4045

This instrument was prepared by:
Clayton T. Sweeney, Esquire
2700 Highway 280 East
Suite 160
Birmingham, Alabama 35223

Send Tax Notice to:
Mitch McKell
159 OLD BROOK PLACE
BIRMINGHAM, AL 35242

20050729000382850 1/4 $39.00
Shelby Cnty Judge of Probate, AL
07/29/2005 03:04:07PM FILED/CERT

**STATE OF ALABAMA )**
**COUNTY OF SHELBY )**

# STATUTORY WARRANTY DEED

**KNOW ALL MEN BY THESE PRESENTS**, that in consideration of ONE HUNDRED TWENTY-FIVE THOUSAND AND 00/100 Dollars ($125,000.00) to the undersigned grantor, HIGHLAND LAKES DEVELOPMENT, LTD., an Alabama limited partnership (herein referred to as "Grantor"), in hand paid by Grantee named herein, the receipt of which is hereby acknowledged, the said HIGHLAND LAKES DEVELOPMENT, LTD, an Alabama limited partnership, does by these presents, grant, bargain, sell and convey unto **Jonna McKell and Mitch McKell** (hereinafter referred to as "Grantees", whether one or more), as joint tenants with right of survivorship, the following described real estate (the "property"), situated in Shelby County, Alabama, to-wit:

Lot 3225, according to the Map of Highland Lakes, an Eddleman Community, 32nd Sector, an Eddleman Community, as recorded in Map Book 35, Page 23, in the Probate Office of Shelby County, Alabama.

Together with nonexclusive easement to use the private roadways, Common Area all as more particularly described in the Declaration of Easements and Master Protective Covenants for Highland Lakes, a Residential Subdivision, recorded as Instrument #1994-07111 and amended in Instrument No. 1996-17543,and further amended in Inst. #1999-31095, in the Probate Office of Shelby County, Alabama, and the Declaration of Covenants, Conditions and Restrictions for Highland Lakes, a Residential Subdivision, 32nd Sector, recorded as Instrument #20050609000280550, in the Probate Office of Shelby County, Alabama (which, together with all amendments thereto, is hereinafter collectively referred to as, the "Declaration").
Mineral and mining rights excepted.

$ 106,000.00 of the consideration was paid from the proceeds of a mortgage loan closed simultaneously herewith.

The above property is conveyed subject to:

(1) Ad Valorem taxes due and payable October 1, 2005, and all subsequent years thereafter, including any "roll-back taxes."

(2) Declaration of Easements and Master Protective Covenants for Highland Lakes, a Residential Subdivision, which provides, among other things, for an Association to be formed to assess and maintain the private roadways, etc. of the development; all of said covenants, restrictions and conditions being set out in instrument recorded as Instrument #1994-07111, amended in Instrument #1996-17543 and further amended in Inst. #1999-31095, in said Probate Office of Shelby County, Alabama, along with Articles of Incorporation of Highland Lakes Residential Association, Inc. as recorded as Instrument 9402/3947, in the Office of the Judge of Probate of Jefferson County, Alabama.

(3) Lake easement agreement executed by Highland Lakes Properties, Ltd. and Highland Lakes Development, Ltd. providing for easements, use by others and maintenance of lake property described within Instrument No. 1993-15705.

(4) Easement for ingress and egress to serve Highland Lakes Development executed by Highland Lakes Development, Ltd., to Highland Lakes Properties, Ltd., recorded as Instrument #1993-15704 in said Probate Office.

(5) Declaration of Covenants, Conditions and Restrictions for Highland Lakes, a Residential Subdivision, Thirty-Second Sector, as recorded as Instrument # 20050609000280550, in said Probate Office.

(6) Title to all minerals within and underlying the premises, together with all mining rights and other rights,

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State of Alabama

Deed Tax:$19.00

privileges and immunities relating thereto, including rights set out as Deed Book 81, Page 417, in said Probate Office.

(7) Subdivision restrictions shown on recorded plat in Map Book 35, Page 23, provide for construction of single family residence only.

(8) Public utility easements as shown by recorded plat, including any tree bufferline as shown on recorded plat

(9) Subject to the provision of Sections 2.3 and 2.6 of the Declaration, the property shall be subject to the following minimum setbacks:

(a) Front setback: As per plot plan which must be approved by the ARC;

(b) Rear setback: As per plot plan which must be approved by the ARC

(c) Side setback: As per plot plan which must be approved by the ARC

(10) Right(s) of Way(s) granted to Alabama Power Company by instrument(s) recorded in Book 111, Page 408, Book 109, Page 70; Book 149, page 380; Book 173, page 364, Book 276, page 670, Book 134, page 408, Book 133, page 212, Book 133, page 210, Real Volume 31, page 355 and Instrument #1994-1186 in said Probate Office.

(11) Right(s) of Way(s) granted to Shelby County, Alabama, by instrument(s) recorded in Book 196, page 246 in said Probate Office.

(12) Scenic View Easement as reserved in Article III Paragraph 3.3 in the Declaration of Covenants, Conditions and Restrictions for Highland Lakes, a Residential Subdivision, 32nd Sector, recorded as Instrument #20050609000280550.

Grantee agrees to observe and perform all obligations imposed upon said Grantees pursuant to the Declarations, including but not limited to the obligation to pay assessments levied on the property herein conveyed in accordance with the Declarations.

Grantee understands and agrees that Grantor has obtained from the Alabama Department of Environmental Management (ADEM) a General Permit for stormwater runoff from construction, excavation, land clearing, other land disturbance activities and associated areas to comply with the terms and conditions of said General Permit in the design and construction of improvements on the Property which shall include, without limitation, the preparation and implementation of a Best Management Practices Plan for structural and non-structural practices to prevent/minimize the discharge of all sources of pollution (i.e., sediment, trash, garbage, debris, oil, grease, chemicals, etc.) to State waters in stormwater run-off in accordance with the requirements of the General Permit.

