

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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**FORM 8-K**

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**CURRENT REPORT**

**Pursuant to Section 13 or 15(d) of The Securities Exchange Act of 1934**

**Date of Report (Date of earliest event reported): October 10, 2017**

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**National Storage Affiliates Trust**

(Exact name of registrant as specified in its charter)

**Maryland**  
(State or other jurisdiction  
of incorporation)

**001-37351**  
(Commission File Number)

**46-5053858**  
(IRS Employer  
Identification No.)

**5200 DTC Parkway, Suite 200**  
**Greenwood Village, Colorado, 80111**  
(Address of principal executive offices)

**(720) 630-2600**  
(Registrant's telephone number, including area code)

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Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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### **Item 1.01. Entry into a Material Definitive Agreement.**

The information in Item 3.03 under the heading "Partnership Amendment" below is incorporated into this Item 1.01 by reference.

### **Item 3.03. Material Modifications to Rights of Security Holders.**

#### Articles Supplementary

On October 10, 2017, National Storage Affiliates Trust, a Maryland real estate investment trust (the "**Company**") filed with the State Department of Assessments and Taxation of the State of Maryland Articles Supplementary (the "**Articles Supplementary**") to the Company's Articles of Amendment and Restatement, classifying and designating 6,900,000 of the Company's authorized equity shares as 6.000% Series A Cumulative Redeemable Preferred Shares of Beneficial Interest, par value \$0.01 per share ("**Series A Preferred Shares**"). As set forth in the Articles Supplementary, the Series A Preferred Shares rank senior to the Company's common shares of beneficial interest, par value \$0.01 per share ("**Common Shares**"), on parity with the Company's future equity shares that the Company may later authorize or issue and that by their terms are on a parity with the Series A Preferred Shares, and junior to any other class of the Company's shares expressly designated as ranking senior to the Series A Preferred Shares. Holders of Series A Preferred Shares, when and as authorized by the board of trustees of the Company, are entitled to cumulative cash dividends at the rate of 6.000% per annum of the \$25.00 per share liquidation preference per share, equivalent to \$1.50 per annum per share. Dividends are payable quarterly in arrears on or about the last day of March, June, September and December of each year, beginning on December 31, 2017. In addition to other preferential rights, the holders of Series A Preferred Shares are entitled to receive the liquidation preference, which is \$25.00 per share, before the holders of Common Shares in the event of any voluntary or involuntary liquidation, dissolution or winding-up of the Company's affairs.

Generally, Series A Preferred Shares are not redeemable by the Company prior to October 11, 2022. However, upon the occurrence of a "Change of Control" (as defined below), holders of Series A Preferred Shares will have the right (unless, prior to the Change of Control Conversion Date (as defined below), the Company has provided or provides notice of its election to redeem the Series A Preferred Shares) to convert some or all of the Series A Preferred Shares (the "Change of Control Conversion Right") into a number of Common Shares per Series A Preferred Share to be converted equal to the lesser of:

- the quotient obtained by dividing (i) the sum of the \$25.00 liquidation preference plus the amount of any accrued and unpaid dividends to, but not including, the Change of Control Conversion Date (unless the Change of Control Conversion Date is after a record date for a Series A preferred share dividend payment and prior to the corresponding Series A preferred share dividend payment date, in which case no additional amount for such accrued and unpaid dividend will be included in this sum) by (ii) the Common Share Price (as defined below); and
- 2.04666 (the "Share Cap"), subject to certain adjustments;

subject, in each case, to provisions for the receipt of alternative consideration, as described in the Articles Supplementary.

If, on or prior to the Change of Control Conversion Date, the Company has provided or provides a redemption notice, whether pursuant to the Company's special optional redemption right in connection with a Change of Control or the Company's optional redemption right, holders of Series A Preferred Shares will not have

any right to convert their Series A Preferred Shares in connection with the Change of Control Conversion Right and any Series A Preferred Shares subsequently selected for redemption that have been tendered for conversion will be redeemed on the related date of redemption instead of converted on the Change of Control Conversion Date.

