation in kind. In such event, the assets to be distributed in kind shall

be valued and appropriate pre-liquidation adjustments shall be made to the Capital Accounts of the Members in accordance with Article VI hereof to reflect the gain or loss that would have been realized on a sale of such assets at their fair market value.

ARTICLE XI

ARBITRATION

Section 11.1. Arbitration.

11.1.1. If it is necessary to have Certified Value or Computed Value determined by arbitration in accordance with the provisions of this Agreement, or if there is any disagreement between the Members with respect to the interpretation of this Agreement or the business or dissolution of the Company, then such value or disagreement shall be determined by the American Arbitration Association, Albany, New York.

11.1.2. If such arbitration is to fix Certified Value or Computed Value, Certified Value and/or Computed Value shall be determined to the extent possible in a manner consistent with that described in Paragraph 1.1.7.(c) and/or Paragraph 1.1.11., as applicable.

11.1.3. The then current rules of the American Arbitration Association shall govern the arbitration provided for herein.

ARTICLE XII

MISCELLANEOUS PROVISIONS

Section 12.1. Oral Modification.

12.1.1. The Agreement constitutes the entire understanding among the parties hereto. No waiver or modification of the provisions hereof shall be valid unless in writing and signed by the party to be charged and then only to the extent therein set forth.

Section 12.2. Notices.

12.2.1. All Notices, solicitations of consent or approval, and other communications hereunder shall be in writing and shall be sent by certified or registered mail, return receipt requested, or by hand delivery or overnight courier with return receipt, addressed as follows: (i) if intended for the Company, to its principal office, (ii) if intended for any Member or Manager, to the address of such Member or Manager shown on the signature page.

signed by such Member or Manager or to such other address which such Member or Manager shall have given to the Company for such purpose.

Section 12.3. Amendment.

12.3.1. The Agreement or the Articles of Organization may be amended by the Managers without the consent or approval of any Member, if (a) the amendment is solely for the purpose of clarification, to correct errors or to change the address to which service of process against the Company is to be mailed by the Secretary of State, and does not change the substance of the Agreement or the Articles of Organization, as the case may be, and the Company has obtained the opinion of its counsel to that effect, or (b) in the opinion of the Company's counsel, the amendment is necessary or appropriate to satisfy requirements of the Code with respect to the status of the Company as a partnership for tax purposes, to comply with applicable Treasury Regulations governing the validity of Company allocations for Federal income tax purposes, or of any Federal or State securities laws or regulations and the amendment does not materially adversely affect the economic interest of any Member, or (c) to admit successor or additional Members pursuant to any provision of this Agreement or the Articles of Organization. Any amendment made pursuant to this Paragraph 12.3.1. may, at the option of the Managers, be made effective as of the date of the Agreement or the Articles of Organization.

12.3.2. Any amendments of the Agreement or the Articles of Organization, other than an amendment permitted by Paragraph 12.3.1. herein, may only be made by the Managers with approval of Members owning at least two-thirds (2/3) of the Percentage Interests owned by all Members, including amendments which might adversely affect the Members or any Member, provided that no amendment of this Agreement or the Articles of Organization may, without the prior written consent of any Member affected thereby, alter such Member's interest in allocations or distributions under Article VI, increase any Member's obligation to make contributions to the Company, or otherwise materially adversely affect the economic interest of any Member under this Agreement or the Articles of Organization, or, without the consent of all Members, provide that the obligation of any Member to make any contributions required hereunder may be compromised without the consent of all Members.

12.3.3. The Members shall execute and deliver such further instruments as may be required to carry out the intent and purpose of this Agreement.

Section 12.4. Execution.

12.4.1. The Agreement may be executed in counterparts and as so executed shall constitute one agreement binding on all the parties. It shall not be necessary that any counterpart be signed by all the Members so long as each counterpart be signed by the Managers and by one or more other Members and so long as each Member shall sign at least one counterpart.

Section 12.5. Binding Effect.

12.5.1. Except as otherwise provided herein, this Agreement shall be binding upon and shall inure to the benefit of the respective heirs, executors, administrators, legal representatives, and permitted successors and assigns of the parties hereto.

Section 12.6. Power of Attorney.

12.6.1. Each of the Members signatory hereto hereby irrevocably constitutes and appoints the Managers, acting jointly (including any successor Manager), and the Liquidating Agent, as the case may be, severally, the true and lawful attorney of such Member, from time to time to execute, acknowledge, and file any of the following:

(a) Articles of Organization (or amendments thereto) for the Company pursuant to the Act;

(b) Any fictitious name certificate or other instrument which may be required, necessary or desired to be filed by the Company under the laws of the United States, the State of New York or any other State in which any of the Members reside or in which the Company shall conduct business or otherwise;

(c) Any amendment or modification of any certificate or other instrument as is required, necessary or desired to admit additional or successor Members, or successor Managers, to the Company, where permitted under this Agreement;

(d) All documents which may be required to effectuate the termination, dissolution and liquidation of the Company.

