

Return to:

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This instrument prepared by:

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AGREEMENT

THIS AGREEMENT is entered into this 30th day of September, 1986, by and between Emmitt L. King ("King"), Steven A. Killough ("Killough") and Brian L. Thomason ("Thomason") (King, Killough and Thomason are herein collectively referred to as the "Purchasers").

W I T N E S S E T H:

WHEREAS, the Purchasers have agreed together to acquire the real estate, including all improvements, shrubbery, plantings, fixtures and appurtenances, situated in Shelby County, Alabama, located at 5130 Colonial Park Drive (the "Real Property");

WHEREAS, the agreed upon purchase price for the Real Property is \$103,900.00;

WHEREAS, it is necessary for the Purchasers to obtain a loan in the amount of \$98,705 (the "Loan") in order to enable them to acquire the Real Property;

WHEREAS, it will be necessary for the Purchasers to mortgage their interest in the Real Property to the lender in order to obtain the Loan; and

WHEREAS, none of the Purchasers is willing to enter into said mortgage unless all of the Purchasers enter into this Agreement;

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, each of the Purchasers does hereby covenant and agree with each of the other Purchasers as follows:

Frank Byrum

1. The following words, terms or phrases, when used in this Agreement, have the following meanings, unless the context clearly indicates a different meaning:

"Deductible Amount" means that amount which the Purchasers are entitled to claim as a deduction on their respective State or Federal income tax returns as a result of their ownership of and making payments with respect to the Real Property, and shall include any amount which the Purchasers are entitled to claim as a credit, offset or benefit on said tax returns.

"Departing Purchaser" means the Purchaser who shall cause an Event of Termination to occur.

"Event of Termination" shall mean any of the following:

- (a) the death of a Purchaser;
- (b) the decision of a Purchaser to sell his interest in the Real Property;
- (c) the marriage of a Purchaser;
- (d) the inability of a Purchaser to pay his portion of the Monthly Payment as and when the same shall become due; or
- (e) the failure by a Purchaser to observe and perform any covenant, condition or agreement on his part to be observed or performed hereunder after written notice specifying the nature of such failure and requesting that it be remedied shall have been given to such Purchaser by a majority of the Ownership Interests of the Purchasers.

"House Fund" means a checking account which may be an interest bearing account and which shall be opened in the joint name of all of the Purchasers at any bank or savings & loan institution upon which a majority of the Ownership Interests of the Purchasers shall agree for the purpose of paying the Monthly Payments. In the event said account is an interest bearing account, said interest shall be applied for the purpose of paying the Monthly Payment, thus reducing the amount each Purchaser is required to pay into the House Fund.

"Individual Improvements" means additions, acquisitions, improvements, repairs or alterations to the Real Property which an Individual Purchaser shall choose to make at his own cost and expense, subject to the unanimous consent and approval of the other Purchasers.

"Joint Improvements" means maintenance, additions, acquisitions, improvements, repairs or alterations to the Real Property which a majority of the Ownership Interests of the Purchasers shall agree are required to be made to the Real Property.

"Monthly Payment" means a sum equal to the amount of the mortgage payment coming due each month (including the amount necessary to repay the Loan, and any amounts necessary to pay insurance, taxes and any other charges which shall be a part of said mortgage payment), any amounts which shall be necessary to pay for any Joint Improvements, any charges incurred with respect to the House Fund, and any other sum which shall be coming due with respect to the Real Property within said month, including but not limited to legal expenses, expenses incurred for insect and/or pest control, yard work, cleaning service or any other similar item.

"Ownership Interest" means thirty-three and one-third percent (33-1/3%) unless adjusted as hereinafter provided.

2. On or before November 5, 1986, each of the Purchasers shall pay into the House Fund the sum of thirty-five dollars (\$35.00), which sum shall be retained in the House Fund so long as the Purchaser shall retain an Ownership Interest in the Real Property and which shall be refunded to a Departing Purchaser upon the sale of his Ownership Interest. In the event the monthly balance in the House Fund should fall below one hundred dollars (\$100.00), each of the Purchasers shall deposit into the House Fund a sum equal to the amount obtained by multiplying his respective Ownership Interest times the difference between one hundred dollars (\$100.00) and the balance in the House Fund.

3. On or before the 5th day of each month, beginning November 5, 1986, each of the Purchasers shall pay into the House Fund a sum equal to the amount obtained by multiplying each Purchaser's Ownership Interest times the Monthly Payment, less each Purchaser's proportionate share of the interest earned on the money in the House Fund.

4. Each of the Purchasers does hereby appoint and designate each of the other Purchasers as his agent for the purpose of establishing the House Fund and writing checks or making withdrawals from the House Fund. In no event shall any Purchaser write a check or make a withdrawal from the House Fund except for the purpose of making the Monthly Payment.

5. Each of the Purchasers does hereby confess and acknowledge to each of the other Purchasers that each Purchaser is recognized to hold, as of the date of this Agreement, an Ownership Interest in the Real Property. Each of the Purchasers shall be entitled to claim on his Federal and State income tax returns a sum equal to the amount obtained by multiplying the respective Purchaser's Ownership Interest times the Deductible Amount.