A "Change of Control" is when, after the original issuance of the Series A Preferred Shares, the following have occurred and are continuing:

- the acquisition by any person, including any syndicate or group deemed to be a "person" under Section 13(d)(3) of the Securities Exchange Act of 1934 (as amended, the "Exchange Act"), of beneficial ownership, directly or indirectly, through a purchase, merger or other acquisition transaction or series of purchases, mergers or other acquisition transactions of shares of the Company entitling that person to exercise more than 50% of the total voting power of all shares of the Company entitled to vote generally in elections of trustees (except that such person will be deemed to have beneficial ownership of all securities that such person has the right to acquire, whether such right is currently exercisable or is exercisable only upon the occurrence of a subsequent condition); and
- following the closing of any transaction referred to in the bullet point above, neither the Company nor the acquiring or surviving entity (or if, in connection with such transaction, common shares are converted into or exchangeable for (in whole or in part) common equity securities of another entity, such other entity) has a class of common equity securities (or American Depositary Receipts representing such securities) listed on the New York Stock Exchange ("NYSE"), the NYSE American, LLC ("NYSE AMER") or the NASDAQ Stock Market ("NASDAQ") or listed or quoted on an exchange or quotation system that is a successor to the NYSE, the NYSE AMER or NASDAQ.

The "Change of Control Conversion Date" is the date the Series A Preferred Shares are to be converted, which will be a business day that is no fewer than 20 days nor more than 35 days following the date on which the Company provides the required notice of the occurrence of a Change of Control to the holders of Series A Preferred Shares.

The "Common Share Price" will be: (i) if the consideration to be received in the Change of Control by holders of the Company's Common Shares is solely cash, the amount of cash consideration per Common Share, or (ii) if the consideration to be received in the Change of Control by holders of the Company's Common Shares is other than solely cash, (x) the average of the closing price per Common Share (or, if no closing sale price is reported, the average of the closing bid and ask prices, or if more than one in either case, the average of the average closing bid and the average closing ask prices) for the ten consecutive trading days immediately preceding, but not including, the effective date of the Change of Control as reported on the principal U.S. securities exchange on which the Company's Common Shares are then traded, or (y) the average of the last quoted bid prices for the Company's Common Shares in the over-the-counter market as reported by OTC Markets Group, Inc. or similar organization for the ten consecutive trading days immediately preceding, but not including, the effective date of the Change of Control, if the Company's Common Shares are not then listed for trading on a U.S. securities exchange.

A complete description of the Series A Preferred Shares is contained in the Articles Supplementary incorporated by reference as Exhibit 3.1 to this Current Report on Form 8-K.

### Partnership Amendment:

On October 11, 2017, the Company, as General Partner of NSA OP, LP, its operating partnership subsidiary (the “**Operating Partnership**”), executed an amendment to its Third Amended and Restated Agreement of Limited Partnership dated April 28, 2015, as amended (the “**OP Agreement**”), among other things, creating a series of preferred units (the “**Series A Preferred Units**”) that mirrors the rights and preferences of the Series A Preferred Shares described above. At the closing of the offering, the proceeds were contributed by the Company to the Operating Partnership in exchange for 6,900,000 Series A Preferred Units. This description of the material terms of the amendment to the Partnership Agreement is qualified in its entirety by reference to the amendment to the Partnership Agreement, which is filed as Exhibit 10.1 to this Current Report on Form 8-K and is hereby incorporated by reference into this Item 3.03.

### **Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year**

Information about the Articles Supplementary under Item 3.03 of this Current Report on Form 8-K is incorporated by reference into this Item 5.03.

### **Item 8.01 Other Events**

On October 11, 2017, the Company completed an underwritten public offering of 6,900,000 Series A Preferred Shares (the “**Offering**”), for net proceeds of approximately \$166,566,250 after deducting the underwriting discount and other estimated offering expenses. The Offering was made pursuant to the Company’s effective registration statement on Form S-3 (File No. 333-211570), a base prospectus, dated June 8, 2016, included as part of the registration statement, and a prospectus supplement, dated October 3, 2017, filed with the Securities and Exchange Commission pursuant to Rule 424(b) under the Securities Act of 1933, as amended. Attached hereto as Exhibit 5.1 is the opinion of Clifford Chance US LLP relating to the legality of the Series A Preferred Shares issued in connection with the closing of the offering.

