**This Instrument Prepared by:**

Glenn Koury, Esq.
Vinson & Elkins L.L.P.
2001 Ross Avenue, Suite 3700
Dallas, Texas 75201

SPECIAL WARRANTY DEED

THE STATE OF ALABAMA §
 §
COUNTY OF SHELBY §

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of Ten and No/100 Dollars (\$10.00) to **KIMCO BIRMINGHAM L.P.** (a/k/a Kimco Birmingham, L.P.), an Alabama limited partnership ("**Grantor**"), in hand paid by **THIRD CREEK, L.L.C.**, a Missouri limited liability company, **MATTHIAS D. RENNER FAMILY, L.L.C.**, a Missouri limited liability company, and **KENNETH J. WEBER FAMILY, L.L.C.**, a Missouri limited liability company (collectively, "**Grantees**"), the receipt of which is hereby acknowledged, Grantor hereby grants, bargains, sells and conveys unto Grantees, in the percentage interests set out opposite their respective names, to-wit:

- (a) Third Creek, L.L.C., an undivided 76% interest;
- (b) Matthias D. Renner Family, L.L.C., an undivided 12% interest;
- (c) Kenneth J. Weber Family, L.L.C., an undivided 12% interest;

the real estate described in Exhibit A attached hereto and made a part hereof for all purposes, together with all rights, titles, and interests appurtenant thereto including, without limitation, Grantor's interest, if any, in any and all adjacent streets, alleys, rights of way and any adjacent strips and gores (such land and interests are hereinafter collectively referred to as the "**Property**").

This Special Warranty Deed and the conveyance hereinabove set forth is executed by Grantor and accepted by Grantees subject to all easements, restrictions, reservations and covenants now of record and further subject to all matters that a current, accurate survey of the Property would show, together with the matters described in Exhibit B hereto and incorporated herein by this reference, to the extent the same are validly existing and applicable to the Property (hereinafter referred to collectively as the "**Permitted Exceptions**").

Grantees acknowledge that Grantees have independently and personally inspected the Property. The Property is hereby conveyed to and accepted by Grantees in its present condition, "**AS IS, WITH ALL FAULTS, AND WITHOUT ANY WARRANTY WHATSOEVER, EXPRESS OR IMPLIED.**" Notwithstanding anything contained herein to the contrary, it is understood and agreed that Grantor and Grantor's agents or employees have never made and are not now making, and they specifically disclaim, any warranties, representations or guaranties of any kind or character, express or implied, oral or written, with respect to the Property, including, but not limited to, warranties, representations or guaranties as to (a) matters of title (other than Grantor's warranty of title set forth herein), (b) environmental matters relating to the Property or any portion thereof, including, without limitation, the presence of Hazardous Materials (as

defined in the purchase and sale agreement, the "Sale Agreement" between Grantor and Grantees) in, on, under or in the vicinity of the Property, (c) geological conditions, including, without limitation, subsidence, subsurface conditions, water table, underground water reservoirs, limitations regarding the withdrawal of water, and geologic faults and the resulting damage of past and/or future faulting, (d) whether, and to the extent to which the Property or any portion thereof is affected by any stream (surface or underground), body of water, wetlands, flood prone area, flood plain, floodway or special flood hazard, (e) drainage, (f) soil conditions, including the existence of instability, past soil repairs, soil additions or conditions of soil fill, or susceptibility to landslides, or the sufficiency of any undershoring, (g) the presence of endangered species or any environmentally sensitive or protected areas, (h) zoning or building entitlements to which the Property or any portion thereof may be subject, (i) the availability of any utilities to the Property or any portion thereof including, without limitation, water, sewage, gas and electric, (j) usages of adjoining property, (k) access to the Property or any portion thereof, (l) the value, compliance with the plans and specifications, size, location, age, use, design, quality, description, suitability, structural integrity, operation, title to, or physical or financial condition of the Property or any portion thereof, or any income, expenses, charges, liens, encumbrances, rights or claims on or affecting or pertaining to the Property or any part thereof, (m) the condition or use of the Property or compliance of the Property with any or all Regulation federal, state or local ordinances, rules, regulations or laws, building, fire or zoning ordinances, codes or other similar laws, (n) the existence or non-existence of underground storage tanks, surface impoundments, or landfills, (o) any other matter affecting the stability and integrity of the Property, (p) the potential for further development of the Property, (q) the merchantability of the Property or fitness of the Property for any particular purpose, (r) the truth, accuracy or completeness of the Property Documents, (s) tax consequences, or (t) any other matter or thing with respect to the Property. **EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN THE SALE AGREEMENT, GRANTOR MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND TO GRANTEES, INCLUDING, WITHOUT LIMITATION, THE PHYSICAL CONDITION OF THE PROPERTY, OR THEIR SUITABILITY FOR ANY PARTICULAR PURPOSE OR OF MERCHANTABILITY. GRANTEES ARE RELYING ON THEIR INVESTIGATIONS OF THE PROPERTY IN DETERMINING WHETHER TO ACQUIRE IT. THE PROVISIONS OF THIS PARAGRAPH ARE A MATERIAL PART OF THE CONSIDERATION FOR GRANTOR EXECUTING THIS SPECIAL WARRANTY DEED, AND SHALL SURVIVE CLOSING.**

