

1504

DEVELCO

PARTNERSHIP AGREEMENT

THIS PARTNERSHIP AGREEMENT is made and entered into effective the 13th nday of JUNE 1986 by and between BILLY PAV PHILLIPS, SR., HORACE SIMMONS, JERRY D. WASHINGTON, hereinafter collectively referred to as the "Partners".

RECITAL

For and in consideration of the mutual covenants herein contained, the Partners hereby form and create a general partnership (herein called the "Partnership"), under and pursuant to the Alabama Partnership Act, for the purposes and upon the terms and conditions as herinafter set forth.

ARTICLE I

NAME AND PLACE OF BUSINESS

1.01 The activities and business of the Partnership shall be conducted under the name of DEVELCO.

1.02 The principal place of business of the Partnership shall be located at Pelham, Alabama, but additional places of business may be located elsewhere.

1.03 The mailing address of the Partnership shall be 1432 ROYALTY DRIVE, ALABASTER, AL. 35007.

ARTICLE II

PURPOSES OF THE PARTNERSHIP

The purposes of the Partnership shall be as follows:

2.01 To purchase, sell, hold, lease and otherwise hold and deal in such investments, including real estate, as the Partnership may from time to time deem appropriate, and to do all acts incident to such purpose.

2.02 To do such other acts and take such other actions not in contravention of law as the Partnership may from time to time deed appropriate.

BOOK 030 PAGE 682

ARTICLE III  
TERM OF PARTNERSHIP

3.01 The Partnership shall begin on the effective date hereinabove, and shall continue until JUNE 13, 1986 and thereafter from year to year unless sooner terminated as specifically provided in this Agreement.

ARTICLE IV  
PRIOR AGREEMENTS AND CONTRIBUTIONS TO PARTNERSHIP

4.01 The Partners acknowledge that the Partnership was originally formed pursuant to oral agreement by the Partners, that this Agreement is being entered into to reduce to written form the prior oral agreements of the Partners, and to provide for certain dispositions of Partnership interests. The Partners further acknowledge that this Agreement supersedes and replaces any prior oral understandings of the Partners. The Partners further acknowledge that the books of account of the Partnership, as of the date of execution hereof, accurately reflect each Partner's contributions to the Partnership.

BOOK 030 PAGE 683

ARTICLE V  
PROFITS AND LOSSES

5.01 The interest of each Partner in and to any net profits of the Partnership and the obligation and liability of each Partner as among themselves with respect to any and all liabilities and losses in connection with the business of the Partnership shall be as follows:

<u>NAME</u>	<u>PERCENTAGE</u>
BILLY RAY PHILLIPS, SR	33.33%
HORACE SIMMONS	33.33%
JERRY D. WASHINGTON, SR	33.33%

Any Partner may loan to the Partnership additional funds as the Partners may agree on, and interest at the prevailing rate per annum shall be paid thereon and charged as an expense of the Partnership business.

5.02 Distributions from the Partnership to the respective Partners shall be made at such times and in such amounts as may be determined by unanimous vote of the Partners.

#### ARTICLE VI

##### OWNERSHIP OF PARTNERSHIP PROPERTY

6.01 All real or personal property, including all improvements placed or located thereon, acquired by the Partnership shall be owned by the Partners according to their percentage interests as set out in Article V of this Agreement, such ownership being subject to the other terms and provisions of this Agreement.

#### ARTICLE VII

##### FISCAL MATTERS

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

7.02 Proper books and records shall be kept with reference to all Partnership transactions, and each Partner shall at all reasonable times during business hours have access thereto. The books shall be kept in such manner of accounting as shall properly reflect the income of the Partnership and as shall be agreed on by the Partner. The books and records shall include the designation and identification of any property in which the Partnership owns a beneficial interest; as well as any property in which the Partnership owns an interest and the title to such property has been recorded or is maintained, in the name of one or more designated Partners without designation of the Partnership. The books and records of the Partnership shall be reviewed annually at the expense of the Partners by a certified public accountant selected by the Partners, who shall prepare and deliver to the Partnership, for filing, the appropriate federal Partnership Income Tax Return.

BOOK 030 PAGE 684

7.03 All funds of the Partnership shall be deposited in its name in an account or accounts maintained at a bank designated by the Partnership or with an agent designated by the Partnership. Checks shall be drawn upon the Partnership account or accounts only for purposes of the Partnership and shall be signed either by all Partners, or by the Manager of the Partnership pursuant to Article VIII hereof.

#### ARTICLE VIII

##### MANAGEMENT OF PARTNERSHIP AFFAIRS

8.01 Control of the Partnership and all of its affairs shall be in the Partners, who shall have equal rights in the management and conduct of the Partnership investments and activities. In order to simplify the operations of the Partnership, the Partners may from time to time designate a Partner as Manager of the Partnership to serve in such capacity until such time as any one Partner chooses to terminate the Manager. Any such appointment shall be in writing signed by all Partners and attached to this Agreement, and any termination of a Manager shall be by a writing signed by any Partner, and such termination shall be noted on the original appointment of such Manager. Any Manager shall not receive a salary or any other compensation for serving as Manager. Any Manager of the Partnership so appointed shall have authority to carry out the day-to-day management and ministerial acts of the Partnership. Any Manager of the Partnership shall have the right and power to bind the Partnership, subject to the conditions and limitations contained in Paragraph 8.02 and elsewhere in this Agreement. In this connection, and not by way of limitation, any Manager of the Partnership is authorized to do any and all things and to execute any and all documents, contracts, evidence of indebtedness, security agreements, financing statements, etc., necessary or expedient to carry out and effectuate the pur-

BOOK 030 PAGE 685

pose of the parties as expressed in this Partnership Agreement.