### **Item 9.01 Financial Statements and Exhibits**

<b>Exhibit No.</b>	<b>Description</b>
<a href="#"><u>3.1</u></a>	<a href="#"><u>Articles Supplementary designating the Series A Preferred Shares of National Storage Affiliates Trust (incorporated by reference herein to Exhibit 3.3 of the Company’s Registration Statement on Form 8-A filed with the SEC on October 10, 2017).</u></a>
<a href="#"><u>5.1*</u></a>	<a href="#"><u>Opinion of Clifford Chance US LLP (including consent of such firm)</u></a>
<a href="#"><u>10.1*</u></a>	<a href="#"><u>Sixty-First Amendment to the Third Amended and Restated Agreement of Limited Partnership of NSA OP, LP</u></a>
<a href="#"><u>23.1*</u></a>	<a href="#"><u>Consent of Clifford Chance US LLP (included in Exhibit 5.1)</u></a>

\* Filed herewith

**SIGNATURES**

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

NATIONAL STORAGE AFFILIATES TRUST

By: /s/ TAMARA D. FISCHER

Name: Tamara D. Fischer

Title: Executive Vice President and Chief Financial Officer

Date: October 11, 2017

CLIFFORD CHANCE US LLP

31 WEST 52ND STREET  
NEW YORK, NY 10019-6131

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October 11, 2017

National Storage Affiliates Trust  
5200 DTC Parkway, Suite 200  
Greenwood Village, Colorado 80111

Ladies and Gentlemen:

We have acted as counsel to National Storage Affiliates Trust, a Maryland real estate investment trust (the "Company"), in connection with a registration statement on Form S-3 (File No. 333-211570) (the "Registration Statement") under the Securities Act of 1933, as amended (the "Securities Act"). We are furnishing this letter to you in connection with the offer and sale by the Company of 6,900,000 of the Company's 6.000% series A cumulative redeemable preferred shares of beneficial interest, par value \$0.01 per share (the "Shares") (which includes 900,000 Shares purchased pursuant to the Underwriters' (as defined below) option to purchase additional Shares solely to cover overallocments), for issuance pursuant to an Underwriting Agreement, dated October 3, 2017 (the "Underwriting Agreement"), by and among the Company and NSA OP, LP, a Delaware limited partnership (the "Operating Partnership"), and Wells Fargo Securities, LLC and Morgan Stanley & Co. LLC, as representatives of the several underwriters named in Schedule A thereto (the "Underwriters").

In rendering the opinion expressed below, we have examined and relied upon originals or copies, certified or otherwise identified to our satisfaction, of such corporate records, documents, certificates and other instruments as in our judgment are necessary or appropriate. As to factual matters relevant to the opinion set forth below, we have, with your permission, relied upon certificates of officers of the Company and public officials.

Based on the foregoing, and such other examination of law and fact as we have deemed necessary, we are of the opinion that following the (i) issuance of the Shares pursuant to the terms of the Underwriting Agreement and (ii) receipt by the Company of the consideration for the Shares specified in the resolutions of the board of trustees of the Company (the "Board") and the pricing committee of the Board, the Shares will be legally issued, fully paid, and nonassessable.

This foregoing opinion is based as to matters of law solely on the applicable provisions of the Maryland REIT Law, as amended, currently in effect. We express no opinion herein as to any other laws, statutes, ordinances, rules, or regulations.

We hereby consent to the filing of this opinion with the Securities and Exchange Commission (the "SEC") as an exhibit to a Current Report on Form 8-K that shall be incorporated by reference into the Registration Statement and to the reference to us under the caption "Legal Matters" in the prospectus supplement which is part of the Registration Statement. In giving such consent, we do not thereby admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the SEC thereunder.

Very truly yours,

/s/ Clifford Chance US LLP

**SIXTY-FIRST AMENDMENT  
TO  
THIRD AMENDED AND RESTATED  
AGREEMENT OF LIMITED PARTNERSHIP  
OF  
NSA OP, LP  
AND  
PARTNERSHIP UNIT DESIGNATION OF  
SERIES A CUMULATIVE REDEEMABLE PREFERRED UNITS  
OF  
NSA OP, LP**

This Sixty-First Amendment (this "Amendment") to the Partnership Agreement (as defined below) of NSA OP, LP (the "Partnership") and the adoption of the Partnership Unit Designation of Series A Cumulative Redeemable Preferred Units ("Series A Preferred Units") is made and entered into as of October 11, 2017 by National Storage Affiliates Trust, a Maryland real estate investment trust and sole general partner of the Partnership (the "General Partner").

