

PARTNERSHIP AGREEMENT
PHRANAGAT VALLEY RANCHES
A Limited Partnership

CERTIFICATE AND AGREEMENT OF LIMITED PARTNERSHIP

THIS AGREEMENT made and entered into this the 13th day of December, 1974, by and between KENNETH O. MELBY, ROBERT L. RICE, and LEE E. BURBIDGE, hereinafter collectively called the "GENERAL PARTNER" and MALCOM N. LIEBRODER and ROBERT D. WELTI, as the original limited partners, sometimes hereinafter referred to as the original "LIMITED PARTNER."

1. Name and Business. The business of the Limited Partnership shall be conducted under the name of the PHRANAGAT VALLEY RANCHES, hereinafter sometimes referred to as the Partnership. The General Partner, in its discretion, may change the Partnership name from time to time. The General Partner may also do business at the same time under more than one fictitious name if it deems in its discretion that such is in the best interest of the partnership.

The Principal place of business for the Partnership shall be 4625 South 2300 East, Suite 211, Salt Lake City, Utah 84117, unless changed by the General Partner by giving written notice to the Limited Partners of any change in location not less than ten (10) days preceeding such change.

This document shall constitute not only the Agreement between the parties, but shall also act as a Certificate of Limited Partnership and the General Partner shall cause it to be filed in the office of the County Clerk of Salt Lake County and the office of the appropriate County officials in which county the Partnership real property is located, in accordance with the provisions of the Uniform Limited Partnership Act.

2. Formation of the Limited Partnerhsip. The parties do hereby form a Limited Partnership pursuant to the provisions

of Title 48, Chapter 2, of the Utah Code Annotated, 1953, of the State of Utah, for the purposes herein provided

3. Purposes. The partnership is organized to acquire ownership in ranch and farm land in Lincoln County, Nevada, to improve, operate, develop, mortgage, encumber and sell the same, to acquire, use and operate personal property incidental thereto, and to do any and all other business related thereto, specifically including the operation of a dairy farm and ranch; The partnership may also acquire, own, operate, lease, sell, mortgage or otherwise engage in any commercial business duly established on a partnership property.

4. Term of Partnership. This limited partnership shall commence on the date this agreement is executed and shall continue for a period of twenty years (20) from the date hereof unless sooner terminated as herein provided.

5. Certificate of Fictitious Business Name. Upon the execution of this Agreement and upon any appropriate future change in the membership of the Partnership, the General Partner shall sign, file and publish with the appropriate local authorities in the county and state in which the principal place of business of the partnership is situated, a Doing Business Under an Assumed Name Certificate setting forth the name and residence of the General Partner.

6. Capital Contribution. Initially the Limited Partnership shall raise Three Hundred Thousand Dollars (\$300,000) in capital to be used in the purchase of a dairy and farm. The partnership shall be comprised of three hundred (300) units with a minimum cash value of One Thousand Dollars (\$1,000) per unit.

7. Capital Contribution of the General Partner. The General Partners shall make an initial contribution to the partnership of One Hundred and Thirty-five Thousand Dollars (\$135,000). The General Partners may make subsequent capital contributions

as herein provided, and to the extent the general partners contribute to the capital of the partnership, including the afore-said initial contribution, they may be treated as limited partners. In consideration for its services the general partners may be entitled to share in the profits and losses of the partnership as set forth in paragraph ten.

8. Original and Additional Limited Partners.

MALCOM N. LIEBRODER and ROBERT D WELTI shall be the original Limited Partners of the Partnership and shall contribute the sum of Ten Thousand Dollars (\$10,000) each in cash to the initial capital of the Partnership. The original Limited Partners shall not receive any units in the Partnership for his contribution nor share in its profits and losses unless he purchases for the full price one or more units as herein provided

Each person shall become a Limited Partner in the Partnership at such time as he (a) has executed the Subscription Agreement by which he accepts and adopts each and every provision of this Agreement and grants to the General Partners the Power of Attorney as set fourth in said Subscription Agreement, and (b) has paid the sum of at least One Thousand Dollars (\$1,000) to the Partnership and (c) the General Partners have accepted the Subscription Agreement and Limited Partner as a Limited Partner in this Partnership.