Grantee shall indemnify and hold Grantor harmless for any loss or damage suffered by the Grantor as a result of Grantee's violation of or failure to comply with the terms, conditions and requirements of the General Permit. Further, if Purchaser shall be in violation of the General Permit, Grantor shall have the right after 10 days notice to take such corrective action as may reasonably be necessary to cure such violation and Grantee shall indemnify and hold Grantor harmless for any costs reasonably incurred in taking any such corrective action.

Grantee herein agrees to commence construction of a residence on the Property in accordance with Paragraph 10 of the Home Site Sales Contract (the "Residence") within six months from the date of closing. in the event that Purchaser is not able to satisfy this condition, Grantor or its assignee shall have the right and option to purchase the Property at a purchase price equal to the "Total Sales Price reflected hereinabove by delivery of written notice to the Grantee at any time prior to commencement of construction of the Residence. In the event, Grantor or its assignee shall exercise this option, the Grantee shall sell, and the Grantor or its assignee shall purchase the Property at a closing to be held not later that thirty (30) days after the exercise of the option. At the closing, Grantee or its assignee shall pay the Grantee the purchase price in immediately available funds (unless otherwise agreed) and Grantee shall deliver a warranty deed for the Property to Grantor or its assignee conveying fee simple title to the Property free and clear of all liens, claims and encumbrances except for the Permitted Exceptions (herein defined). The purchase of the Property pursuant to this option shall be Grantor's sole and exclusive remedy for Grantee's failure to construct a Residence as herein required.

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This conveyance is made with the express reservation and condition that by acceptance of this deed, the Grantees, for themselves and on behalf of their heirs, administrators, executors, successors, assigns, contractors, permitees, licensees and lessees, hereby release and forever discharge Grantor, its successors and assigns, from any and all liability, claims and causes of action whether arising at law (by contract or in tort) or in equity with respect to damage or destruction of property and injury to or death of any person located in, on, or under the surface of or over lands herein conveyed, as the case may be, which are caused by, or arise as a result of, past or future soil, subsoil or other conditions (including without limitation, sinkholes, underground mines, and limestone formations) under or on the Property, whether contiguous or non-contiguous. The Grantee(s) agree(s) that he (she) (they) is (are) acquiring the Property "AS IS", without any representation or warranty on the part of Grantor other than as to title. Further, the Grantee, its successors and assigns hereby acknowledges that the Grantor shall not be liable for and no action shall be asserted against Grantor in connection with any drainage easements, ditches or pipes or drainage problems associated therewith and that Grantee has inspected the same and accepts the property along with all drainage easements, ditches or pipes in its present "AS IS" condition. For purposes of this paragraph the term Grantor shall mean and refer to (i) the partners, agents and employees of Grantor; (ii) the officers, directors, employees and agents of general partners of Grantor or partners thereof; (iii) any successors or assigns of Grantor; and (iv) any successors and assigns of Grantor's interest in the Property. This covenant and agreement shall run with the land conveyed hereby as against Grantee, and all persons, firms, trusts, partnerships, limited partnerships, corporations, or other entities holding under or through Grantee.

**TO HAVE AND TO HOLD** unto the said Grantees, as joint tenants, with right of survivorship, their heirs and assigns, forever; it being the intention of the parties to this conveyance, that (unless joint tenancy hereby created is severed or terminated during the joint lives of the grantees herein) in the event one grantee herein survives the other, the entire interest in fee simple shall pass to the surviving grantee, and if one does not survive the other, then the heirs and assigns of the grantees herein shall take as tenants in common.

**IN WITNESS WHEREOF**, the said Grantor has hereunto set its hand by its duly authorized officer this 16th day of June, 2005.

GRANTOR:

HIGHLAND LAKES DEVELOPMENT, LTD.

By: EDDLEMAN PROPERTIES, INC.
Its General Partner

By: _____
Douglas D. Eddleman,
Its President

Highland Lakes - 32nd Sector
Lot 3225 - Mitch McKell

**STATE OF ALABAMA )**
**COUNTY OF JEFFERSON )**

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I, the undersigned, a Notary Public in and for said County in said State hereby certify that Douglas D. Eddleman, whose name as President of Eddleman Properties, Inc., an Alabama Corporation, which is General Partner of Highland Lakes Development, Ltd., an Alabama Limited Partnership, is signed to the foregoing Deed, and who is known to me, acknowledged before me on this day that, being informed of the contents of the above and foregoing Deed, he, as such officer, and with full authority, executed the same voluntarily for and as the act of said Corporation acting in its capacity as general partner of said limited partnership.

Given under my hand and official seal of office this the 16th day of June, 2005.

_____
NOTARY PUBLIC
My Commission expires: 6-5-2010

SHELNER NOTARY PUBLIC

The Grantee executes this deed only to acknowledge and accept all covenants and restrictions contained hereinabove and Grantee, his successors and assigns, agree and understand that the property conveyed herein is subject to the foregoing covenants and restrictions.

Jonna McKell

Mitch McKell

**STATE OF ALABAMA )**
**COUNTY OF JEFFERSON )**

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Jonna McKell and Mitch McKell, whose names are signed to the foregoing conveyance, and who are known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 16th day of June, 2005.

NOTARY PUBLIC

My Commission expires: 4/29/06

ELIZABETH B. COLE NOTARY PUBLIC ALABAMA STATE AT LARGE

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