**RECITALS:**

- A. Pursuant to the Third Amended and Restated Agreement of Limited Partnership, dated as of April 28, 2015, as amended through the date hereof (the "Partnership Agreement"), the Partners set forth their agreement with respect to the Partnership and its affairs.
- B. On October 2, 2017, the Board of Trustees (the "Board") of the General Partner established a Pricing Committee and delegated to it all of the powers of the Board with respect to, among other things, fixing the designation, preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends and other distributions, qualifications and terms and conditions of redemption of a new series of the General Partner's preferred shares of beneficial interest, par value \$0.01 per share and fixing the designation, preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends and other distributions, qualifications and terms and conditions of redemption of a new series of the Partnership's preferred units on economic terms not inconsistent with such new series of the General Partner's preferred shares;
- C. On October 3, 2017, the Pricing Committee of the Board of the General Partner adopted resolutions approving the form, terms and provisions of the General Partner's articles supplementary that, among things, designated 6,900,000 6.000% Series A Cumulative Redeemable Preferred Shares of Beneficial Interest of the General Partner (the "Series A Preferred Shares") and authorized an amendment to the Partnership Agreement adopting a partnership unit designation (the "Partnership Unit Designation") for the Partnership's Series A Preferred Units with economic terms consistent with those set forth in the General Partner's articles supplementary;
- D. The General Partner filed the Articles Supplementary with the State Department of Assessments and Taxation of Maryland, effective on October 10, 2017, establishing the Series A Preferred

Shares, with such preferences, rights, powers, restrictions, limitations as to distributions, qualifications and terms and conditions of redemption as described therein;

- E. On the date hereof, the General Partner issued the Series A Preferred Shares and, in connection with its receipt of net proceeds from the issuance, wishes to contribute such net proceeds to the Partnership in exchange for the issuance from the Partnership to the General Partner of an equal number of Series A Preferred Units;
- F. Pursuant to Section 4.3(a) of the Partnership Agreement, without the approval of the limited partners, the General Partner may from time to time cause the Partnership to issue Preferred Units in one or more classes, or one or more series of any such classes, with such designations, preferences and relative, participating, optional, or other special rights, powers and duties as shall be determined by the General Partner and set forth in a written document thereafter attached to and made an exhibit to the Partnership Agreement as the General Partner may determine to be appropriate. The General Partner is authorized, without the approval of the limited partners of the Partnership, to amend the Partnership Agreement to reflect such issuances and to adopt the Partnership Unit Designation.
- G. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Partnership Agreement.

NOW, THEREFORE, the General Partner desires to effect this Amendment to the Partnership Agreement as provided herein:

1. The General Partner hereby exercises its aforementioned authority and causes the Partnership to (i) designate the Series A Preferred Units as a new series of Preferred Units on the terms and conditions set forth in the Partnership Unit Designation set forth in Exhibit A hereto, and (ii) issue 6,900,000 Series A Preferred Units to the General Partner in exchange for the contribution by the General Partner to the Partnership of the proceeds from the issuance by the General Partner of the Series A Preferred Shares in accordance with Section 4.4(b) of the Partnership Agreement.
2. The Partnership Unit Designation of the Series A Preferred Units is hereby adopted and will hereafter be attached to the Partnership Agreement as Exhibit H thereto in the form set forth in Exhibit A hereto.
3. In connection with the adoption of the Partnership Unit Designation, the General Partner hereby approves the following:

- a) Section 4.2 of the Partnership Agreement is hereby amended and restated as follows:

"Section 4.2. **Classes of Partnership Units**. On the date hereof, the Partnership has issued four classes of Partnership Units, entitled "Class A OP Units," "Class B OP Units," "LTIP Units," and "Preferred Units." To the date hereof, the Partnership has issued (i) Class A OP Units as set forth on Exhibit A; (ii) Series GN, Series HA, Series MI, Series NW, Series OV, Series PM, Series SC, and Series SS Class B OP Units pursuant to Partnership Unit Designations applicable to each series as set forth in each Partnership Unit Designation; and (iii) Series A Preferred Units pursuant to the Partnership Unit Designation applicable to this series as set forth in its Partnership Unit Designation."