9. Allocation of Profits, Losses and Distribution.

The General Partner shall distribute to the Partners substantially all of the cash available from the income of the Partnership. All such distribution shall be subject to maintaining the Partnership in a sound financial and cash position including the establishment of reserves being reasonably required by the General Partners for the proper operation of the Partnership business.

The net profits and net losses of the Partnership in any fiscal year shall be divided among, and charged against, the

Partners proportionately at the end of each fiscal year of the Partnership in the ratio which the number of units owned by each of them bears to the number of interests owned by all of them as of that date. The term "net profit" and "net losses" shall mean the net profits or net losses of the Partnership as determined by generally accepted accounting principles.

Distributions of cash or other property shall be divided among the partners in the ratio which the number of interests owned by each of them bears to the number of interests owned by all of them on the date of any such distribution. Distributions may be made at any time that there is sufficient cash or other property in the Partnership which the General Partner in his absolute discretion, determines is not needed in the operation thereof, but any distribution will be made only if, in the absolute judgment and discretion of the General Partner, it will not in any way jeopardize or limit the business of the Partnership. It is anticipated that distributions will be made quarterly to Partners when available.

10. Compensation of the General Partner The General Partner shall charge a management fee for its services in managing and supervising the operation of the subject property or properties. Said fee shall be as follows:

a. Twelve Thousand Dollars (\$12,000) for the year 1975.

b. After the year 1975 of operation, the salary of the managing general partner shall be determined by computing twenty-five percent (25%) of the partnership net income to be determined by generally accepted accounting principles; provided, however, that in no instance shall the managing partner's salary be less than Twelve Thousand Dollars (\$12,000) per year.

c. In addition the Partnership shall reimburse the managing general partner for all reasonable expenses incurred in his capacity as managing general partner in this Partnership.

The General Partner as compensation for its performance for the risk it assumes as General Partner of the Partnership, and for its organization and investment services to the partnership shall be entitled to participate in and receive fifteen (15) units of the Limited Partnership, which units shall be in addition to the One Hundred Fifty-five (155) units purchased by the general and limited partners of the partnership; provided however, at such time as the property is sold or exchanged the General Partner's share of any sales proceeds, regarding the aforesaid fifteen (15) units, shall be payable to him only in the event and after each of the other partners, including general partners, have received a total cumulative cash distribution from the Partnership equal to their respective initial capital contribution, i.e. the General Partner's right to participate in the sales proceeds on the aforesaid fifteen (15) units shall be subordinated to the other partners' right to receive a cash of equivalent return on this investment.

11. Distributions Upon Sale Refinancing. or Liquidation.

In the event of any sale, liquidation or refinancing or the disposition of the subject property, the "net proceeds" realized shall be allocated as provided in paragraph nine.

12. Advances by General Partner. The General Partner may advance funds to the Partnership at any time when in its judgment such funds are needed for the purpose of paying the costs or operating expenses of the Partnership. Such expenses may include the purchase price of the subject property, improvements and/or any operating expenses of the Partnership. At the time of making each advance, the General Partner making such advance shall, in its discretion, elect to treat such advance as a loan or as capital contribution to the Partnership. If the General Partner

elects to treat such advance as a loan, the aggregate amount of such advance shall become an obligation of the Partnership to the General Partner and shall be repaid to the General Partner, together with a reasonable rate of interest, out of the gross income of the Partnership at such time as sufficient gross income has been derived from the operation of the Partnership to permit such repayment without impairing the operations or solvency of the partnership, except that any such unpaid loans shall become immediately due and payable upon termination and dissolution of the partnership. If the General Partner elects to treat such advance as a capital contribution, such capital contribution shall be made pursuant to paragraph seven of this Certificate and Agreement.

13. Withdrawals by Limited Partners. No Limited Partner shall have the unrestricted right to withdraw or reduce his contribution to the capital of the Partnership. Such withdrawal may be accomplished only pursuant to the provisions of paragraph 19 or as a result of the dissolution of the Partnership. Notwithstanding the foregoing, no part of the capital contribution of any Limited Partner shall be withdrawn unless all liabilities of the Partnership (except liabilities to the General Partner and to the Limited Partners on account of their contributions) have been paid or unless the Partnership has assets sufficient to pay the same.

