

## *Sample General Partnership Agreement*

### GENERAL PARTNERSHIP AGREEMENT between ANDREW LELAND and DONALD LELAND

This general partnership agreement is made and entered into as of January 1, 2004, by and among Andrew Leland and Donald Leland (all of whom are hereinafter collectively sometimes referred to as "PARTNERS").

The parties hereto desire to form a general partnership (hereinafter referred to as the "Partnership"), under the laws of the State of \_\_\_\_\_ for the term and upon the conditions set forth in this agreement, and the Partners agree as follows:

**1.1. FORMATION OF PARTNERSHIP.** The parties hereby form a general partnership, and the name of the partnership shall be \_\_\_\_\_. This agreement shall supersede any previous partnership agreements between the parties to this agreement.

#### **1.2. DEFINITIONS.**

"Act" means the laws governing partnerships in the State of organization.

"Bankruptcy" shall be deemed to have occurred with respect to any Partner 60 days after the happening of any of the following: (1) the filing of an application by a Partner for, or a consent to, the appointment of a trustee of the Partner's assets; (2) the filing by a Partner of a voluntary petition of bankruptcy or the filing of a pleading in any court of record admitting in writing the Partner's inability to pay the Partner's debts as they become due; (3) the making by a Partner of a general assignment for the benefit of creditors; (4) the filing by a Partner of an answer admitting the material allegations of, or consenting to or defaulting in answering a bankruptcy petition filed against the Partner in any bankruptcy proceeding; or

(5) the entry of an order, judgment, or decree by any court of competent jurisdiction adjudicating a Partner a bankrupt or appointing a trustee of the Partner's assets, and that order, judgment, or decree continuing unstayed and in effect for a period of 60 days.

"Capital Account" means with respect to each Partner, the account established on the books and records of the Partnership for each Partner under Section 2.1. Each Partner's Capital Account shall initially equal the cash and the agreed value of property (net of liabilities assumed or to which the property is subject) contributed by the Partner to the Partnership, and during the

term of the Partnership shall be

(1) increased by the amount of (a) Taxable Income allocated to the Partner, other than Taxable Income attributable to the difference between the agreed value and adjusted basis of the property at contribution, and (b) any money and the agreed value of property (net of any liabilities assumed or to which the property is subject) subsequently contributed to the Partnership, and (2) decreased by the amount of (a) Tax Losses allocated to the Partner, except (i) Tax Losses attributable to depreciation of contributed property, which shall decrease Capital Accounts only to the extent of depreciation computed as if the property were purchased by the Partnership at its agreed value, and (ii) Tax Losses attributable to the difference between the agreed value and adjusted basis of property at contribution (which shall not decrease the contributing Partner's Capital Account), and (b) all cash and the agreed value of property (net of liabilities assumed or to which the property is subject) distributed to such Partner, and shall otherwise be kept in accordance with applicable Treasury Regulations.

"Contract Price" shall be equal to the fair market value of the selling Partner's Interest as of the date of the event triggering the sale. The fair market value shall be determined within 60 days by a valuation of the selling Partner's Interest as if the net assets of the Partnership were sold for cash and the cash distributed in accordance with Section 9.1.

"Incapacity" or "Incapacitated" means the incompetence, insanity, interdiction, death, disability, or incapacity, as the case may be, of any Partner.

"Interest" means the entire ownership interest of a Partner in the Partnership.

"Managing Partner" means Donald Leland but in the event that he is at any time no longer a Partner, or is replaced by vote of the Partners, the term shall mean the party or parties then acting in that capacity.

"Net Income" with respect to any fiscal period means all cash revenues of the Partnership during that period (including interest or other earning on the funds of the Partnership), less the sum of the following to the extent made from those cash revenues:

- (a) All principal and interest payments on any indebtedness of the Partnership
- (b) All cash expenses incurred incident to the operations of the Partnership's business.
- (c) Funds set aside as reserves for contingencies, working capital, debt service, taxes, insurance, or other costs or expenses incident to the conduct of the Partnership's business, which the Partners deem reasonably necessary or appropriate

“Partnership Percentage” means the following percentages:

<u>Name</u>	<u>Percentage</u>
Donald Leland	50%
Andrew Leland	50%

Distributions or allocations made in proportion to or in accordance with the Partnership Percentages of the Partners shall be based upon relative Partnership Percentages as of the record date for distributions and in accordance with Section 706(c) and (d) of the Internal Revenue Code (IRC) for allocations.