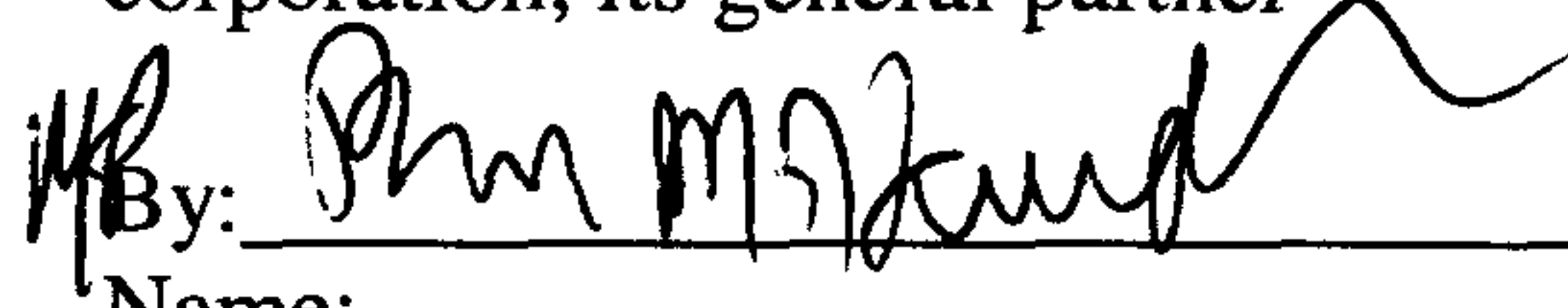
TO HAVE AND TO HOLD the above-described interests in and to the Property, together with all and singular the rights and appurtenances thereunto in anywise belonging, unto Grantees, their successors and assigns, in the percentages set forth above, forever, and Grantor does hereby bind itself, its successors and assigns, to WARRANT AND FOREVER DEFEND all and singular the title to the Property unto Grantees, their successors and assigns, in the percentages set forth above, against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through, or under Grantor but not otherwise, subject to the Permitted Exceptions.

Grantees' address is: c/o National Real Estate Management Corporation, 1830 Craig Park Court, #101, St. Louis, Missouri 63146-4149.

IN WITNESS WHEREOF, we have hereunto set out hands and seals, this 23rd day of June, 2004.

KIMCO BIRMINGHAM L.P., an Alabama limited partnership

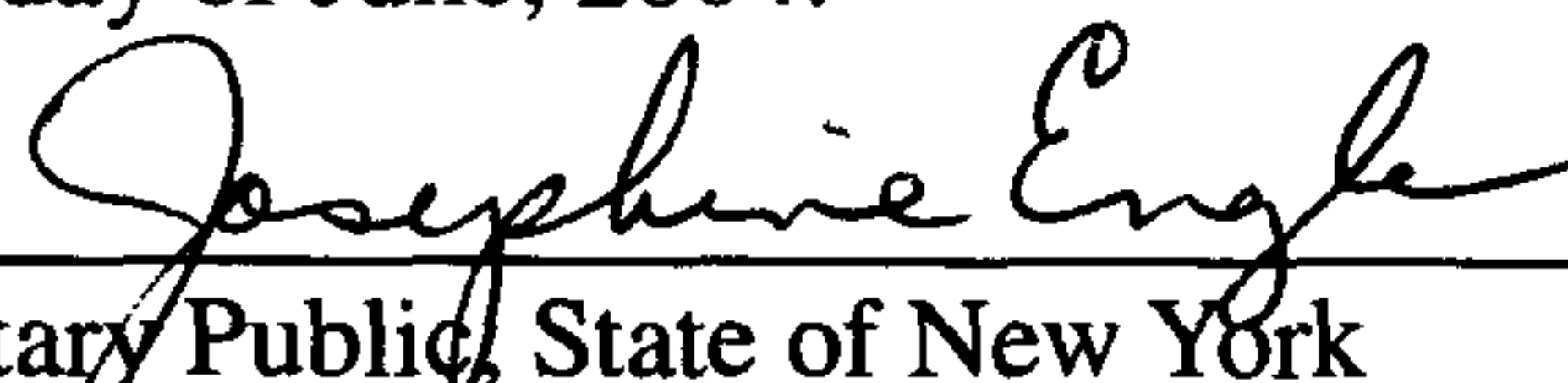
By: **KD Birmingham 1035, Inc.**, an Alabama corporation, its general partner