14. Effectiveness of Agreement. This Agreement shall become effective upon the execution hereof by the General Partner and the original Limited Partner.

15. Status of Limited Partners. A Limited Partner shall not be bound by, or be personally liable for the expenses, liabilities or obligations of the Partnership. A Limited Partner may be assessed to meet Partnership obligations, but only after Three Hundred Thousand Dollars (\$300,000) of initial capital has been contributed or raised in the form of paid in capital or loans

made by the general partner or partners to the partnership. Said Three Hundred Thousand Dollars (\$300,000) of capital includes Fifteen Thousand Dollars (\$15,000) of value for the 15 units received by the General Partner in paragraph 10. Failure of the Limited Partner to pay his proportionate share of any future assessment within thirty (30) days after written notice of said assessment has been conveyed by the General Partner shall afford General Partner the immediate option to purchase Limited Partner's partnership interest or units at the then current book value as determined by generally accepted accounting principals on a cash basis. A Limited Partner shall take no part in or interfere in any manner with the conduct or control of the business of the Partnership and shall have no right or authority to act for or bind the Partnership.

16. Rights and Powers of the General Partner. The General Partner shall be solely responsible for the management of the Partnership business with all rights and powers generally conferred by law or necessary, advisable or consistent in connection therewith. In addition to any other rights and powers which it may possess, the General Partner shall have all specific rights and powers required or appropriate to its management of the Partnership business which, by way of illustration but not by way of limitation, may include the following rights and powers.

a. To acquire, hold and dispose of any real property, interest therein, or appurtenance thereto, as well as personal or mixed property connected therewith, including the purchase, lease, development, improvement, maintenance, exchange, trade or sale of such properties, at such price, rental or amounts, for cash, securities or other property, and upon such terms, as he deems in his absolute discretion to be in the best interest of the Partnership.

b. To borrow money and, if security is required therefore, to mortgage or subject to any other security device any portion of the property of the Partnership to obtain replacements

of any mortgage or other security device, and to prepay, in whole or in part, refinance, increase, modify, consolidate, or extend any mortgage or other security device, all of the foregoing at such terms and in such amounts as he deems in his absolute discretion, to be in the best interests of the Partnership.

c. To place record title to or the right to use, Partnership assets in the name or names of a nominee or nominees for any purpose convenient or beneficial to the Partnership.

d. To acquire and enter into any contract of insurance which the General Partner deems necessary and proper for the protection of the Partnership, for the conservation of its assets, or for any purpose convenient or beneficial to the Partnership.

e. To employ from time to time persons, firms or corporations for the operation and management of the Partnership business, including but not limited to supervisory and managing agents, building management agents, insurance brokers, real estate brokers and loan brokers, on such terms and for such compensation as the General Partner shall determine.

f. To pay any and all organizational expenses incurring in the creation of the Partnership and to pay selling expenses incurred in the sale of Limited Partnership interests.

g. To compromise, arbitrate, or otherwise adjust claims in favor of or against the Partnership and to commence or defend litigation with respect to the Partnership or any assets of the partnership as the General Partner may deem advisable, all or any of the above matters being at the expense of the Partnership.

h. To execute, acknowledge and deliver any and all instruments to effectuate the foregoing.

The General Partner shall have all the rights and powers and be subject to all the restrictions and liabilities of a partner in a partnership without limited partners, except that the General Partner has no authority to;

a. Do any act in contravention of the Certificate and this Agreement;

- b. Do any act which would make it impossible to carry on the ordinary business of the Partnership;
- c. Confess a judgment against the Partnership;
- d. Possess Partnership property or assign the rights of the Partnership in specific Partnership property for other than a Partnership purpose;
- e. Admit a person as a General Partner except as otherwise provided in this Agreement;
- f. Admit a person as a Limited Partner except as otherwise provided in this Agreement.
- g. Continue the business with Partnership property after its retirement, expulsion, adjudication of bankruptcy or insolvency or other cessation to exist.