- b) The definition of "Junior Units" and "Preferred Units" in Article I of the Partnership Agreement is hereby amended and restated as follows:

"**Junior Units**" means units of Partnership Interests that the General Partner has authorized pursuant to Section 4.1, 4.3 or 4.4 hereof that have distribution rights, or rights upon liquidation, winding up and dissolution, that are junior in rank to the Series A Preferred Units.

"**Preferred Units**" means the Series A Preferred Units and any other units of Partnership Interests that the General Partner has authorized pursuant to Section 4.1, 4.3 or 4.4 hereof that have distribution rights, or rights upon liquidation, winding up and dissolution, that are superior or prior to the OP Units.

- c) Article I of the Partnership Agreement is hereby amended to add the following definitions:

"**Series A Preferred Units** " means a Preferred Unit with designations, preferences and relative, participating, optional or other special rights, powers and duties as set forth in Exhibit H hereto. It is the intention of the General Partner that each Series A Preferred Unit shall be the economic equivalent of one Series A Preferred Share.

"**Series A Preferred Share** " means a share of 6.000% Series A Cumulative Redeemable Preferred Shares of Beneficial Interest of the General Partner, par value \$0.01 per share.

4. Partnership Agreement. Except as set forth herein, the Partnership Agreement shall remain in full force and effect.
5. Governing Law. This Amendment shall be governed by, and construed in accordance with, the laws of the State of Delaware.

*[The remainder of this page has been intentionally left blank]*

IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, has duly executed this Amendment as of the date first written above.

**NSA OP, LP**

By: National Storage Affiliates Trust,  
its General Partner

By: /s/ TAMARA D. FISCHER  
Name: Tamara D. Fischer  
Title: Chief Financial Officer

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Exhibit A

Partnership Unit Designation of Series A Preferred Units

A-1

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**PARTNERSHIP UNIT DESIGNATION OF  
SERIES A PREFERRED UNITS OF  
NSA OP, LP**

This Partnership Unit Designation (this "**Partnership Unit Designation**") is made as of October 11, 2017 by National Storage Affiliates Trust, a Maryland real estate investment trust and the general partner (the "**General Partner**") of NSA OP, LP, a Delaware limited partnership (the "**Partnership**") pursuant to the Third Amended and Restated Agreement of Limited Partnership of the Partnership dated as of April 28, 2015 (as amended through the date hereof, the "**Partnership Agreement**").

WHEREAS, on October 2, 2017, the Board of Trustees (the "**Board**") of the General Partner established a Pricing Committee and delegated to it all of the powers of the Board with respect to, among other things, fixing the designation, preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends and other distributions, qualifications and terms and conditions of redemption of a new series of the General Partner's preferred shares of beneficial interest, par value \$0.01 per share and fixing the designation, preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends and other distributions, qualifications and terms and conditions of redemption of a new series of the Partnership's preferred units on economic terms not inconsistent with such new series of the General Partner's preferred shares;

WHEREAS, on October 3, 2017, the Pricing Committee of the Board of the General Partner adopted resolutions approving the form, terms and provisions of the General Partner's articles supplementary that, among things, designated 6,900,000 6.000% Series A Cumulative Redeemable Preferred Shares of Beneficial Interest of the General Partner (the "**Series A Preferred Shares**") and authorized an amendment to the Partnership Agreement adopting a partnership unit designation for the Partnership's 6.000% Series A Cumulative Redeemable Preferred Units (the "**Series A Preferred Units**") with economic terms consistent with those set forth in the General Partner's articles supplementary;

WHEREAS, in accordance with those resolutions, the General Partner has determined that it is necessary to establish in this Partnership Unit Designation a series of Preferred Units in the Partnership designated as set forth herein in accordance with Section 4.3(a) of the Partnership Agreement with economic terms consistent in all respects with the Series A Preferred Shares as set forth in the articles supplementary for such Series A Preferred Shares; and

WHEREAS, capitalized terms used but not defined herein shall have the meanings ascribed to them in the Partnership Agreement.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the General Partner hereby sets forth this Partnership Unit Designation as follows:

Section 1. **Definitions.** The following definitions shall be for all purposes, unless otherwise clearly indicated to the contrary, applied to the terms used in this Partnership Unit Designation.