By: 
Name: _____
Title: **Bruce M. Kauderer**
Vice President

THE STATE OF NEW YORK §
 §
COUNTY OF NASSAU §

I, the undersigned, a Notary Public, in and for said County in said State, hereby certify that **Bruce M. Kauderer**, whose name as **Vice President** of **KD Birmingham 1035, Inc.**, an Alabama corporation, the general partner of **Kimco Birmingham L.P.**, an Alabama limited partnership, is signed to the foregoing conveyance, and is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation in its capacity as general partner of said limited partnership and for and as the act of said limited partnership.

Given under my hand this the **16th** day of June, 2004.


Notary Public, State of New York
My commission expires: _____

JOSEPHINE ENGLE
Notary Public, State of New York
No. 01EN6098873
Qualified in Nassau County
My Commission Expires 9/22/ 2007

EXHIBIT A

Property Description

Lots 1, 2 and 3, according to the Survey of Cypress Equities Addition to Hoover, as recorded in Map Book 31 page 79, in the Office of the Judge of Probate of Shelby County, Alabama; being situated in Shelby County, Alabama.

EXHIBIT B

Permitted Exceptions

1. Rights of tenants under unrecorded leases.
2. Any adverse claim to any portion of said land which has been created by artificial means or has accreted to any such portion so created and riparian rights, if any.
3. Any prior reservation or conveyance, together with release of damages of minerals of every kind and character, including, but not limited to gas, oil, sand, and gravel in, on and under subject property.
4. General and special taxes or assessments for the year 2004 and subsequent years not yet due and payable.
5. Building setback line of 40 feet reserved from Easterly side of the land as shown by plat.
6. Easements as shown by recorded plat, including 20 feet on the Southeasterly corner and 40 feet for non-disturbance buffer on the Easterly side of the land.
7. Restrictions, covenants and conditions as set out in instrument(s) recorded in Inst. No. 20030731000493820 in the Probate Office.
8. Transmission Line Permit(s) to Alabama Power Company as shown by instrument(s) recorded in Deed 180 page 43 in the Probate Office.
9. Easement(s) to Alabama Power Company as shown by instrument recorded in Deed 353 page 971; Real 200 page 521; Real 220 page 532 in Real 207 page 380 in the Probate Office.
10. Easements for sewer lines as set out in Deed 343 page 69 and Deed 107 page 968 in the Probate Office.
11. Restrictions, Terms and conditions as set out in instrument(s) recorded in Inst. No. 20030731000493810 in the Probate Office.
12. Restrictions, Terms and conditions as set out in instrument(s) recorded in Inst. No. 20030731000493790 in the Probate Office.
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 65 page 96 and Real 107 page 989 in the Probate Office.
14. Sewer Maintenance Agreement as set out in Misc. Book 51 page 111 in the Probate Office.

15. Release(s) of damages as set out instrument(s) recorded in Inst. No. 1998-44664 in the Probate Office.
16. Subordination, Non-Disturbance and Attornment Agreements recorded as Inst. No. 20030731000493850; Inst. No. 20030731000493890 and Inst. No. 20030731000493870 in the Probate Office.
17. Restrictions, limitations, conditions and other provisions as set out in Map Book 8 page 115 and Map Book 31 page 79 in the Probate Office.
18. Terms and conditions of unrecorded Lease as Commemorated by the Memorandum of Lease by and between KIMCO Birmingham, L.P. and PetsMart, Inc., dated July 30, 2003, as recorded in Inst. No. 2004010900016560 in the Probate Office.
19. Deed and Agreement by and between, Metropolitan Life Insurance Company, Inverness Point Homeowners Association, Inc., and the city of Hoover, in regard to sanitary sewage treatment facility as recorded in Real 314 page 561 and Agreement and Assignment as recorded in Real 328 page 64 and Supplemental deed and agreement in Real 365 Page 876 in Probate Office.
20. The following items as shown on the survey by Gonzalez-Strength & Associates, Inc. dated June 6, 2003:
 - a. Encroachment of deck onto the Easterly side of the land.
 - b. Encroachment of gravel drive onto the northerly and easterly portions of the land along with the rights of others to the use thereof.
 - c. Encroachment of concrete drainage flume onto the Southwesterly and Northwesterly side of the land.