



LIMITED PARTNERSHIP AGREEMENT

We, the undersigned, do hereby make and enter into this Limited Partnership Agreement this _____ day of _____, 20____, and do hereby form a Limited Partnership under and pursuant to the provisions of the California Corporations Code, Title 11, Chapter 2, known as the Uniform Limited Partnership Act, and all other pertinent laws of the State of California.

All of the parties to this agreement desire to constitute themselves as a Limited Partnership, and by this Agreement do so constitute themselves as a Limited Partnership for the purpose and upon the terms, covenants and conditions hereinafter set forth.

IT IS MUTUALLY AGREED by and between the parties as follows:

1. **The name of the Limited Partnership shall be Nitetro Concepts.**
2. **The Partnership shall do business under the firm name and style of Bistro Rocks.**
3. **The name of the General Partner is Nitetro Developments, LLC.**

The names of the Limited Partners are as set forth on Exhibit "A," attached hereto and incorporated herein by reference.

4. **Certificate of Limited Partnership:** The parties shall concurrently with the execution of this Agreement, sign and acknowledge a duplicate Certificate of Limited Partnership pursuant to the provisions of the Corporation Code of the State of California. They shall thereafter cause the said certificate to be filed and recorded in accordance with the provisions of California law applicable thereto.
5. **Certificate of Fictitious Name:** Upon execution of this Agreement, or a subsequent change in the membership of this Limited Partnership, the parties shall sign, cause to be filed and published in the county in which the principal place of business is situated, a Certificate of Fictitious Name, setting forth the name and residence of each Partner.
6. **Principal Place of Business:** The principal place of business of the Partnership shall be _____, California, or at such other place or places as the Partners shall hereafter determine.
7. **Purpose:**
 - a. The general purpose of this Limited Partnership shall be to own and operate bistro/nightclubs.
 - b. The specification of particular purposes shall not be deemed a limitation upon the general powers of the Partnership.

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8. Term: The Partnership shall commence on recording of a Certificate of Limited Partnership and shall continue until terminated as herein provided or by mutual agreement of the parties hereto.

9. Capital Contributions:

- a. The initial capital contributions of the Limited Partners shall be as specified in Exhibit "A", attached and incorporated herein by reference. These contributions shall be payable in cash no later than fourteen (14) days after signing a Certificate of Limited Partnership.
- b. All contributions will be made in the proportion that the contribution to partnership capital of each bear to the contribution of all other Limited Partners. An individual capital account shall be maintained for each Partner.

10. Additional Capital: No Partner shall be required to make additional contributions to the capital of this Partnership.

11. Division of Profits and Losses:

- a. Until such time as the Limited Partners have been allocated from profits a sum equal to their contribution, one hundred percent (100%) profits shall be allocated to the Limited Partners in the proportion that the contribution to partnership capital of each bears to the contributions of all other Limited Partners; and thereafter.
- b. Profits and losses shall be allocated (1) fifty percent (50%) to the General Partner and (2) fifty percent (50%) to the Limited Partners in the proportion that the contributions to partnership capital of each bears to the contribution of all other Limited Partners, except that distribution of profits under this Paragraph 11 (a) may, at the discretion of the General Partner be withheld to the extent of one hundred percent (100%) in the event of business necessity. To the extent that profits are not so withheld, they shall be distributed no less than semiannually.
- c. Partnership net profit or net loss shall be determined in accordance with generally accepted principles of accounting, as soon as practicable after the close of the Partnership's fiscal year.
- d. The General Partner shall be entitled to a salary of Four Thousand Dollars (\$4,000.00) monthly, adjusted annually to the Cost of Living Index, and medical insurance and such other benefits as offered management in similar businesses.

12.1 Status of the General Partner:

- a. The General Partner shall be solely responsible for the management of the Business and shall have all powers generally conferred by law as well as those which are necessary, advisable, or consistent in connection therewith. The General Partner shall have exclusive control and be responsible for the overall supervision of the Business of the

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Partnership, including the power to assign duties, to sign all contracts, to purchase all necessary insurance, lease real property and equipment, and assume direction of business operations.