"**Business Day**" shall mean any day other than a Saturday or a Sunday, that is neither a legal holiday nor a day on which banking institutions in New York City are authorized or required by law, regulation or executive order to close.

"**Distribution Period**" means, as applicable, the Series A Distribution Period or the distribution period set forth in the terms of any other Preferred Unit of the Partnership.

"**Parity Preferred Unit**" means any class or series of Partnership Interests of the Partnership now or hereafter issued and outstanding, which, by its terms ranks on a parity with the Series A Preferred Units with respect to distributions or rights upon voluntary or involuntary liquidation, dissolution or winding up of the Partnership, or both, as the context may require.

"**REIT Series A Preferred Share**" means a share of the 6.000% Series A Cumulative Redeemable Preferred Shares of Beneficial Interest, \$0.01 par value per share, of the General Partner.

"**Series A Articles Supplementary**" means the articles supplementary of the General Partner setting forth the terms of the REIT Series A Preferred Shares, accepted for record by the the State Department of Assessments and Taxation of Maryland ("SDAT") on October 10, 2017.

"**Series A Distribution Period**" shall mean the respective periods commencing on and including the first day of January, April, July and October of each year and ending on and including the day preceding the first day of the next succeeding Series A Distribution Period (other than the initial Series A Distribution Period, which shall commence on the date that any Series A Preferred Units are issued and end on and include December 31, 2017, and other than the Series A Distribution Period during which any Series A Preferred Units shall be redeemed pursuant to Section 5 hereof, which shall end on and include the day preceding the redemption date with respect to the Series A Preferred Units being redeemed).

"**Series A Preferred Unit Distribution Payment Date**" shall mean (i) the last calendar day of each March, June, September and December of each year, commencing on December 31, 2017, and (ii), in the event of a redemption of Series A Preferred Units, the redemption date.

"**Series A Priority Return**" shall mean an amount equal to 6.000% per annum on the stated value of \$25.00 per Series A Preferred Unit (equivalent to the fixed annual amount of \$1.50 per Series A Preferred Unit), commencing on the date of original issuance of the Series A Preferred Units. For any Series A Distribution Period greater than or less than a full Series A Distribution Period, the amount of the Series A Priority Return shall be prorated and computed on the basis of a 360-day year consisting of twelve 30-day months.

Section 2. **Designation and Number.** A series of Partnership Units in the Partnership designated as the "6.000% Series A Cumulative Redeemable Preferred Units" (the "**Series A Preferred Units**") is hereby established. The number of Series A Preferred Units shall be 6,900,000.

### Section 3. **Distributions.**

(a) Payment of Distributions. Subject to the preferential rights of holders of any class or series of Partnership Interests of the Partnership now or hereafter issued and outstanding, ranking senior to the Series A Preferred Units with respect to the payment of distributions, the General Partner, as holder of the Series A Preferred Units, shall be entitled to receive, when, as and if authorized by the General Partner out of funds legally available for payment of distributions, cumulative cash distributions in an amount equal to the Series A Priority Return. Such distributions shall accrue and be cumulative from and including the first date on which any Series A Preferred Units are issued or, if later, the most recent Series A Preferred Unit Distribution Payment Date (as defined below) to which distributions have been paid in full, and shall be payable quarterly in arrears, on each Series A Preferred Unit Distribution Payment Date; provided, however, if any Series A Preferred Unit Distribution Payment Date is not a Business Day, then the distribution which would otherwise have been payable on such Series A Preferred Unit Distribution Payment Date may be paid, at the General Partner's option, on either the immediately preceding Business Day or the next succeeding Business Day, except that, if such Business Day is in the next succeeding calendar year, such payment shall be made on the immediately preceding Business Day, in each case with the same force and effect as if paid on such Series A Preferred Unit Distribution Payment Date, and no interest or additional dividends or other sums shall accrue on the amount so payable from such Series A Preferred Unit Distribution Payment Date to such next succeeding Business Day.