Any of the Partners, or any shareholder, officer, director, employee, or other person holding a legal or beneficial interest in an entity which is a Partner, may engage in or possess an interest in other business ventures of every nature and description, independently or with others, including, but not limited to the ownership, financing, leasing, operation, management, syndication, brokerage and development of real property; and neither the partnership nor the Partners shall have any right by virtue of this Agreement in and to such independent ventures or to the income or profits derived therefrom. The General Partner may acquire and resell Limited Partnership interests from time to time on its own behalf and for its own benefit and not on behalf or for the benefit of the Partnership pursuant to the terms of this Agreement.

17. Books Records, Account and Reports. At all times during the existence of the Partnership the General Partner shall keep or cause to be kept by an agent full and true books or account, in which shall be entered fully and accurately each transaction of the Partnership. Such books of account together with a certified copy of the Certificate of Limited Partnership and any amendments thereto, shall at all times be maintained at the principal office of the Partnership and shall be open to the

reasonable inspection and examination of the Partners or their duly authorized representatives.

The General Partner shall have income tax returns prepared for the Partnership and a report indicating the respective Limited Partner's share of net profits or losses and capital gains or losses; all as defined and reflected on said Partnership income tax return shall be distributed to the Partners within ninety (90) days after the close of the taxable year of the Partnership for which such return was prepared;

18. Bank Accounts. All funds of the Partnership are to be deposited in the Partnership name in such bank account or accounts as shall be designated by the General Partner. Withdrawals from any such bank account or accounts shall be made upon the signature of two General Partners or their respective authorized agents.

19. Right of First Refusal. No Limited Partner may sell, assign or transfer all or any part of his interest herein or any part of his interest in the terms of this paragraph. Any sale made without so first complying shall not be a sale of any interest herein or in this Limited Partnership.

If any Limited Partner desires to sell his interest in the Partnership (other than a sale permitted hereunder), he shall first deliver to the General Partner a written notice of the proposed sale setting forth the time and address of the proposed purchaser, the purchase price (which must be an amount specified in dollars, but which may be paid either in a lump sum or in installments over an extended period of time) and the terms of the proposed sale. The General Partner will have the option, which may be exercised at any time within thirty (30) days after the delivery of the notice of proposed sale. If such option is exercised, the purchase price shall be paid in accordance with the terms of the notice of proposed sale, and within ten (10) days after delivery of the notice of exercise, an appropriate

assignment of the interest shall be executed and delivered to the General Partner. If the General Partner fails to exercise such option, such Limited Partner shall have the right to sell his interest in the Partnership to the person named in the notice of proposed sale at the price and pursuant to the provisions set forth therein. However, if such Limited Partner fails to exercise notice of proposed sale, such right shall terminate and such Limited Partner shall not thereafter sell to any person such interest without again complying with the foregoing procedure. No person who purchases the interest of any limited partner in the Partnership shall have the right to become a substituted Limited Partner within the meaning of the Act without the written consent of the General Partner.

Any Limited Partner shall have the right to give, transfer, assign or convey all or part of his interest as a Limited Partner, but the donor, assignee or transferee shall only have the right to become a Substituted Limited Partner after obtaining the prior written consent of General Partner. No Limited Partner shall sell, transfer or assign his interest as a Limited Partner in the Partnership to a minor or to any person who for any reason lacks the capacity to contract for himself under applicable laws. However, such limitation shall not restrict the right of any Limited Partner to sell, transfer or assign his interest as a Limited Partner in the Partnership to a guardian, custodian or trustee for a person who solely by reason of his minority or other incapacity would be ineligible to become a purchaser, transferee or assignee hereunder. Any such guardian, custodian or trustee shall have the right to become a Substituted Limited Partner if his ward or beneficiary would have been entitled to exercise such right in the absence of his minority or other incapacity.

20. Death, Incompetency of Dissolution of A Limited Partner. Upon the death or legal incompetency of an individual Limited Partner, his personal representative shall have all of the rights of a Limited Partner for the purpose of settling or managing his estate, and such power as the decedent or incompetent possessed to constitute a successor as an assignee of his interest in the Partnership and to join with such assignee in making application to substitute such assignee as a Limited Partner.