6. Upon the occurrence of an Event of Termination, each Purchaser does hereby grant to the other Purchasers the right to purchase the Departing Purchaser's Ownership Interest in the Real Property in the following order of priority:

(a) First, the option to purchase the Ownership Interest of the Departing Purchaser in the Real Property shall be granted to the other two Purchasers equally; i.e., each of the remaining Purchasers shall have the right to buy one-half of the Departing Purchaser's Ownership Interest.

(b) Second, the option to purchase the Ownership Interest of the Departing Purchaser in the Real Property shall be granted to the other two Purchasers so that each of the remaining Purchasers shall have the right to buy a portion of the Departing Purchaser's Ownership Interest which may be less or greater than fifty percent (50%); provided, however, in no event shall this paragraph be construed to authorize the remaining Purchasers to purchase collectively less than one hundred percent (100%) of the Departing Purchaser's Ownership Interest.

(c) Third, in the event one of the remaining Purchasers is unable or unwilling to purchase a portion of the Departing Purchaser's Ownership Interest in the Real Property, the other remaining Purchaser shall have the right to purchase all of the Departing Purchaser's Ownership Interest.

(d) Fourth, in the event that neither of the remaining Purchasers is able or willing to purchase the Departing Purchaser's interest, the Departing Purchaser shall have the right to sell his Ownership Interest to another person, subject to the unanimous consent and approval of the remaining Purchasers.

(e) Fifth, in the event the Departing Purchaser is unable to sell his Ownership Interest to either or both of the remaining Purchasers or to another person (with the unanimous consent and approval of the remaining Purchasers) within 45 days after an Event of Termination shall occur, the Purchasers shall be obligated to sell the Real Property in whole.

As between the Purchasers, the purchase price for the Real Property shall be a sum equal to the amount obtained by multiplying the Departing Purchaser's Ownership Interest times the current market value of the Real Property as determined by an appraiser who shall be approved by a majority of the Ownership Interests of the Purchasers and who shall be regularly engaged in the business of appraising real property for purposes of valuing property on which a mortgage shall be placed. The costs of the aforesaid appraisal shall be paid by all of the Purchasers in proportion to their respective Ownership Interest. In the event the Departing Purchaser is dissatisfied with the current market value of the Real Property as determined by the appraiser, the Departing Purchaser shall have the right, at his own cost and expense, to employ a second appraiser who must be approved by the remaining Purchasers and who is regularly engaged in the business of appraising real property for purposes of valuing property on which a mortgage shall be placed. The higher of the two appraisals shall be deemed the current market value of the Real Property.

The purchase price to a person other than the Purchasers shall be the best price which can be obtained, as agreed upon by a majority of the Ownership Interests of the Purchasers.

7. In the event a Departing Purchaser sells his Ownership Interest to the remaining Purchasers or to another person with the unanimous consent and approval of the remaining Purchasers, the Departing Purchaser shall pay the expense of transferring title to the Real Property, including the payment of legal fees, recording costs and any related miscellaneous expenses, and shall be required to sign a recordable warranty deed.

8. In the event the Purchasers are required to sell the whole of the Real Property to another person, all of the Purchasers shall be required to sign a recordable warranty deed.

9. In the event a Departing Purchaser sells his Ownership Interest to the remaining Purchasers, the remaining Purchasers' Ownership Interests shall be increased to that percentage which shall properly reflect each Purchaser's interest of ownership in the Real Property.

In the event a Departing Purchaser shall sell his Ownership Interest to an outside person with the unanimous consent and approval of the remaining Purchasers, such outside person shall have the same Ownership Interest, rights, requirements and obligations as the Departing Purchaser.

10. In no event shall any of the Purchasers have the right to mortgage, lease, sell, assign, transfer, convey or in any way encumber the Real Property without the unanimous written consent of all the Purchasers.

11. Each Purchaser shall have the right, subject to the unanimous consent and approval of the other Purchasers, to make Individual Improvements to the Real Property. A Purchaser shall not by reason of paying the costs of any Individual Improvements be entitled to a greater Ownership Interest, any reimbursement from the other Purchasers or any diminution of his portion of the Monthly Payment.

12. Personal property, including without limitation, by the express intent of the parties hereto, clothes, mirrors, appliances, furniture, ceiling fans and any other item which shall be deemed to be personal property by express written agreement between the Purchasers or, in the absence of a written agreement, in accordance with Alabama law governing such items, shall be, and at all times remain, the property of the respective owner thereof; provided, however, that in the event a Purchaser shall remove an item of personal property, he shall pay the cost of repairing any damage to the Real Property occasioned thereby to the satisfaction of the other Purchasers and shall not as a result be entitled to any reimbursement from the other Purchasers or any diminution of his portion of the Monthly Payment.

13. The Purchasers hereby covenant and agree with one another as follows:

(a) None of the Purchasers shall at any time engage in any illegal activity on the Real Property;

(b) None of the Purchasers shall at any time engage in any activity which shall constitute a nuisance in the neighborhood or surrounding area;

(c) None of the Purchasers shall engage in any activity which may endanger the Real Property or the other Purchasers; and

(d) All of the Purchasers shall work together to maintain the cleanliness and appearance of the Real Property.

14. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof.

15. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

16. The invalidity or unenforceability of any one or more phrases, sentences, clauses or sections in this Agreement contained shall not affect the validity or enforceability of the remaining portions of this Agreement, or any part thereof.

17. This Agreement shall be binding upon each of the Purchasers and his respective successors, assigns, heirs, legal representatives, administrators and executors. This Agreement shall be governed exclusively by the applicable laws of the State of Alabama.

18. This Agreement shall remain in force and effect in the event that one of the Purchasers shall sell his Ownership Interest to the other two Purchasers, and all of the rights and obligations hereof shall continue to be applicable.

This Agreement expressly survives any and all closing papers, contracts heretofore agreed upon, or any other agreements between the parties, and this Agreement is not merged into any of the above-described or any other papers between the parties.

All as of this 30th day of September, 1986.

Emmitt L. King

Emmitt L. King

Steven A. Killough

Steven A. Killough

Brian L. Thomason

Brian L. Thomason

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, Betty C. Donald, a Notary Public in and for said County in said State, hereby certify that Emmitt L. King, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily.

Given under my hand and official seal this 29th day of September, 1986.



Betty C. Donald
Notary Public

My commission expires: 6-24-87

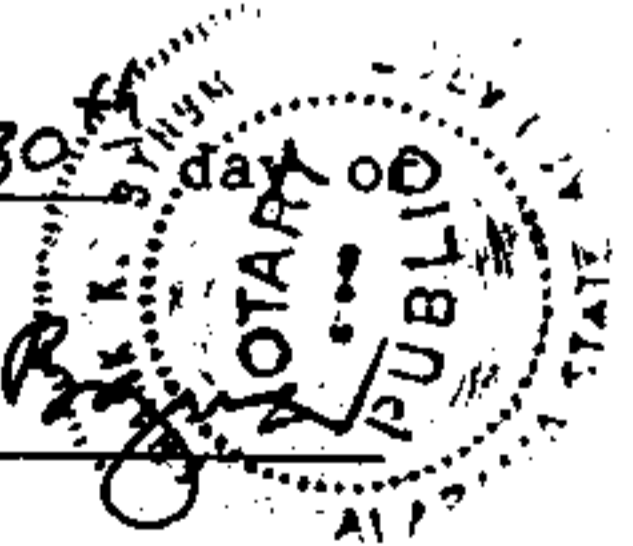
STATE OF ALABAMA)

JEFFERSON COUNTY)

I, FRANK K. DYNUM, a Notary Public in and for said County in said State, hereby certify that Steven A. Killough, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily.

Given under my hand and official seal this 30th day of September, 1986.

BOOK 094 PAGE 719



Frank K. Dylum
Notary Public

AFFIX SEAL


My commission expires: 11-20-88

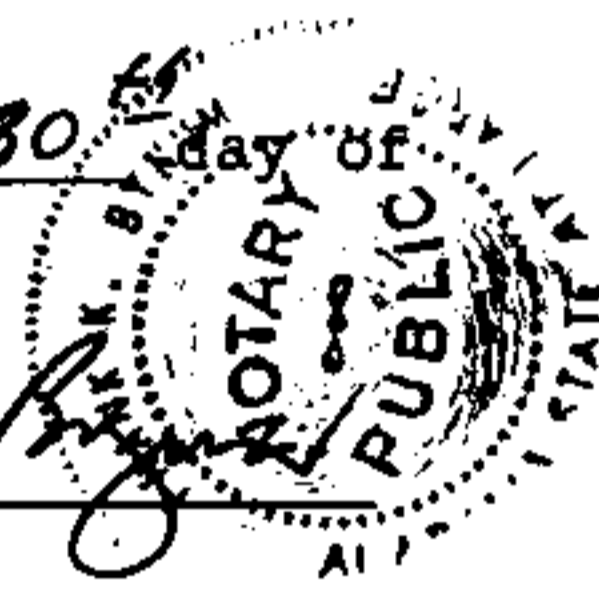
STATE OF ALABAMA)

JEFFERSON COUNTY)

I, FRANK K. BYNUM, a Notary Public in and for said County in said State, hereby certify that Brian L. Thomason, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily.

Given under my hand and official seal this 30th day of September, 1986.


Notary Public



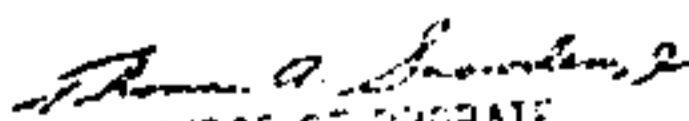
AFFIX SEAL

My commission expires: 11-20-88

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

1986 OCT -8 PM 3:51


JUDGE OF PROBATE

RECORDING FEES	
Recording Fee	\$ <u>25.00</u>
Index Fee	<u>1.00</u>
TOTAL	\$ <u>26.00</u>