- b. Without the additional consent of the Limited Partners, the General Partner may substitute as General Partner for himself a corporation of which he owns a majority of outstanding common stock, and which meets the applicable Internal Revenue Service regulations regarding corporate general partners or limited partnerships.
- c. In the event of the General Partner's voluntary termination or death, then, automatically and without further action required, effective upon his termination date as General Partner, the interest of the General Partner shall be converted into the interest of a Limited Partner of the Partnership, and the Partnership Agreement shall be deemed to have been amended on such effective date to admit the General Partner as a Limited Partner without capital contribution, and entitled to future profits of the Partnership, including profits resulting from any sale of partnership assets.

12.2 Representations and Obligations of the General Partner:

- a. The General Partner shall represent the Limited Partnership in all transactions and dealings with other parties consistent with the General Partners fiduciary obligations to the Limited Partnership.
- b. The General Partner shall establish and maintain checking, saving, and other banking accounts on behalf of the Limited Partnership, as the General Partner may deem appropriate.
- c. The General Partner shall maintain and review all books of account for all costs and expenses incurred in connection with the Business and maintain full and accurate books of the Limited Partnership showing all receipts and expenditures, assets and liabilities, profits and losses, and all other records necessary for recording the Limited Partnership's business and affairs including those sufficient to record the allocations and distributions as set forth in paragraph eleven (11). Such records shall also include all pleadings, memoranda, correspondence and other records of communication with counsel, and legal documents relating to the Limited Partnership. The books and records shall be kept at the principal place of business of the Partnership, or at such other place as the General Partner may from time to time determine. Such books and records shall be open for the inspection and examination by any Limited Partner, in person or by the Limited Partner's duly authorized representative, at reasonable times at the principal office of the Limited Partnership upon at least five business days prior written notice and a showing that the request is made in good faith and for a proper purpose.
- d. The General Partner shall cause to be prepared and filed all the Limited Partnerships federal and state tax information returns. The annual accounting period of the Limited Partnership shall be the calendar year. The General Partner shall provide each Limited Partner with financial statements of the operation at the end of each fiscal year prior to due date. The General Partner shall provide interim statements of income to the Limited

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Partners no less than monthly during the fiscal year. The General Partner shall also furnish to Limited Partner's such reports on the operation of the Business as may reasonably be expected.

- e. The General Partner shall furnish to the Limited Partners all information and accounting of the Business of the Limited Partnership on a timely basis when and if requested by the Limited Partners.
- f. The General Partner shall devote such time to the Partnership as may be necessary to carry on and conduct the Business consistent with the General Partners fiduciary obligations to the Partnership.
- g. The General Partner shall apply the capital of the Limited Partnership and any other proceeds to the Partnership from other sources to the Business in accordance with the General Partners fiduciary obligations to the company.

12.3 Limitations of authority of the General Partner: The General Partner shall not have the authority to:

- a. do any act in contravention of this Agreement, of the criminal laws of the United States;
- b. confess a judgment against the Limited Partnership;
- c. possess Partnership Property for other than Partnership purposes;
- d. use the Partnership name, credit or property for other than Partnership purposes;
- e. create personal liability for any Limited Partner.

12.4 Removal of General Partner.

- a. At a meeting called for that express purpose, the General Partner may be removed with reasonable cause and replaced with a new General Partner, upon the unanimous vote of the Limited Partners.
- b. Upon removal of the General Partner, the General Partner shall not be deemed to be liable with respect to any debts or liabilities that the Limited Partnership incurs subsequent to the date of the General Partner's withdrawal, provided that such withdrawal shall not diminish or in any way affect any debts or liabilities that the Limited Partnership incurred prior to such date.

12.5 Liability and Indemnification of the General Partner.

- a. The General Partner's liability is set forth in the Limited Partnership Act.

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- b. The General Partner shall not be liable, responsible, or accountable in damages or otherwise to the Limited Partners for any liability or loss relating to the performance or nonperformance of any act concerning the Business of the Limited Partnership, provided the General Partner was acting in good faith within what the General Partner reasonably believed to be within the scope the General Partner's authority and for a purpose which the General Partner reasonably believed to be in the best interests of the Limited Partnership, except for acts of gross negligence or fraud.
- c. The Limited Partners shall indemnify and hold harmless the General Partner against any liability or loss, including without limitation legal fees and court costs, as a result of any claim or legal proceeding relating to the performance or nonperformance of any act concerning the Business, provided the General Partner was acting in good faith within what the General Partner reasonably believed to be within the scope of the General Partner's authority and for the purpose which the General Partner believed to be in the best interests of the Partnership, except for acts of gross negligence or fraud.

