

STATE OF ALABAMA        )

SHELBY COUNTY            )

Send Tax Notices To:  
Gannaway Properties,L.L.C.  
916 Park Crest Circle,  
Vestavia Hills, Alabama 35242

Inst # 2000-31573  
09/13/2000-31573  
09:33 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
006 HMB 108.50

### STATUTORY WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS: That in consideration of Six Hundred Twelve Thousand Five Hundred and no/100 Dollars (\$612,500.00), Five Hundred and Twenty-Five Thousand Dollars of which was funded from the proceeds of a mortgage recorded herewith, in hand paid by **GANNAWAY PROPERTIES, LLC**, an Alabama limited liability company (the "Grantee"), to the undersigned grantor, **BROOK HIGHLAND LIMITED PARTNERSHIP**, a Georgia limited partnership (the "Grantor"), the receipt of which is hereby acknowledged, the said Grantor does by these presents, grant, bargain, sell and convey unto the said Grantee the following described real estate, situated in Birmingham, Shelby County, Alabama, to-wit:

LOT 1D of that certain map entitled **BROOK HIGHLAND PLAZA RESURVEY**, as said map appears of record in the Office of the Judge of Probate of Shelby County, Alabama in Map Book 18, Page 99 (the "Property");

The Property is conveyed subject to the title encumbrances described in Exhibit A, attached hereto and incorporated herein by reference.

And Grantor covenants with Grantee that Grantor has done nothing to impair such title as Grantor received and that Grantor will warrant and defend such title to the Property against the lawful claims of all persons claiming by, through or under Grantor, except for matters of record, including, without limitation, the matters set forth on Exhibit A attached hereto.

TO HAVE AND TO HOLD to said Grantee, its successors and assigns forever.

By its acceptance of this Statutory Warranty Deed, Grantee hereby covenants and agrees for itself and its successors, assigns, licensees, lessees, employees and agents that Grantor shall not be liable for, and no action shall be asserted against Grantor for, loss or damage on account of injuries to the Property or any buildings, improvements, or structures now or hereafter located upon the Property, which are caused by, or arise as a result of, past or future soil and/or subsurface conditions, known or unknown (including, without limitation, sinkholes, underground mines and limestone formations) under or on the Property or any other property now or hereafter owned by Grantor,

whether contiguous or non-contiguous to the Property. 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 Grantor; (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, and other entities holding under or through Grantee.

IN WITNESS WHEREOF, the said Grantor, who is authorized to execute this conveyance, hereto sets its signature and seal this the 11<sup>th</sup> day of September 2000.

BROOK HIGHLAND LIMITED PARTNERSHIP,  
an Alabama limited partnership

WITNESS:

Tona M. Hiteon

Print Name: Tona M. Hiteon

Nick C. Whithead

Print Name: Nick C. Whithead

BY: BW 280 LIMITED PARTNERSHIP, a  
Georgia limited partnership,  
its general partner

BY: ALEX BAKER, INC.,  
an Alabama corporation,  
its general partner

BY: Alex D. Baker

Alex D. Baker, President

STATE OF ALABAMA                    )  
                                                  )ss  
COUNTY OF SHELBY                )

On this 11<sup>th</sup> day of September, 2000, before me appeared Alex D. Baker, to me personally known, who being by me duly sworn, did say that he is the President of Alex Baker, Inc., the general partner of BW 280 Limited Partnership, the general partner of Brook Highland Limited Partnership and that said instrument was signed and sealed on behalf of said limited partnership by authority of its members, and said President acknowledged said instrument to be the free act and deed of said limited partnership.

Eleanor E. Seier  
Print Name: ELEANOR E. SEIER  
Notary Public, State at Large, Alabama  
My Commission Expires: 10/22/01