“Operating Partner” means Andrew Leland but in the event that he is at any time no longer a Partner, or is replaced by vote of the Partners, the term shall mean the party or parties then acting in that capacity.

“Taxable Income” and “Tax Losses” respectively, shall mean the net income or net losses of the Partnership as determined for federal income tax purposes, and all items required to be separately stated by Section 702 of the IRC and the Regulations thereunder.

**1.3. BUSINESS OF THE PARTNERSHIP.** The business purpose for which this Partnership is organized is \_\_\_\_\_. Any modification of the business purpose outlined in this section shall not void this agreement.

**1.4. NAMES AND ADDRESSES OF PARTNERS.** The names and addresses of the Partners are:

Donald Leland, \_\_\_\_\_;  
and  
Andrew Leland,  
\_\_\_\_\_.

**1.5. TERM.** The term of the Partnership shall begin on \_\_\_\_\_ and shall continue until the earlier of December 31, 2050, or until dissolved by an act or event specified in the Agreement or by the law as one effecting dissolution.

**1.6. BUSINESS OFFICES.** The principal place of business of the Partnership shall be \_\_\_\_\_. The Partners may, from time to time, change the principal place of business of the Partnership. The Partners may in their discretion establish additional places of business of

the Partnership.

**2.1 INITIAL CAPITAL CONTRIBUTIONS.** The Partners' initial Capital Contributions are deemed made as of this Agreement. The Partners shall initially make Capital Contributions as follows:

(a) Donald Leland shall contribute the following property:

\_\_\_\_\_ ; and

(b) Andrew Leland shall contribute the following property:

\_\_\_\_\_.

**2.2. PARTNERS' ASSESSMENTS.** In addition to the Capital Contributions required by Section 2.1, each Partner shall be obligated to make additional Capital Contributions, as needed to maintain the profitability of the Partnership. All additional Capital Contributions shall be made in accordance with the Partnership Percentages and within 30 days after the Partners have received notice thereof from the Managing Partner. The Managing Partner shall call these assessments based upon his estimate of all costs, expenses, or charges with respect to operation of the Partnership, less the expected revenues from such operations. Any increases in the Capital Contributions of the Partners pursuant to this Section shall be noted on Annex A attached hereto and incorporated by reference.

**2.3. INTEREST ON CAPITAL CONTRIBUTIONS.** No Partner shall be paid interest on any Capital Contribution.

**2.4. WITHDRAWAL AND RETURN OF CAPITAL CONTRIBUTIONS.** No Partner shall be entitled to withdraw any part of his Capital Contribution or to receive any distributions from the Partnership except as provided by this Agreement.

**2.5. LOANS BY PARTNER.** The Partners may (but shall not be obligated to) loan or advance to the Partnership such funds as are necessary for the Partnership's operations, provided, however, that interest on those loans or advances shall not be in excess of five percent.

**3.1. DISTRIBUTIONS.** Net Income shall be distributed among the Partners in proportion to their Partnership Percentages.

**3.2. ALLOCATION OF PROFITS AND LOSSES FOR TAX PURPOSES.** The Taxable Income to be allocated among the Partners shall be allocated among them in accordance with the previous section concerning distributions. Tax Losses allocated among the Partners shall be allocated among them in accordance with their respective Partnership Percentages.

**4.1. BOOKS OF ACCOUNT, RECORDS, AND REPORTS.** Proper and complete records and books of account shall be kept by the Operating Partner, in which shall be entered fully and accurately all transactions and other matters relative to the Partnership's business as are usually entered into records and books of account maintained by persons engaged in businesses of a like character, including a Capital Account for each Partner. The Partnership books and records shall be prepared in accordance with generally accepted accounting practices, consistently applied, and shall be kept on a cash basis except in circumstances in which the Managing Partner determines that another bases of accounting will be in the best interests of the Partnership. The books and records shall at all times be maintained at the principal place of business of the Partnership and shall be open to the inspection and examination of the Partners or their duly authorized representatives during reasonable business hours.

