

GALLERIA PROPERTIES JOINT VENTURE AGREEMENT

This agreement made and enter into as of the 19th day of April, 1988 by and among Ladco, Inc., Alabama Corporation, Richard S. Jaffe, an individual, Roger D. Burton, an individual, George Richard DiGiorgio, an individual. (Herinafter collectively sometimes referred to as Venturers.)

Whereas the parties hereto desire to form a joint venture (herinafter referred to as the Venture) for the term and upon the conditions herinafter set forth;

Now, therefore, in consideration of the mutual covenants herinafter contained, it is agreed by and among the parties hereto as follows:

1.1 The parties hereby form a joint venture pursuant to the laws of the State of Alabama.

1.2 The business of the Venture shall be conducted under the name of Galleria Properties.

1.3 The principal office and place of business of the Venture shall be located at 2221 Victory Lane, Hoover, Alabama, 35216 or such other place as the Venturers may from time to time designate.

1.4 The Venture shall commence on the 19th day of April, 1988 and shall continue until such time as the purposes of this Venture as herinafter set forth are complete, unless otherwise amended.

1.5 The purpose for which the venture is organized is to operate, manage, improve, repair, rent, lease, own, acquire, sell, assign, mortgage, hypothecate, and otherwise deal in the following real property and its appurtenances and fixtures and to deal in direct interest, partnership interest, stock holder interest, and joint venture interests which represent shares in such property to build and contract for the building or buildings and other structures on such property for such use:

(a) The property located at 2201 Victory Lane, Hoover, Alabama.

(b) Lot 2 of Riverchase Trade Center, Old Montgomery Highway, Pelham, Alabama.

(c) Other properties which may be added by amendment hereto at a later date.

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Thomas S. Foster

2.1 DEFINITIONS. For purposes of this document "capital" shall be defined as property made available to and owned by the Venture other than property of a kind which would be includable in the inventory of the Venture or which is held for sale to customers of the Venture in its ordinary course of business. The gain of such property and the losses, deductions, amortization and depreciation associated with such property shall be added to or subtracted from the Venturer's capital accounts (using the initial capital accounts as a base) according to their then share of capital or income.

All other operating profits (or losses) of the Venture shall be (if income) deemed to be income of the Venturers according to their share of profits and losses. If losses, these shall be deducted from the Venturer's capital accounts according to their share of profits and losses. Undistributed profits shall be added to the relevant Venturer's capital accounts. Amounts distributed in excess of current profits shall be deducted from the relevant Venturer's capital accounts. Upon dissolution, any Venturer having a negative capital account balance shall be required to make up such a balance.

2.2 Each Venturer has made available to the initial capital of the Venture property in the amount and form indicated below. An individual capital account ledger shall be maintained for each Venturer. It shall not be necessary to maintain separate bank accounts for each individual capital account.

<u>Name</u>	<u>Amount of Contribution</u>	<u>Form</u>
Ladco, Inc.	\$ 4,980	Cash
Richard S. Jaffe	\$ 1,294.80	Cash
Roger D. Burton	\$ 1,294.80	Cash
George Richard DiGiorgio	\$ 730.40	Cash

2.3 If at anytime during the existence of the Venture it shall become necessary to increase the capital with which the said Venture is doing business, then upon the majority vote of the Venturers, each Venturer shall contribute to the capital of this Venture within five days notice of such need, an amount according to his then Percentage Share of Capital as called for by the majority vote of the Venturers.

2.4 PERCENTAGE SHARE OF CAPITAL

(a) The Percentage Share of Capital of each Venturer shall be as follows, (unless otherwise modified by amendment to this agreement);

<u>Name</u>	<u>Initial Percentage Share of Capital</u>
Lado, Inc.	60 %
Richard S. Jaffe	15.6%
Roger D. Burton	15.6%
George Richard DiGiorgio	8.8%

2.5 The individual Venturers shall share in the profits and losses of the Venture according to their individual percentage share of capital as stated above in paragraph 2.4.

2.6 The individual Venturers shall have no right to any priority over each other as to the return of capital contributions.

2.7 Distributions to the Venturers of net operating profits of the Venture, as herinafter defined, shall be made at least yearly or at such other times as the majority of Venturers shall reasonably agree. Such distributions shall be made to the Venturers simultaneously.

For the purpose of this Agreement, net operating profit for any accounting period shall mean the gross receipts of the Venture for such period less the sum of all cash expenses of operation of the Venture, and such sums as may be necessary to establish a reserve for operating expenses.

3.1 All Venturers shall have the right to vote as to the management and conduct of the business of the Venture according to their then percentage share of capital as set out hereinabove. Except as otherwise herein set forth, a majority of such capital interest shall control.