13. Status of the Limited Partners.

- a. No Limited Partner shall become liable upon the obligation of the Partnership in excess of his total capital contribution as herein set forth.
- b. A Limited Partner shall take no part in the conduct or control of the Business and shall have no right or authority to act for or to bind the Limited Partnership in any manner whatsoever.
- c. The Limited Partner's capital contributions shall be fully paid fourteen days (14) after the signing of the Certificate of Limited Partnership. The Limited Partners will have no right to reduce or withdraw their capital contribution.

14. Assignability of Limited Partner's Interests: In the event that a Limited Partner desires to sell his interest in the Partnership, he shall first offer to sell such interest to the remaining Limited Partners in such proportions as their interest in ownership capital bears each to the other. If any remaining Limited Partner fails to exercise such right to purchase, then the other Limited Partners electing to exercise the right to purchase shall have the right to purchase the entire share of the said selling Partner's interest in the Partnership. If no remaining Limited Partner shall exercise such right to purchase the entire share of said selling Partner's interest, then the Partner offering to sell, or his legal representative, shall not be required to sell his interest of any portion thereof to any other Limited Partner, but shall be entitled to sell his interest to any other party on the open market, at a price no lower than, nor on terms more favorable than, those offered to the other Limited Partners, subject only to the approval by the General Partner, said approval not to be unreasonably withheld. If the Limited Partner offering to sell, or his legal representative, does not dispose of his interest within a period of six (6) months from the date of this offer, such interest shall again be subject to the provisions of this Paragraph 14.

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- 15. Death or Withdrawal:** The death or withdrawal of a partner shall not work a dissolution of the Partnership but the business shall continue without interruption and without any break in continuity.
- 16. Distribution of Partnership Assets and Disposition:** Upon the agreement of all the Partners, General and Limited, the Partnership may be dissolved and the proceeds from the liquidation or sale of the Partnership assets shall be distributed in the following order:
- a. The expense of liquidation and the debts of the Partnership, other than debts owing to the Partners, shall be paid.
 - b. Such debts as are owing to the Partners, including unpaid loans and advances made to or for the benefit of the Partnership, shall be paid.
 - c. The balance remaining shall be paid to the General Partner and Limited Partners in proportion to the interest of each in profits and losses as hereinbefore described.
 - d. A reasonable time, as determined by the Manager not to exceed twelve (12) months from the date of an event of dissolution, shall be allowed for the orderly liquidation of the assets of the Limited Partnership and the discharge of Partnership liabilities.
 - e. Upon the completion of termination in accordance with the terms hereof, the Limited Partnership shall terminate and the Partners shall execute, acknowledge, and cause to be filed a certificate of cancellation of the Limited Partnership, whereupon the Limited Partnership will cease to exist in all respects.
- 17. Notes:** Unless otherwise specified in writing sent to the Partners, the address of the General Partner and each Limited Partner for all purposes shall be as set forth on Exhibit "A," attached hereto and incorporated herein by reference. Any notices or demands required to be given hereunder shall be sent by Certified Mail to such address.
- 18. Governing Law:** All questions with respect to the construction of this Agreement, and rights and liabilities of the parties hereto, shall be governed by the laws of the State of California.
- 19. Benefit:** Except as herein otherwise provided to the contrary, this Agreement shall be binding upon, and inure to the benefit of, the parties hereto, their heirs, executors, administrators and assigns.
- 20. Captions:** Paragraph 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 alter the scope of this Agreement nor the intent of any provision hereof
- 21. 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.

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- 22. Entire Agreement:** This Agreement contains the entire understanding among the parties hereto and supersedes any prior written or oral agreements respecting the subject matter of this Agreement which are not fully expressed herein.

- 23. Further Action:** All parties agree to execute and deliver such papers, documents, and instruments, and perform such acts, as are necessary or appropriate to implement or carry out the terms or spirit hereof.

- 24. Attorney's Fees.** In the event any party deems it necessary to commence an action or proceeding to enforce its rights hereunder, the prevailing party to such action shall be entitled to have all costs of such action, including but not being limited to reasonable attorneys' fees and court costs, directly paid or reimbursed by the losing party to such action.

- 25. Third Party Benefits:** This Agreement is made for the sole benefit of the parties hereto, their successors, personal representatives and assigns, and, unless otherwise provided by law, no other person or persons shall have any rights or remedies under or by reason of this Agreement.

Dated this _____ day of _____, 20__

General Partner: _____

Limited Partners: _____