**4.2. REPORTS TO PARTNERS.** As soon as practicable in the particular case, the Operating Partner shall deliver to every other Partner:

- (a) Such information concerning the Partnership after the end of each fiscal year as shall be necessary for the preparation by such a Partner of his income or other tax returns.
- (b) An unaudited statement prepared by the Operating Partner setting forth, as of the end of and for each fiscal year, a profit and loss statement and a balance sheet of the Partnership and a statement showing the amounts allocated to or against each Interest during that year.

**4.3. FISCAL YEAR.** The fiscal year of the Partnership shall end on the thirty-first day of December in each year.

**4.4. PARTNERSHIP FUNDS.** The funds of the Partnership shall be deposited in such bank account or accounts, or invested in such interest-bearing or noninterest-bearing investments, as shall be designated by the Managing Partner. All withdrawals from any such bank accounts shall be made by the duly authorized agent or agents of any Partner. Partnership funds shall be held in the name of the Partnership and shall not be commingled with those of any other person.

**5.1. INCAPACITATION.** Within 90 days after a Partner becomes Incapacitated, his executor, administrator, committee, or analogous fiduciary (the “Representative”) shall sell that Interest to the remaining Partners. The Representative shall notify the other Partners in writing within the 90-day period and the other Partners must purchase the Incapacitated Partner’s Interest. The purchase price of an Interest sold pursuant to this Section shall be the Contract Price, and payment for the Interest shall be made in the manner set forth in Section 5.5.

**5.2. BANKRUPTCY.** At the Bankruptcy of any Partner, that Partner (an “Inactive Partner”) or his Representative shall cease to have any voice in the conduct of the affairs of the Partnership and all acts, consents, and decisions with respect to the Partnership shall thereafter be made by the other Partners.

The Inactive Partner shall, nonetheless, remain liable for his share of any losses of the Partnership or contributions to the Partnership as provided herein, and shall be entitled to receive his share of Taxable Income, Tax Losses, and Net Income. For six months from and after the date of the Bankruptcy of any Partner, the other Partners shall have the irrevocable option to purchase the Inactive Partner’s Interest in the Partnership. That purchase shall be made in proportion to the respective Partnership Percentages of the other Partners at the time or in such other proportion as they may mutually agree. Should the other Partners exercise their option to purchase the Inactive Partner’s Interest, they shall notify the Inactive Partner or his Representative of their intention to do so within this six-month period. The purchase price of any Interest purchased pursuant to this Section shall be the Contract Price, and shall be payable at the time and in the manner specified in Section 5.5. Should the other Partners not exercise the option to purchase the Inactive Partner’s Interest, the Inactive Partner shall remain such in accordance with the provisions set forth above.

**5.3. SALE OF PARTNERSHIP INTEREST.** If a Partner desires to offer for sale his Interest in the Partnership, such Partner (the “Selling Partner”) shall give written notice to the other Partners (the “Buying Partner[s]”). Within 30 days after receipt of the notice, the Buying Partner[s] shall notify the Selling Partner of their intent to purchase the Interest of the Selling Partner. The purchase price of an Interest sold pursuant to this Section shall be the Contract Price, and payment for the Interest shall be made in the manner set forth in Section 5.5. If the Buying Partners fail to notify the Selling Partner that they intend to purchase his or her interest within the 30-day period, the Selling Partner shall have the right to withdraw from the Partnership. If a Partner withdraws, the Partner shall be entitled to a payment from the Partnership equal to the

Contract Price and payable at the time and in the manner set forth in Section 5.5. Any amounts received pursuant to this Section shall constitute complete and full discharge of all amounts owing to the withdrawing Partner on account of his Interest as a Partner in the Partnership.

**5.4. ASSIGNMENT.** A Partner may not assign any part of his Interest in the Partnership.

**5.5. PAYMENT: TIME AND MANNER.**

(a) Any Interest transferred to other Partners or the Partnership pursuant to this Agreement shall be paid for, at the purchaser's option, either (1) all in cash at the time of transfer of the Interest, or (2) by a down payment computed in accordance with paragraph (b) below and delivery of a promissory note signed by the purchaser(s).