(b) Distributions Cumulative. Notwithstanding anything contained herein to the contrary, distributions on the Series A Preferred Units shall accrue whether or not the terms and provisions set forth in Section 3(c) at any time prohibit the current payment of distributions, whether or not the Partnership has earnings, whether or not there are funds legally available for the payment of such distributions and whether or not such distributions are authorized or declared.

(c) Priority as to Distributions.

(i) Except as provided in Sections 3(c)(ii) and 3(e) below, no distributions shall be declared and paid or declared and set apart for payment, and no other distribution of cash or other property may be declared and made, directly or indirectly, on or with respect to any Parity Preferred Unit or Junior Unit as to distributions for any period, nor shall any Junior Units or Parity Preferred Units as to distributions and the distribution of assets upon the Partnership's liquidation, dissolution or winding up be redeemed, purchased or otherwise acquired for any consideration, nor shall any funds be paid or made available for a sinking fund for the redemption of such units, and no other distribution of cash or other property may be made, directly or indirectly, on or with respect thereto by the Partnership, unless full cumulative distributions on the Series A Preferred Units for all past Distribution Periods shall have been or contemporaneously are (i) declared and paid or (ii) declared and a sum sufficient for the payment thereof is set apart for such payment.

(ii) Except as provided in Sections 3(e) below, when distributions are not paid in full (or declared and a sum sufficient for such full payment is not so set apart) upon the Series A Preferred Units and any other Parity Preferred Units as to distributions, all distributions declared upon the Series A Preferred Units and such other classes or series of Parity Preferred Units as to the payment of distributions (which, shall not include the redemption or repurchase of units of any such class or

series) shall be declared pro rata so that the amount of distributions declared per Series A Preferred Unit and each Parity Preferred Unit of such other class or series shall in all cases bear to each other the same ratio that accrued distributions per Series A Preferred Unit and per Parity Preferred Unit of such other class or series (which shall not include any accrual in respect of unpaid distributions on such other class or series of Parity Preferred Units for prior Distribution Periods if such other class or series of Parity Preferred Unit does not have a cumulative distribution) bear to each other. No interest, or sum of money in lieu of interest, shall be payable in respect of any distribution payment or payments on the Series A Preferred Units which may be in arrears.

(d) No Further Rights. The General Partner, in its capacity as holder of the Series A Preferred Units, shall not be entitled to any distributions, whether payable in cash, other property or otherwise, in excess of the full cumulative distributions on the Series A Preferred Units as provided herein. Any distribution payment made on the Series A Preferred Units shall first be credited against the earliest accrued but unpaid distribution due with respect to such Series A Preferred Units which remains payable. Accrued but unpaid distributions on the Series A Preferred Units will accrue as of the Series A Preferred Unit Distribution Payment Date on which they first become payable.

(e) Notwithstanding the provisions of Section 3(c) and regardless of whether distributions are paid in full (or declared and a sum sufficient for such full payment is not so set apart) on the Series A Preferred Units or Parity Preferred Units, as to distributions, for any or all Distribution Periods, the Partnership shall not be prohibited or limited from (i) paying distributions on any Partnership Units in Junior Units as to payment of distributions and the distribution of assets upon the Partnership's liquidation, dissolution and winding up, (ii) converting or exchanging any Partnership Units for Junior Units as to payment of distributions and the distribution of assets upon the Partnership's liquidation, dissolution and winding up, (iii) redeeming any Partnership Units in connection with the acquisition of REIT Common Shares pursuant to the provisions of Article VII of the declaration of trust of the General Partner (the "**Declaration of Trust**") or any comparable provision of the Declaration of Trust, or otherwise in order to ensure that the General Partner remains qualified as a REIT, (iv) purchasing or exchanging Series A Preferred Units or Parity Preferred Units in connection with the acquisition by the General Partner of any REIT Series A Preferred Shares or other shares ranking on parity with the REIT Series A Preferred Shares as to dividends or the distribution of assets upon the General Partner's liquidation, dissolution or winding up ("**REIT Parity Preferred Shares**") pursuant to a purchase or exchange offer made on the same terms to holders of all outstanding REIT Series A Preferred Shares and REIT Parity Preferred Shares, provided that such redemption or exchange shall comply with the requirements of Section 5 herein or (v) redeeming Series A Preferred Units pursuant to Section 5 below.