Upon the bankruptcy, insolvency, dissolution or other cessation to exist as a legal entity of a Limited Partner, not an individual, the authorized representative of such entity shall have all of the rights of a Limited Partner for the purpose of effecting the orderly winding up and disposition of the business of such entity and such power as such entity possessed to constitute a successor as an assignee of its interest in the Partnership and to join with such assignee in making application to substitute such assignee as a Limited Partner.

21. Termination and Dissolution of the Partnership. The Partnership shall be terminated and dissolved upon the happening of any of the following events.

a. The retirement, adjudication of bankruptcy, or insolvency of the General Partner, unless within a period of six (6) months from the date of such event, a successor General Partner is elected by a vote of Limited Partners holding One Hundred percent (100%) of the outstanding interests.

b. Sale of all properties acquired by the Partnership if the General Partner in its sole discretion determines there is not a compelling reason to continue the Partnership.

c. The expiration of twenty (20) years from date of this Agreement.

Upon a dissolution and termination of the Partnership, the Net Profits and Losses shall continue to be divided among or borne by the Partners during the period of Liquidation in accordance with the provisions of paragraph 9 above. The proceeds

of liquidation shall be distributed as realized in the following order:

a. To the creditors of the Partnership (other than secured creditors whose obligations will be assumed or otherwise transferred on the sale or distribution of partnership assets);

b. To the General Partner in respect of any loans or advances made by him to the Partnership;

c. To the Partners (in equal priority) in respect of their shares of any undrawn profits; and

d. To the Partners (in equal priority) in respect to their capital accounts in the Partnership.

22. Election with Regard to Basis of Substituted Limited Partner. The General Partner, in its sole discretion, may cause the Partnership to make or revoke the election referred to in Section 754 of the Internal Revenue Code of 1954 or any similar provision enacted in lieu thereof.

23. Power of Attorney. Concurrently with the execution of this Agreement, each Limited Partner shall execute and deliver to the General Partner, a Power of Attorney in a form acceptable to the General Partner in which he is constituted and appointed as the attorney-in-fact for such Limited Partner with power and authority to act in his name and on his behalf in the execution, acknowledgement and filing of document, which will include, but not be limited to the following:

a. Certificate of Limited Partnership, as well as amendments thereto, under the laws of the State of Utah, or the laws of any other state in which such a certificate is required to be filed;

b. Any certificates, instruments, and documents, including Fictitious Name Certificates, as may be required by, or may be appropriate under, the laws of any state of other jurisdiction in which the Partnership is doing or intends to do

business in connection with the use of the name of the Partnership by the Partnership;

c. Any other instrument which may be required to be filed by the Partnership under the laws of any state or by any governmental agency, or which the General Partner deems it advisable to file; and

d. Any documents which may be required to effect the continuation of the Partnership, the admission of an additional or substituted Limited Partner, or the dissolution and termination of the Partnership, provided such continuation, admission or dissolution and termination are in accordance with the terms of this Agreement.

The Power of Attorney to be concurrently granted by each limited Partner to the General Partner:

a. Is a Special Power of Attorney coupled with an interest and is irrevocable;

b. Shall survive the delivery of an assignment by a Limited Partner of the whole or any portion of his interest; except that where the assignee thereof has been approved by the General Partner for admission to the Partnership as a substituted Limited Partner, the Power of Attorney shall survive the delivery of such assignment for the sole purpose of enabling the General Partner to execute, acknowledge and file any instrument necessary to effect such substitution.

Pursuant to the Power of Attorney granted by the Limited Partner to the General Partner concurrently with the execution of this Agreement, as hereinabove described, each Limited Partner authorizes said attorney to take any further action which said attorney shall consider necessary or convenient in connection with any of the foregoing hereby giving said attorney full power and authority to do and perform each and every act and thing whatsoever requisite and necessary to be done in and about the foregoing as fully as said Limited Partner might or could do if

personally present, and hereby ratifying and confirming all that said attorney shall lawfully do or cause to be done by virtue hereof.