8.02 The individual Partners and the Manager of the Partnership, if any, shall have no authority with respect to the Partnership and this Agreement to:

(1) Do any act in contravention of this Agreement;

(2) Do any act which would make it impossible to carry on the business of the Partnership;

(3) Possess Partnership Property or assign the right of the Partnership or its Partners in specific Partnership Property for other than a Partnership purpose;

(4) Make, execute or deliver any general assignments for the benefit of credits, or any bond, guaranty, indemnity bond or surety bond;

(5) Assign, transfer, pledge, compromise or release any claim of the Partnership except for full payment, or arbitration or, any of its disputes or controversies;

(6) Make, execute or deliver any deed, long-term ground lease, contract to sell all or any part of any Partnership Property, or execute any new note or mortgage or to renew and extend any existing note or mortgage, without first having obtained the unanimous consent of all the Partners;

(7) Do any of the following without the unanimous consent of all of the Partners:

(a) Confess a judgment;

(b) Make, execute or deliver for the Partnership any bond, mortgage, deed of trust, guaranty, indemnity bond, surety bond or accommodation paper or accommodation endorsement;

(c) Amend or otherwise change this Agreement so as to modify the rights or obligations of the Partners as set forth herein; or

(d) Create any personal liability for any Partner other than that personal liability to which any Partner may have agreed to in writing.

8.03 The Partners shall hold regular annual meetings at times and places to be selected by the Partners. In addition, any Partner may call a special meeting to be held at Pelham, Alabama, at any time after the giving of ten (10) days' notice to all of the Partners. Any Partner may waive notice of or attendance at any meeting of the Partners, and may attend by telephone or other electronic communication device or may execute a signed written consent, and the special meeting may be held at any location provided all Partners agree. At such meeting, the Partners shall transact such business as may properly be brought before the meeting.

8.04 Any action required by statute or by this Agreement to be taken at a meeting of the Partners, or any action which may be taken at a meeting of the Partners, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Partners entitled to vote with respect to the subject matter thereof and such consent shall have the same force and effect as a unanimous vote of the Partners.

#### ARTICLE IX

##### AMENDMENT

9.01 This Agreement may be amended or modified by the Partners from time to time but only by a written instrument executed by all Partners.

#### ARTICLE X

##### TERMINATION OF THE PARTNERSHIP

10.01 The Partnership may be terminated at any time at a specially called meeting upon the affirmative vote of all the Partners. On such termination, the assets of the Partnership shall be applied as follows: to payment of out-

standing Partnership liabilities, although an appropriate reserve may be maintained for any contingent liability until said contingent liability is satisfied, and the balance of such reserve, if any, shall be distributed, together with any other sums remaining after payment of the outstanding Partnership liabilities, to the Partners as their interests then appear.

## ARTICLE XI

### MISCELLANEOUS PROVISIONS

11.01 Except as may be otherwise specifically provided in this Agreement, all notices required or permitted hereunder shall be in writing and shall be deemed to be delivered when deposited in the United States mail, postage prepaid, registered or certified, return receipt requested, addressed to the parties at their last known address.

11.02 This Agreement shall be construed under and in accordance with the laws of the State of Alabama.

11.03 The parties hereto covenant and agree that they will execute such other further instruments and documents as are or may become necessary or convenient to effectuate and carry out the Partnership created by this Agreement.

11.04 The headings used in this Agreement are used for administrative purposes only and do not constitute substantive matter to be considered in construing the terms of this Agreement.

11.05 This Agreement is binding on, and shall inure to the benefit of, all of the parties hereto and to their respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Agreement.

11.06 In case any one or more of the provisions contained in this Partnership Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability

shall not affect any other provision hereof, and this Partnership Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein.

11.07 This Partnership Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original.

11.08 Wherever the context so requires, all words herein in the masculine gender shall be deemed to include the feminine or neuter genders, all singular words shall include the plural, and all plural words shall include the singular.

EXECUTED at Pelham, Alabama, as of this 13<sup>th</sup> day of JUNE 1986.

WITNESSES:

[Signature]

[Signature]

[Signature]

PARTNERS:

[Signature]  
BILLY RAY PHILLIPS, SR.

[Signature]  
HORACE SIMMONS

[Signature]  
JERRY D. WASHINGTON SR

BOOK 030 PAGE 689

STATE OF ALA. SHELBY CO.  
I CERTIFY THIS  
INSTRUMENT WAS FILED

1986 JUN 20 AM 9:20

[Signature]  
JUDGE OF PROBATE

RECORDING FEES  
Recording Fee \$ 20.00  
Index Fee 1.00  
TOTAL \$ 21.00