

Inst # 1998-46411

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

John S. Green, Esq.  
CMS Companies  
1926 Arch Street  
Philadelphia, PA 19103

11/23/1998-46411  
08:00 AM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE  
003 CRH 13.50

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SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

### FIRST AMENDMENT TO RESTRICTIONS AGREEMENT

THIS FIRST AMENDMENT TO RESTRICTIONS AGREEMENT ("Amendment") is made and entered into this 16<sup>th</sup> day of ~~October~~ November, 1998, by and between Brook Highland Limited Partnership, a Georgia limited partnership ("Partnership"), and Developers Diversified of Alabama, Inc., an Alabama corporation ("Developers"), with reference to and based upon the following:

#### R E C I T A L S:

WHEREAS, on or about December 30, 1994, Partnership and Developers entered into that certain Restrictions Agreement bearing the same date, recorded in the Office of the Judge of Probate of Shelby County, Alabama, as Instrument No. 1995-27239 ("Restrictions Agreement") (all initially capitalized terms contained in this Amendment, unless otherwise defined in this Amendment, shall have the meanings ascribed to those terms in the Restrictions Agreement); and

WHEREAS, Partnership and Developers are desirous of amending the Restrictions Agreement so as to permit the construction of an appurtenant entrance tower on the Outparcel, as hereinafter provided.

NOW, THEREFORE, for and in consideration of the above premises, Ten Dollars (\$10) in hand paid by Partnership to Developers, the covenants contained herein, and other valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, Partnership and Developers do hereby agree as follows:

1. Notwithstanding anything contained in Section 3.1 of the Restrictions Agreement to the contrary, the building to be constructed upon the Outparcel may contain an entrance tower appurtenant thereto, not exceeding 20 feet in width and 20 feet in length (as measured on a horizontal plane), and not exceeding 28 feet in height (as measured from finished floor elevation).

2. All of the terms and conditions of the Restrictions Agreement, except as modified by this Amendment, shall remain unchanged and continue in full force and effect.

Witness:

Elizabeth A. Berry  
ELIZABETH A. BERRY

DEVELOPERS DIVERSIFIED OF ALABAMA,  
INC., an Alabama corporation

By: Joan J. Allgood  
Name: JOAN J. ALLGOOD  
Its: Vice President

BROOK HIGHLAND LIMITED PARTNERSHIP,  
a Georgia limited partnership

By: BW 280 Limited Partnership, a  
Georgia limited partnership,  
its sole general partner

Witness:

Tona M. Hitson  
Tona M. Hitson

By: Alex Baker, Inc.,  
an Alabama corporation,  
its sole general partner

By: Alex D. Baker  
Alex D. Baker, President

State of Alabama )  
                  SHELBY )  
County of ~~Jefferson~~ )

I, the undersigned, a Notary Public in and for said State and County, hereby certify that Alex D. Baker, whose name as President of Alex Baker, Inc., an Alabama corporation and the sole general partner in BW 280 Limited Partnership, a Georgia limited partnership and the sole general partner in Brook Highland Limited Partnership, a Georgia limited partnership, 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 the above and foregoing instrument, 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 acting in its capacity as the general partner of Brook Highland Limited Partnership, on the day the same bears date.

Given under my hand and official seal of office this 16<sup>th</sup> day of November, 1998.


  
Notary Public  
My commission expires: 01/02/01

[Notary Seal]

State of ~~Alabama~~ )  
                  OHIO )  
County of ~~Jefferson~~ )  
                  CUYAHOGA )

I, the undersigned, a Notary Public in and for said State and County, hereby certify that JUAN U. ALLGOOD, whose name as VICE PRESIDENT of Developers Diversified of Alabama, Inc., an Alabama corporation, 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 the above and foregoing instrument, she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation, on the day the same bears date.

Given under my hand and official seal of office this 11<sup>th</sup> day of NOVEMBER, 1998.

  
Notary Public                      Jane C. Jurenek  
My commission expires Notary Public State of Ohio  
My Commission Expires Dec. 29, 2001  
[Notary Seal]

Inst # 1998-46411

Birmingham, AL

-3- 11/23/1998-46411  
08:00 AM CERTIFIED 1st Amend. 1 (10/08/98)  
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