24. Amendment of Limited Partnership Certificate and Agreement. The Certificate of Limited Partnership of this Partnership shall be amended whenever:

- a. There is a change in the name of the Partnership or the amount or character of the contribution of any Limited Partner;
- b. A person is substituted as a Limited Partner;
- c. An additional Limited Partner is admitted;
- d. A person is admitted as a successor General Partner;
- e. The General Partner retires, is adjudicated a bankrupt or insolvent;
- f. There is a change in the character of the business of the Partnership;
- g. There is a change in the time as stated in the Certificate for the dissolution of the Partnership, or the return of a contribution, or to correct any false statement.
- h. A time is fixed for dissolution of the Partnership or the return of contributions and such time has not been specified in the Certificate;
- i. The Partners desire to make a change in any other statement in the Certificate in order that it shall accurately represent the agreement between them.

25. Meetings and Voting: Consideration of Partnership Matters without a Meeting. Meetings of the Partnership may be called by the General Partner and shall be called by it upon the written request of the Limited Partners entitled to more than forty percent (40%) of the profits of the Partnership.

In any matter described in this Agreement on which a Partner is entitled to grant (or deny) his consent or cast his vote, he may accomplish the same by attending any meeting convened for all of the Partners entitled to vote on the matter or he may grant to any person a special or general power of attorney to vote for him at any such meeting or he may grant (or deny) his consent in writing. Said written consent may be utilized at any meeting of the Partners (duly held) or it may be utilized in obtaining approval or denial by the Partners (without a meeting) of a matter submitted to all Partners entitled to grant or deny consent on said matter.

26. Trust Account. All money received from the sale of Limited Partnership interests will be placed in a trust account in a bank designated by the General Partner until such time as the full amount which is necessary for the acquisition of subject property has been raised. If such amount is not raised within ninety (90) days of the date of the Limited Partnership Agreement, then the amounts paid by each purchaser will be returned to him without interest at the expiration of said ninety (90) days. If the above amount is not raised, the General Partner will pay all costs pertaining to this Partnership.

27. Acceptance of Subscription Agreement. The General Partner shall have the right to accept or reject each Subscription Agreement in whole or in part for each and every Limited Partner participating in this Partnership. Upon the receipt of each Subscription Agreement the General Partner shall have fifteen (15) days in which to accept or reject it. If no action is taken by the General Partner within said fifteen (15) days, the Subscription shall be deemed to have been accepted. In each case where the Subscription is rejected, the General Partner shall send written notice of such rejection to the Subscriber and shall direct the escrow to return the entire amount submitted by the Subscriber without interest. In each case where the Subscription is accepted by the General Partner on behalf of the Partnership, the General

Partner shall execute the Limited Partnership Agreement on behalf of the Subscriber as provided in the Power of Attorney provision of the Subscription Agreement and shall return an executed copy of the Limited Partnership Agreement to the Subscriber

28. Miscellaneous. All notices under this Agreement shall be in writing and shall be given to the Partner entitled thereto by personal service or by certified or registered mail, return receipt requested, to the address set forth in this Agreement for such Partner or at such other address as he may specify in writing.

Paragraph titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit extend or describe the scope of this Agreement or the intent of any provision hereof. Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders and the word "person" shall include corporation, firm, partnership or other form of association.

This Agreement may be executed in several counterparts, and all so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties are not signatory to the original or the same counterpart. It is specifically contemplated that separate signature pages to this Agreement and Certificate of Limited Partnership will be executed and acknowledged by each of the persons who are to become Limited Partners pursuant to paragraph 8 above and will be recorded, thereby binding all parties thereto. This Agreement and all amendments hereto shall be governed by the laws of the State of Utah. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the respective Partners.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

LIMITED PARTNERS

GENERAL PARTNERS

BY: Malcolm N. Liebroder
MALCOLM N. LIEBRODER
Limited Partner

BY: Kenneth O. Melby
KENNETH O. MELBY
General Partner

BY: Robert D. Welte
ROBERT D. WELTI
Limited Partner

BY: Robert L. Rice
ROBERT L. RICE
General Partner

BY: Lee E. Burbidge
LEE E. BURBIDGE
General Partner

58777

No. _____
FILED AND RECORDED AT REQUEST OF
LANDS COPE
Nov. 29, 1976
AT 1 MINUTES PAST 1 O'CLOCK
2 P.M. IN BOOK 18 OF OFFICIAL
RECORDS, PAGE 652 LINCOLN
COUNTY, NEVADA.

DOMINICK BELINGHERA
COUNTY RECORDER
Deputy
Deputy