It is expressly acknowledged by each Member that the foregoing power of attorney is coupled with an interest, is irrevocable and shall survive, and not be affected by the disability or incapacity of such Member or any assignment by such Member of such Member's interest in the Company, provided, however, that if such Member shall assign all of his Interest in the Company and

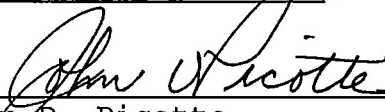
the assignee shall, in accordance with the provisions of Article VIII hereof, become admitted as a Member, such power of attorney shall survive such assignment only for the purpose of enabling the Managers to execute, acknowledge, swear to and file any and all instruments necessary to effectuate such substitution.

Section 12.7.- No Partition

12.7.1. No Member shall have the right to maintain an action for partition of the Property.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first above written, and the initial Managers, by their signatures hereto, agree to act as Managers on the terms provided herein.

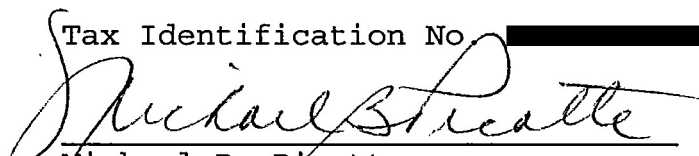
MANAGERS AND MEMBERS:



John D. Picotte

Address for Notices:
c/o Picotte Companies
20 Corporate Woods Blvd.
Albany, New York 12211

Tax Identification No. [REDACTED]

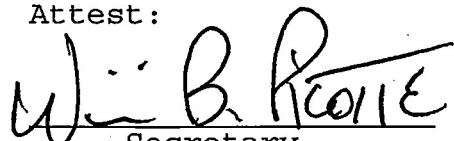


Michael B. Picotte

Address for Notices:
c/o Picotte Companies
20 Corporate Woods Blvd.
Albany, New York 12211

Tax Identification No. [REDACTED]

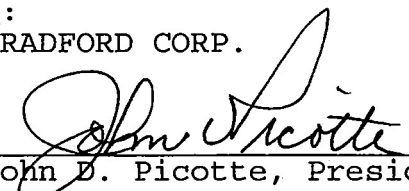
Attest:



Secretary

MEMBER:

WEST BRADFORD CORP.

By: 

John D. Picotte, President

Address for Notices:
c/o Picotte Companies
20 Corporate Woods Blvd.
Albany, New York 12211

Tax Identification No. 14-1463712

STATE OF NEW YORK)
) SS.:
COUNTY OF ALBANY)

On this 15th day of June, 1995 before me personally came JOHN D. PICOTTE, to me known and known to me to be the individual described in and who executed the foregoing Agreement, and he duly acknowledged to me that he executed the same.



Notary Public

MARGARET V. RYHANYCH
Notary Public, State of New York
Qualified in Saratoga County
Certified in Albany County
Commission Expires September 30, 1996

STATE OF NEW YORK)
) SS.:
COUNTY OF ALBANY)

On this 15th day of June, 1995, before me personally came MICHAEL B. PICOTTE, to me known and known to me to be the individual described in and who executed the foregoing Agreement, and he duly acknowledged to me that he executed the same.



Notary Public

MARGARET V. RYHANYCH
Notary Public, State of New York
Qualified in Saratoga County
Certified in Albany County
Commission Expires September 30, 1996

STATE OF NEW YORK)
) SS.:
COUNTY OF ALBANY)

On this 15th day of June, 1995, before me personally came JOHN D. PICOTTE, to me known, who being duly sworn did depose and say that he resides at 13 Loudon Heights North, Loudonville, New York; and he is the President of WEST BRADFORD CORP., the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name hereto like order.



Notary Public

MARGARET V. RYHANYCH
Notary Public, State of New York
Qualified in Saratoga County
Certified in Albany County
Commission Expires September 30, 1996

EXHIBIT A

Legal Description of Property

EXHIBIT BCertificate of Value
of 17 CORPORATE WOODS, LLC

It is hereby agreed that the Certified Value of the real estate owned by 17 CORPORATE WOODS, LLC pursuant to Paragraph 1.1.8. of the Operating Agreement of 17 CORPORATE WOODS, LLC is fixed as of the date specified as follows:

<u>Date</u>	<u>Certified Value</u>
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7/1/95	\$
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MEMBERS:

John D. Picotte

Michael B. Picotte

Attest:

WEST BRADFORD CORP.

SecretaryBy:

John D. Picotte, President

This Certificate is dated and filed with the records of 17 CORPORATE WOODS, LLC on June __, 1995.