3.2 A representative of Ladco, Inc. shall manage the day to day conduct of the business of the Venture. At the time of the making of this agreement, Mark W. DiGiorgio is the representative of Ladco, Inc. who shall manage the day to day operations of the Venture.

3.3 The representative of Ladco, Inc. who manages the day to day affairs of the Venture shall have the following authority:

To exercise the powers reasonably necessary in order to pursue the Venturer's purposes; provided, however, that the consent of all Venturers shall be necessary for any decision in contravention of the expressed desires of any other Venturer. Said powers shall include but not be limited to the following:

(a) To negotiate for the borrowing of money upon terms acceptable to the Venturers with any person or corporation;

(b) To open and to close checking or savings accounts, in banks or similar financial institutions, to deposit cash in and withdraw cash from such accounts, in the name of the Venture;

(c) To execute contracts with contractors and subcontractors for the purpose of building or repairing any building or structure on any real property of the Venture;

(d) To employ investment council, brokers, accountants, attorneys or any other agents to act on behalf of the Venture; generally to do any act or thing and execute all instruments necessary, incidental or convenient to the proper administration of the day to day operations of the Venture property;

(e) To make payments, division or distribution of the Venture property wholly or partly in kind;

(f) To investigate, discover and negotiate for the purchase of additional real property in which the Venture may desire to invest.

3.4 In consideration of a representative of Ladco, Inc. managing the day to day operations of the Joint Venture, who at this time is Mark W. DiGiorgio, the Venture shall reimburse Ladco, Inc. for the direct expense of said representative expending his time for and on behalf of the Venture. Said representative shall keep an accurate log of his time and expenses incurred on behalf of the Venture.

4.1 (a) An interest in the Venture shall not be assigned or transferred without the written approval of all Venturers.

4.2 (b) In the absence of such written approval of all Venturers, the Venturer desiring to assign or transfer his interest shall give to the Venture and the remaining Venturers written notice by certified mail of his intentions and such notice shall include an offer to sell his interest in the Venture and his asking price. Within ninety (90) days after the Venture receives said notice from the Selling Venturer, the Venture (which shall have first option to purchase) or the remaining Venturers (who shall have the second right to purchase; each Venturer having the right to purchase at a minimum a proportionate share of the Selling Venturer's interest, as his own interest bears to the total Venture interest less the Selling Venturer's interest), shall deliver to the Selling Venturer their written response indicating whether they will accept the Selling Venturer's offer to sell or present a counter-offer.

4.2 (c) If neither the Venture nor the remaining Venturers give the Selling Venturer a written response as provided above in subparagraph 1(a), or if the response is given but the offer to sell is declined by both the Venture and the remaining Venturers, and no alternative agreement to purchase is reached among the Venture, the Selling Venturer and the remaining Venturers within one hundred and eighty (180) days of the Venture's receipt of the Selling Venturer's original offer to sell, then the Selling Venturer may sell or dispose of the offered interest in the Venture to a third party or parties upon whatever terms and conditions he deems appropriate.

5.1 DISSOLUTION. In the event that the Venture shall hereinafter be dissolved for any reason whatsoever, a full and general account of its assets, liabilities, and transactions shall at once be taken. Such assets may be sold and turned in to cash as soon as possible and all debts and other amounts due the Venture collected. The proceeds thereof shall thereupon be applied as follows:

(a) To discharge the debts and liabilities of the Venture and the expenses of liquidation.

(b) To pay each Venturer or his legal representative any unpaid salary, drawing account, interest or profits to which he shall then be entitled.

(c) To repay to any Venturer the capital he made available to the Venture.

(d) To divide the surplus, if any, among the Venturers or their representatives according to each Venturer's then existing percentage share of capital.

6.1 DEATH OR DISSOLUTION OF A VENTURER. On the death or dissolution of a Venturer, said Venturer's estate or successor in interest shall sell and the Venture shall purchase the interest of the deceased or dissolved Venturer in the Venture by paying to the personal representative of the said Venturer in full satisfaction and complete discharge of such interest an amount equal to:

(a) The said deceased or dissolved Venturer's share of the net income of the Venture to the end of the month in which death or dissolution occurred, reduced by any withdrawals that may have been made by the deceased or dissolved Venturer.

(b) The fair market value, excluding goodwill, of the interest of the deceased or dissolved Venturer in the net assets of the Venture as calculated according to his Percentage Share of Capital.

(i) Within thirty (30) days after the death or dissolution of any Venturer, the Venture shall have an appraisal done of its assets and an accounting of its assets and liabilities to determine the fair market value of the net assets of the Venture, as it existed on the date of death or dissolution of the Venturer. If the representative of the deceased or dissolved Venturer does not agree with the evaluation of the fair market value made by the Venture itself, then said representative shall, at its own expense, have its own appraisals done of the assets of the Venture and shall have access to the books and records of the Venture for the purpose of determining the fair market value of the net assets of the Venture.