(b) If the purchaser(s) elects the second option in paragraph (a) above, (s)he shall pay as a down payment 33 percent. The remaining portion shall be represented by a promissory note of the purchasers, and providing for four equal annual installments of the remaining unpaid portion of the Contract Price, each installment due on the anniversary of the transfer of the Interest. The promissory note shall provide that Interest at an annual rate of 5 percent (compounded semiannually) shall be paid with each payment of principal (or such higher interest rate as shall be necessary to avoid the imputation of interest pursuant to Section 483 of the IRC), from the date of acquisition of the Interest on the portion of the note remaining unpaid from time to time.

**6.1. ADJUSTMENT OF PARTNERSHIP PERCENTAGES.** If a Partner withdraws pursuant to Section 5.3, the Partnership Percentages of the remaining Partners shall immediately be recalculated so that each Partner's Partnership Percentage is equal to (1) his Capital Contribution, divided by (2) the aggregate Capital Contributions of all remaining Partners. If the Partners purchase an Interest pursuant to Sections 5.1, 5.2, or 5.3, the Partnership Percentage of the selling Partner shall be added to that of the purchasing Partners, pro rata.

**6.2. VOTING.** All decisions or actions required by the Partners pursuant to this Agreement (including amendment hereof) shall be made or taken by the affirmative vote (at a meeting or, in lieu thereof, by written consent of the required percentage in Interest) of Partners having 100 percent of the aggregate Partnership Percentages.

**7.1. MANAGEMENT AND ADMINISTRATION OF BUSINESS.** Except as otherwise

provided in this agreement, all Partners shall have the authority to manage the day-to-day operations and affairs of the Partnership and to make decisions regarding the business of the Partnership. Any action taken by any Partner shall constitute the act of and serve to bind the Partnership.

**7.2. ACTS REQUIRING UNANIMOUS CONSENT.** The following acts may be done only with the unanimous consent of the partners: (a) Borrowing money in the Partnership's name, other than in the ordinary course of the Partnership's business; (b) Capital expenditures in excess of \$500.00; and (c) Amendment of this agreement.

**8.1. LIABILITY AND INDEMNIFICATION.** No Partner shall be liable, responsible, or accountable in damages or otherwise to the Partnership or any Partner for any action taken or failure to act on behalf of the Partnership within the scope of the authority conferred on any Partner by this Agreement or by law unless the act or omission was performed or omitted fraudulently or in bad faith or constituted negligence. The Partnership shall indemnify and hold harmless the Partners from and against any loss, expense, damage, or injury suffered or sustained by them by reason of any acts, omissions arising out of their activities on behalf of the Partnership or in furtherance of the interests of the Partnership, including but not limited to any judgment, award, settlement, reasonable attorneys' fees, and other costs or expenses incurred in connection with the defense of any actual or threatened action, proceeding, or claim, if the acts, omissions, or alleged acts or omissions upon which the actual or threatened action, proceeding, or claims are based were for a purpose reasonably believed to be in the best interests of the Partnership and were not performed or omitted fraudulently or in bad faith or as a result of negligence by a Partner and were not in violation of the Partner's fiduciary obligation to the Partnership. Any such indemnification shall be first from the assets of the Partnership, and then from all Partners and borne among them in accordance with their Partnership Percentages.

**8.2. LIMITS ON PARTNERS' POWERS.** Anything in this Agreement to the contrary notwithstanding, no Partner shall cause the Partnership to (a) Commingle the Partnership's funds with those of any other person, or employ or permit another to employ those funds or assets in any manner except for the exclusive benefit of the Partnership (except to the extent that funds are temporarily retained by agents of the Partnership), or (b) Reimburse any Partner for expenses incurred by any Partner except



for the actual cost to the Partner of goods, materials, or services (including reasonable travel and entertainment expenses) used for or by the Partnership.

