


**THIS INSTRUMENT PREPARED BY:**

David N. Condon, Esq.  
Kane, Russell, Coleman & Logan, P.C.  
3700 Thanksgiving Tower  
1601 Elm Street  
Dallas, Texas 75201

**SEND TAX NOTICE TO:**

Kimco Birmingham, L.P.  
3333 New Hyde Park Road  
New Hyde Park, NY 11042  
Attn: Bruce Kauderer, Esq.

STATE OF ALABAMA       )  
COUNTY OF SHELBY     )

  
20030731000493810 Pg 1/4 434.00  
Shelby Cnty Judge of Probate, AL  
07/31/2003 11:24:00 FILED/CERTIFIED

**WARRANTY DEED**

KNOW ALL MEN BY THESE PRESENTS, That in consideration of Ten and No/100 Dollars (\$10.00), and other good and valuable consideration, to the undersigned grantor, **WOMAN'S MISSIONARY UNION, AUXILIARY TO SOUTHERN BAPTIST CONVENTION**, an Alabama non-profit corporation (the "Grantor"), in hand paid by **KIMCO BIRMINGHAM, L.P.**, an Alabama limited partnership (the "Grantee"), the receipt and sufficiency of which is hereby acknowledged, the said Grantor does by these presents, grant, bargain, sell and convey unto said Grantee, its successors and assigns, that certain real estate situated in Shelby County, Alabama, and described on **Exhibit "A"** attached hereto and by reference made a part hereof (hereinafter referred to as the "Property").

The conveyance by this Warranty Deed is subject only to the following exceptions; provided, however, that such exceptions are valid, effective and enforceable as of the date of this Warranty Deed (mere referral to such exceptions in this Warranty Deed shall not be deemed to make any such exceptions enforceable or to reimpose or reinstate any such exceptions):

1. Taxes for the year 2003, a lien but not yet due and payable.
2. Sewer Line Easement recorded in Deed Book 343, page 69, Shelby County, Alabama, Probate Records.
3. The portion of the Property located within forty feet (40') of the easternmost boundary line of the Property shall not be developed.
4. The use restrictions set forth on **Exhibit "B"** attached hereto and by reference made a part hereof.

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

The Grantor hereby covenants and agrees with Grantee, its successors and assigns, that the Grantor, its successors and assigns, will warrant and defend the above described real estate against the lawful claims (unless otherwise noted above) of all persons.

IN WITNESS WHEREOF, the Grantor has by its respective duly authorized officer set its signature and seal, this the 30th day of July, 2003.

**GRANTOR:**

**WOMAN'S MISSIONARY UNION, AUXILIARY  
TO SOUTHERN BAPTIST CONVENTION, an  
Alabama non-profit corporation**

By: Wanda S. Lee  
Name: Wanda S. Lee  
Title: EXECUTIVE DIRECTOR / TREASURER

STATE OF Alabama }  
COUNTY OF Shelby }

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Wanda S. Lee as Exec. Dir./Treas. of **WOMAN'S MISSIONARY UNION, AUXILIARY TO SOUTHERN BAPTIST CONVENTION**, an Alabama non-profit 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 this instrument, (s)he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this the 11 day of July, 2003.

Gail Shelby  
Notary Public  
my term expires 1/26/05

[SEAL]

## **Exhibit A**

### **(Legal Description)**

A parcel of land situated in the Northwest one-quarter of the Southwest one-quarter of Section 31, Township 18 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Southwest corner of said Section 31, Township 18 South, Range 1 West and run in a Northerly direction along the West line for a distance of 1471.17 feet to a point on the Northern most right of way line of U.S. Highway 280 and the POINT OF BEGINNING; thence run along last described course for a distance of 577.10 feet; thence turn a deflection angle of 89 degrees 33 minutes 04 seconds to the right and run in an Easterly direction for a distance of 299.80 feet; thence turn a deflection angle of 90 degrees 25 minutes 52 seconds to the right and run in a Southerly direction for a distance of 604.86 feet to a point on the Northern most right of way line of U.S. Highway 280; thence turn a deflection angle of 83 degrees 28 minutes 10 seconds to the right and run in a Southwesterly direction for a distance of 200.44 feet to a point on a curve to the right; said curve having a radius of 3124.05 feet, a central angle of 02 degrees 03 minutes 02 seconds, a chord length of 111.80 feet; thence run along arc of said curve and along said Northern most right of way line for a distance of 111.81 feet to the POINT OF BEGINNING. Said parcel contains 183,227 square feet 4.21 acres more or less.

## **Exhibit B**

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### **Use Restrictions**

The Property shall not be used or occupied (a) as a nightclub, bar (not incidental to a permitted restaurant), restaurant incorporating more than ten (10) coin-operated amusements or showing adult movies to its customers, theater, discotheque, or social encounter bar/restaurant such as Hooters, as Hooter's is presently operated in the metropolitan Birmingham, Alabama area (provided, however, restaurants such as Chili's, Houston's, Ruby Tuesday, Canyon Cafe, etc. shall be expressly permitted hereunder), (b) for any business or use which creates strong, unusual or offensive odors (except cooking odors), fumes, dust or vapors; is a public or private nuisance; emits noise or sounds which are objectionable due to intermittent beat, frequency, shrillness or loudness; or creates unusual fire, explosives or other hazards, (c) as a bowling alley; billiard parlor; funeral parlor or mortuary; flea market; coin-operated laundromat; industrial manufacturing facilities; automobile, RV, truck or trailer dealership; skating rink; adult bookstore or establishment selling, exhibiting or distributing nude, pornographic or obscene materials, including, without limitation, massage parlor; topless or nude bar or lounge; so called head shop (provided, however, a modem bookstore such as Borders, Barnes & Noble and Books A Million shall be expressly permitted hereunder); amusement arcade or game room; body and fender shop; off-track betting parlor; or kennel or pet store having outdoor boarding facilities; (d) as a motor vehicle service station or establishment for the repair or maintenance of motor vehicles (e) as a low cost provider of medical services, including but not limited to, pregnancy termination clinic, planned parenthood and federally or state funded (in whole or part) medical services; and (f) adult day care, child care.