(ii) If the representative of the deceased or dissolved Venturer and the remaining Venturers cannot agree upon the fair market value or the net assets of the Venture, then the appraisers chosen by the two parties shall in turn choose a third appraiser whose determination of the fair market value of the assets of the Venture shall be binding upon the parties. The expense of said third appraiser shall be borne equally between the parties.

(c) The purchase price to be paid to the representative of the deceased or dissolved Venturer shall be paid in cash or at the option of the remaining Venturers by the execution and delivery of each remaining Venturer of a note payable to the order of the personal representative of the deceased or dissolved Venturer, in the amount of 90% of the purchase price. Ten percent of the purchase price shall be paid upon delivery of said note. Said note shall bear interest at the rate of 10% per annum and shall be payable in five (5) equal annual installments of principal and interest, the first such payment to be made one year from the date of execution and delivery of such note and with such note containing full payment privileges without penalty.

7.1 The Venture's fiscal year shall commence on January 1 of each year and shall end on December 31 of each year. Full and accurate books of account shall be kept at the principal place of business of the Venture or at such other place as the Venturers may from time to time designate. Each Venturer shall have access to such books of account and shall be entitled to examine them at any time during business hours. At the end of each year, the managing agent of the Venture shall cause the Venture's accountant to prepare a balance sheet setting forth the financial position of the Venture as of the end of that year and a statement of operations (income and expenses) for that year. A copy of the balance sheet and statement of operations shall be delivered to each Venturer as soon as it is available. The Venture books shall be kept on the cash basis and in accordance with generally accepted accounting principles consistent with those employed for determining its income for federal income tax

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purposes.

7.2 Venturers may engage in or possess interest in other business ventures of any and every kind and description for their own accounts. Neither the Venture or any of the Venturers shall have any rights by virtue of this agreement in such independent business ventures or to the income or profits derived therefrom.

8.1 The Venture shall indemnify any person who is made or threatened to be made, a party to any action, suit, or proceeding (except criminal) by reason of the fact that he, his testator or intestate is or was a manager, employee, or agent of the Venture or serves or served any other enterprises at the request of the Venture, to the extent to which such person was not acting with gross negligence or wilful or wanton disregard of either this agreement or the law. Provided, however, that any indemnity under this section shall be provided out of and to the extent of Venture assets only, and no Venturer shall have any personal liability with regard to said indemnity.

8.2 This agreement shall be binding upon the parties hereto and upon their heirs, executors, administrators, successors, or assigns and the parties hereto agree for themselves and their heirs, executors, administrators, successors, and assigns to execute any and all instruments in writing which are or may become necessary or proper to carry out the purpose and intent of this agreement.

8.3 This agreement may be altered or amended at any time by the decision of the Venturers holding not less than 2/3 of the then capital of the Venture confirmed by an instrument in writing, which instrument the Venturers hereby agree to execute.

8.4 As used herein, unless the context clearly indicates to the contrary, the singular number shall include the plural and the plural the singular and the use of any gender shall be applicable to all genders.

In Witness Whereof, Ladco, Inc., Richard S. Jaffe, Roger D. Burton and George Richard DiGiorgio, do hereby, as of the day and year below written, execute this agreement.

Witnesses

Venturer

Thomas A. Jaffe 4/19/88 *Ladco Inc. George R. DiGiorgio* 4/19/88
 For Ladco, Inc. by its Sec. Ladco, Inc. by its Pres. (Date)

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Richard S. Jaffe
Richard S. Jaffe (Date)

Roger D. Burton
Roger D. Burton (Date)

George Richard DiGiorgio 9/19/88
George Richard DiGiorgio (Date)

State of Alabama
County of Jefferson

On this the _____ day of _____, 1988 before me a Notary Public in and for said county and state, personally appeared _____, in his capacity as president of Ladco, Inc. whose name has been subscribed to the foregoing instrument on behalf of Ladco, Inc. and acknowledged to me that he had full authority in his capacity as President of Ladco, Inc. to execute the same on behalf of said corporation.

Notary Public

On this the _____ day of _____, 1988 before me a Notary Public in and of said county and state, personally appeared, Richard S. Jaffe, Roger D. Burton and George Richard DiGiorgio, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they have executed the same as their own free act and deed.

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

88 MAY 10 AM 8:24

Thomas P. Snowden, Jr.
JUDGE OF PROBATE

Notary Public

RECORDING FEES

Recording Fee \$20.00

Index Fee 4.00

TOTAL \$24.00

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