<SEAL>

## **EXHIBIT A**

1. Taxes or special assessments which are not shown as existing liens by the public record.
2. Easements, or claims of easements, not shown by the public records.
3. Right granted Alabama Power Company to construct, install, operate and maintain all conduits, cables, translosures and other appliances and facilities useful or necessary for overhead and underground transmission and distribution of electric power and for underground communication service as set forth by instruction recorded under Instrument Number 1998-34338.
4. The non-beneficial covenants, easements, rights, duties and burdens as to the insured herein as set out in Easement Agreement, dated December 30, 1994, by and between Brook Highland Limited Partnership and Developers Diversified of Alabama, Inc. as set out under Instrument Number 1994-37773, re-executed under Instrument Number 1995-27233.
5. Restrictions Agreement dated December 30, 1994, by and between Brook Highland Limited Partnership and Developers Diversified of Alabama, Inc., as set out under Instrument Number 1995-27238.
6. Transmission Line Permit(s) to Alabama Power Company as shown by instrument(s) recorded in Deed Book 112, page 134.
7. Reciprocal Easement Agreement dated April 14, 1987 between AmSouth Bank, N.A. as Ancillary Trustee and Eddleman and Associates, as set out in instrument and recorded in Real 125, page 249 and dated August 9, 1988, recorded in Real 199, page 18.
8. Easement for sanitary sewer lines and water lines by AmSouth Bank, N.A., as Ancillary Trustee and The Water Works & Sewer Board of the City of Birmingham, dated July 12, 1988 as set out in Real 194, page 1.
9. Declaration of Protective Covenants which relate to the Watershed Property and the maintenance thereof, as set out in Real 194, page 54.
10. Easements and matters shown and set out on the Map and Plat of the Brook Highland Plaza Resurvey, a Resurvey of Lots 1& 2, as set out on Map Book 18, page 99.
11. Underground Easement to Alabama Power Company as set out by Real 220, pages 521 and 532.
12. Agreement concerning electric service, dated February 5, 1988, b and between AmSouth Bank, N.A., as Ancillary Trustee and Alabama Power company as set out in Real 306, page 119.

13. Title to all minerals within and underlying the premises, together with all mining rights and other rights, privileges and immunities relating thereto, including rights set out in Deed Book 28, page 581.
14. Declaration of Covenants, Conditions and Restrictions as to Brook Highland Common Property as set out in Real 307, page 950 and Real Volume 309, page 317.
15. The non-beneficial covenants, easements, rights, duties and burdens as to the insured herein as set out in Declaration of Easements and Restrictive Covenants by AmSouth Bank, N.A., as Ancillary Trustee dated August 29, 1990 as set out in Real 307, page 985.
16. Easement from Brook Highland Limited Partnership to The Water Works and Sewer Board of the City of Birmingham, dated October 14, 1993 as set out by instrument recorded under Instrument Number 1993-32517.
17. Required Approval by Architectural Review Committee under Instrument Number 1993-32513.
18. Required Approval by Architectural Review committee under Instrument Number 1993-32514.
19. Restrictions, Agreements, Covenants and Conditions as set out in deeds from AmSouth Bank, as Ancillary Trustee, described as follows:
  - (a) Statutory Warranty Deed to Stonebrook Development Company, dated December 30, 1988 by Real 220, page 339;
  - (b) Statutory Warranty Deed to JDN Enterprises, Inc., dated August 29, 1990 in Real 308, page 1;
  - (c) Statutory Warranty Deed to Brook Hills Baptist Church, Inc., dated July 20, 1992 under Instrument Number 1992-14567;
  - (d) Statutory Warranty Deed to Brook Highland Limited Partnership, dated October 12, 1993 under instrument number 1993-32511;
  - (e) Statutory Warranty Deed to Aussie Realty Partners, L.L.C., dated July 14, 1994 under Instrument Number 1994-22323.
20. Restrictions, covenants and conditions as set out in Agreement between AmSouth Bank, N.A., as Ancillary Trustee and Woman's Missionary Auxiliary to Southern Baptist Convention, dated August 31, 1990 and recorded by Real 309, page 317 and as amended by Amendment Agreement, dated April 26, 1993 as set out under Instrument Number 1993-32510.

21. The non-beneficial covenants, easements, rights, duties and burdens as to the insured herein as set out in Easement Agreement, dated October 12, 1993, by and between AmSouth Bank, N.A., as Ancillary Trustee and Brook Highland Limited Partnership as recorded under Instrument Number 1993-32515.
22. Restrictions appearing of record under Instrument Number 1995-27236.

STATE OF ALABAMA                    )  
                                              )ss  
COUNTY OF SHELBY                 )

I, Eleanor E. Seier, a Notary Public, State at Large, Alabama, hereby certify that Alex D.Baker, President of Alex Baker, Inc., the general partner of BW 280 Limited Partnership, the general partner of Brook Highland Limited Partnership, is signed to the foregoing Statutory Warranty Deed and who is known to me, acknowledged before me on this day, that being informed of the contents of said Statutory Warranty 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 the limited partnership.

Given under my hand this 11<sup>th</sup> day of September, 2000

*Eleanor E. Seier*  
Print Name: ELEANOR E. SEIER  
Notary Public, State at Large, Alabama  
My Commission Expires: 10/22/01

<SEAL>

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