#### Section 4. **Liquidation Proceeds.**

(a) Distributions. Upon any voluntary or involuntary liquidation, dissolution or winding-up of the Partnership, subject to the preferential rights of holders of any class or series of Partnership Interests of the Partnership now or hereafter issued and outstanding, ranking senior to the Series A Preferred Units with respect to liquidating distributions, and taking into account the rights of holders of any Parity Preferred Units then outstanding, the General Partner, as holder of the Series A Preferred Units, shall first be entitled to receive the stated value of \$25 per Series A

Preferred Unit, plus any accrued and unpaid Series A Priority Return, and then distributions shall be made in accordance with Article 13 of the Partnership Agreement.

(b) Notice. Written notice of any such voluntary or involuntary liquidation, dissolution or winding-up of the Partnership, stating the payment date or dates when, and the place or places where, the amounts distributable in such circumstances shall be payable, shall be given by the General Partner pursuant to Section 13.5 of the Partnership Agreement.

(c) No Further Rights. After payment of the full amount of the liquidating distributions to which it is entitled, the General Partner, as holder of the Series A Preferred Units, will have no right or claim to any of the remaining assets of the Partnership.

( d ) Consolidation, Merger or Certain Other Transactions. The voluntary sale, conveyance, lease, exchange or transfer (for cash, shares, securities or other consideration) of all or substantially all of the property or assets of the Partnership to, or the consolidation or merger or other business combination of the Partnership with or into, any corporation, trust or other entity (or of any corporation, trust or other entity with or into the Partnership) shall not be deemed to constitute a liquidation, dissolution or winding-up of the Partnership.

Section 5. **Redemption**. If the General Partner elects to redeem or otherwise repurchase any of the REIT Series A Preferred Shares or REIT Parity Preferred Shares in accordance with the terms of the Series A Articles Supplementary or any articles supplementary governing REIT Parity Preferred Shares, the Partnership shall, on the date set for redemption or repurchase of such REIT Series A Preferred Shares or REIT Parity Preferred Shares, redeem or repurchase an equal number of Series A Preferred Units or Parity Preferred Units held by the General Partner upon the same terms and for the same price per unit as such shares are redeemed or repurchased.

Section 6. **Rank**. The Series A Preferred Units will, with respect to distribution rights and rights upon voluntary or involuntary liquidation, dissolution or winding-up of the Partnership, rank (a) senior to the OP Units, LTIP Units, and all other Partnership Units the terms of which provide that such Partnership Units shall rank junior to the Series A Preferred Units as to distributions and rights upon voluntary or involuntary liquidation, dissolution or winding-up of the Partnership; (b) on parity with all Parity Preferred Units; and (c) junior to all Partnership Units the terms of which provide that such Partnership Units shall rank senior to the Series A Preferred Units as to distributions and rights upon voluntary or involuntary liquidation, winding-up or dissolution of the Partnership. The Series A Preferred Units will also rank junior in right of payment to the Partnership's existing and future debt obligations.

Section 7. **Voting Rights**. The General Partner shall not have any voting or consent rights in respect of its partnership interest represented by the Series A Preferred Units.

Section 8. **Transfer Restrictions**. The Series A Preferred Units shall not be transferable except in accordance with Article XI of the Partnership Agreement.

Section 9. **Conversion**. In the event of a conversion of REIT Series A Preferred Shares into REIT Common Shares at the option of the holders of REIT Series A Preferred Shares pursuant to

the terms of the Series A Articles Supplementary, then, upon such conversion , the Partnership shall convert an equal whole number of Series A Preferred Units into OP Units equal to the number of REIT Common Shares into which such REIT Series A Preferred Shares were converted. In the event of a conversion of REIT Series A Preferred Shares into REIT Common Shares, (a) to the extent the General Partner is required to pay cash in lieu of fractional REIT Common Shares pursuant to the Series A Articles Supplementary in connection with such conversion, the Partnership shall distribute an equal amount of cash to the General Partner; and (b) to the extent the General Partner receives cash proceeds in addition to the REIT Series A Preferred Shares tendered for conversion, the General Partner shall contribute such proceeds to the Partnership.

Section 10. **No Sinking Fund.** No sinking fund shall be established for the retirement or redemption of Series A Preferred Units.