

## NOTICE OF TERMINATION OF EXCLUSIVES

This Notice of Termination of Exclusives made as of the 31<sup>ST</sup> day of January, 2003 by **DEVELOPERS DIVERSIFIED OF ALABAMA, INC.** ("Developers"), an Alabama corporation, with its principal place of business at 3300 Enterprise Parkway, Beachwood, Ohio 44122.

### WITNESSETH:

WHEREAS, Developers and Brook Highland Limited Partnership ("Partnership"), a Georgia limited partnership, entered into that certain Restrictions Agreement ("Agreement") dated as of December 30, 1994, and recorded on September 27, 1995, as Instrument #1995-27238 in the Office of the Shelby County Judge of Probate, for the purpose of establishing certain rights, restrictions, duties and responsibilities relating to the use of that certain property described on Exhibit "A" attached hereto and made a part hereof (the "Outparcel").

WHEREAS, Section 2.2 of the Agreement provides that when certain leases terminate, the prohibited use which corresponds to the exclusive use granted in such lease would likewise terminate with respect to the Outparcel.

WHEREAS, Section 2.3 of the Agreement provides that upon the expiration and termination of the lease between the Partnership and Wal-Mart Stores, Inc. ("Wal-Mart"), dated June 29, 1993, the Outparcel would no longer be subject to the use restrictions set forth in Section 2.3.

NOW, THEREFORE, Developers, as owner of the shopping center which is contiguous to the Outparcel ("Shopping Center Parcel"), for itself, its successors and assigns does hereby declare as follows:

1. The following Shopping Center Parcel leases have been terminated:
  - (a) Lease between Brook Highland Limited Partnership and the Dive Site, Inc. dated March 7, 1994, doing business as The Drive Site.
  - (b) Lease between Brook Highland Limited Partnership and Fashion Bug #2861 dated August 25, 1993, doing business as Fashion Bug.

- (c) Lease between Brook Highland Limited Partnership and First Place of Birmingham, Inc. dated September 1, 1993, doing business as First Place.
- (d) Lease between Brook Highland Limited Partnership and Wal-Mart Stores, Inc. dated June 29, 1993, doing business as Wal-Mart.
- (e) Lease between Brook Highland Limited Partnership and Steve Tucker dated October 26, 1994, doing business as Schlotzky's Deli.
- (f) Lease between Brook Highland Limited Partnership and Alabama Cellular Communications, Inc. dated November 15, 1994, doing business as Alabama Cellular.
- (g) Lease between Brook Highland Limited Partnership and Anthony J. Cooley dated November 4, 1994, doing business as Davis Hotdogs.

2. The following restrictions set forth in Section 2.1 of the Restrictions Agreement are no longer applicable to the Outparcel:

- (a) As a scuba diving supply store or store having the right to sell regulators, compressors and wet suits and containing 15,000 square feet or less.
- (b) As a women's clothing store, including discount or budget stores, featuring large or half-size, popular to moderate priced junior or missy, women's clothing containing 2001 square feet or more.
- (c) As a store whose primary business is the sale and service of cellular telephones and pagers.
- (d) As a lumber yard (except as part of a general home improvement center).

3. The Wal-Mart lease is terminated. Neither Wal-Mart nor any affiliate of Wal-Mart is a tenant of the Shopping Center Parcel. All of the restrictions set forth in Section 2.3 are terminated.

**DEVELOPERS DIVERSIFIED  
OF ALABAMA, INC.**, an Alabama  
corporation

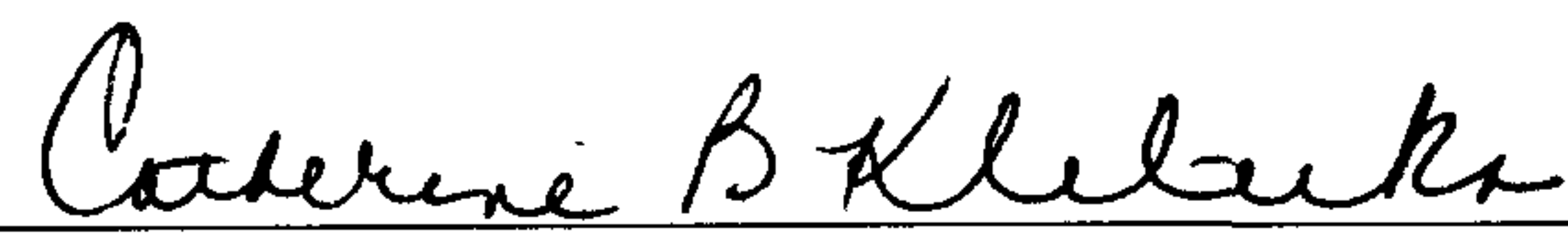
By: 

Daniel B. Hurwitz  
Executive Vice President

STATE OF OHIO                     )  
  )  
COUNTY OF CUYAHOGA        )

I, the undersigned, a notary public in and for said county in said state, hereby certify that Daniel B. Hurwitz, whose name as Executive 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 instrument, and being authorized to so do, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 31 day of January, 2003.

  
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NOTARY PUBLIC

My Commission Expires: 1-3-2007

[NOTARIAL SEAL]

CATHERINE B. KLETECKA  
Notary Public, State of Ohio  
My Commission Expires: Jan. 3, 2007

**EXHIBIT "A"**

Lot 1-F on that certain map entitled "Brook Highland Plaza Resurvey,"  
recorded in Map Book 18, page 99 in the Probate Office of Shelby  
County, Alabama