**9.1. DISSOLUTION OF THE PARTNERSHIP.** The happening of any one of the following events shall work an immediate dissolution of the Partnership:

- (a) The sale or other disposition of all or substantially all of the assets of the Partnership
- (b) The affirmative vote for dissolution of the Partnership by Partners having at least 34 percent of the aggregate Partnership Percentages
- (c) The Bankruptcy or Incapacity of any Partner; provided that the remaining Partners shall continue the business of the Partnership unless the Partnership is dissolved under subparagraph (b) above
- (d) The expiration of the term of the Partnership

**9.2. WINDING UP.** If the Partnership is dissolved and its business is not continued under Section 9.1, the Managing Partner or his/her successor shall commence to wind up the affairs of the Partnership and to liquidate the Partnership's assets. The Partners shall continue to share profits and losses during the period of liquidation in accordance with Sections 3.1 and 3.2. Following the occurrence of any of the events set forth in Section 9.1, the Partners shall determine whether the assets of the Partnership are to be sold or whether the assets are to be distributed to the Partners. If assets are distributed to the Partners, all such assets shall be valued at their then fair market value as determined by the Partners and the difference, if any, of the fair market value over (or under) the adjusted basis of such property to the Partnership shall be credited (or charged) to the Capital Accounts of the Partners in accordance with the provisions of Section 1.2. Such fair market value shall be used for purposes of determining the amount of any distribution to a Partner pursuant to Section 9.3. If the Partners are unable to agree on the fair market value of any asset of the Partnership, the fair market value shall be the average of two appraisals, one prepared by a qualified appraiser selected by Partners having 50 percent or more of the aggregate Partnership Percentages, and the other selected by the remaining Partners.

**9.3. DISTRIBUTIONS UPON DISSOLUTION.** Subject to the right of the Partners to set up such cash reserves as may be deemed reasonably necessary for any contingent or unforeseen liabilities or obligations of the Partnership, the proceeds of the liquidation and any other funds of the Partnership shall be distributed:

- (a) To creditors, in the order of priority as provided by law except those liabilities to Partners in their capacities as Partners
- (b) To the Partners for loans, if any, made by them to the Partnership, or reimbursement for Partnership expenses paid by them
- (c) To the Partners in proportion to their respective Capital Accounts until they have received an amount equal to their Capital Accounts immediately prior to such distribution, but after adjustment for gain or loss with respect to the disposition of the Partnership's assets incident to the dissolution of the Partnership and the winding up of its affairs, whether or not the disposition occurs prior to the dissolution of the Partnership
- (d) To the Partners in accordance with their Partnership Percentages

**9.4. DEFICIT CAPITAL ACCOUNT RESTORATION.** If, upon the dissolution and liquidation of the Partnership, after crediting all income upon sale of the Partnership's assets that have been sold and after making the allocations provided for in Section 9.3, any Partner has a negative Capital Account, then the Partner shall be obligated to contribute to the Partnership an amount equal to the negative Capital Account for distribution to creditors, or to Partners with positive Capital Account balances, in accordance with this Section.

**10.1. FINAL REPORTS.** Within a reasonable time following the completion of the liquidation of the Partnership's properties, the Managing Partner shall supply to each of the other Partners a statement that shall set forth the assets and liabilities of the Partnership as of the date of complete liquidation, and each Partner's portion of distributions pursuant to Section 9.3.

**10.2. RIGHTS OF PARTNERS.** Each Partner shall look solely to the assets of the Partnership for all distributions with respect to the Partnership and his Capital Contribution (including the return thereof), and share of profits, and shall have no recourse therefor (upon dissolution or otherwise) against any other Partner except as otherwise provided in this Agreement.

**10.3. TERMINATION.** Upon the completion of the liquidation of the Partnership and the distribution of all Partnership funds, the Partnership shall terminate.

**10.4. NOTICES.** All notices and demands required or permitted under this Agreement shall be in writing and may be sent by certified or registered mail or similar delivery service, postage

prepaid, to the Partners at their addresses as shown from time to time on the records of the Partnership, and shall be deemed given when mailed or delivered to the service. Any Partner may specify a different address by notifying the Managing Partner in writing of the different address.

**10.5. SEVERABILITY.** If any portion of this Agreement be deemed by a competent court to be void or unenforceable, the remaining portions shall remain in full force and effect.

**10.6. ENTIRE AGREEMENT.** This is the entire Agreement of the parties. Any oral representations or modifications concerning this instrument shall be of no force or effect unless contained in a subsequent written modification signed by the party to be charged.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of this date:

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Andrew Leland

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Donald Leland



