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THIS INSTRUMENT AMENDS THAT CERTAIN DECLARATION OF PROTECTIVE COVENANTS FILED IN BOOK 5, PAGE 86 IN THE OFFICE OF THE PROBATE JUDGE OF SHELBY COUNTY, ALABAMA.

STATE OF ALABAMA )  
COUNTY OF SHELBY )

FIRST AMENDMENT TO DECLARATION OF PROTECTIVE COVENANTS

W I T N E S S E T H:

WHEREAS, Fletcher Properties of Alabama, Inc., an Alabama corporation ("FPA"), and Refco-Inverness, Inc., a Delaware Corporation ("REFCO") were the original owners of certain lots and tracts of land known as Kerry Downs, a subdivision of Inverness, as recorded in Map Book 5, Pages 135, 136 in the Office of the Judge of Probate of Shelby County, Alabama; and

WHEREAS, FPA and REFCO, as such owners, desired to and did subject said property and each lot located in Kerry Downs to and impose upon said lots mutual and beneficial restrictions, covenants, terms, conditions and limitations (collectively, the "Restrictions") for the benefit of all of the lots in Kerry Downs and the future owners of said lots by the declaration of protective covenants ("Declaration") dated June 19, 1973 and recorded in Book 5, Page 86, Book 5, Page 268, and Book 5, Page 628, in the Office of the Judge of Probate of Shelby County, Alabama; and

WHEREAS, Article IV of the Declaration provides that "after fifteen (15) years from the date these covenants and restrictions are recorded, the same may be changed, modified, amended, altered or terminated by a duly recorded written instrument executed by the then record owners (including mortgagees and other lienholders of record, if any) of seventy-five percent (75%) of the number of lots in [Kerry Downs];" and

WHEREAS, seventy-five percent (75%) of the present record owners of lots in Kerry Downs desire to amend the Declaration in order to allow full participation by such lot owners in the Inverness Master Homeowners Association (the "Master Association"), incorporated by document recorded in Book 374, Page 556, in the Office of the Judge of Probate of Shelby County, Alabama.

NOW, THEREFORE, the undersigned record owners of lots in Kerry Downs do hereby amend the Declaration as follows:

1. Except as specifically stated herein, the provision of the Declaration shall remain in full force and effect and are incorporated herein by reference.
2. Article II, Section 2.2 is deleted and the following is substituted in lieu thereof:

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5020 Kerry Downs Ad.  
B'ham, AL 35242

- 2.2 Architectural Control Committee. The Master Association shall have and exercise the powers, duties, authority and responsibility of an architectural control committee (herein referred to as the "Committee") for Kerry Downs. The Committee shall be composed of not less than three (3) members and at all times, regardless of the number on the Committee, at least two-thirds (2/3) of the membership of the Committee shall be composed of owners of lots in Kerry Downs. A majority of the Committee may designate one or more representatives to act for it. Neither the members of the Committee, nor its designated representatives, shall be entitled to any compensation for services performed pursuant to this covenant.

The primary duty of the Committee shall be to examine and approve or disapprove all plans, including site plans, for the construction of improvements on lots within Kerry Downs in accordance with the provisions of these covenants. The Committee shall have other responsibilities, duties and authorities as provided for herein or as delegated by the Master Association.

2. The last sentence in Article II, Section 2.5.1 is deleted and the following Section 2.5.1(f) and last sentence are substituted in lieu thereof:

- 2.1.5(f) Aluminum or vinyl siding in natural earth tones.

Materials on the sides and backs of a residence are to be essentially the same as the material used on the front of the residence.

3. Article II, Section 2.5.2, is deleted and the following is substituted in lieu thereof:

- 2.5.2 Openings of garages should be minimally visible from the street. No open garage is to face a neighboring yard without approval by the Committee. Garage doors are to be kept closed.

4. Article II, Section 2.5.5, is deleted and the following is substituted in lieu thereof:

- 2.5.5 All outside radio and TV antennas (including satellite dishes) shall be installed in such a way as not to be offensive from the main road

and shall be placed on the back side of the roof, the chimney, or the yard.

5. Article II, Section 2.5.10, is hereby deleted.

6. Article II, Section 2.5.16, is deleted and the following is substituted in lieu thereof:

2.5.16 Plans for landscaping must be submitted to the Committee for approval. An adequate landscaping budget, including the cost of rough grading, must be allotted for landscaping of each lot in Kerry Downs.

7. Article II, Section 2.5.17, is deleted and the following is substituted in lieu thereof:

2.5.17 No chain link fences may be used in front or side yards. Chain link fences may be used in backyards if adequately camouflaged by shrubbery or other natural barriers. All fences, including fences for backyards and swimming pools, must be approved by the Committee prior to construction.

8. Article IV, Section 4.9 is deleted and the following is substituted in lieu thereof:

4.9 In the event any dwelling or other structure on any lot in Kerry Downs is destroyed in whole or in part for any reason, all debris must be removed and the remaining structure and lot must be restored to a sightly condition with reasonable promptness, provided that in no event shall any debris remain on any lot longer than ninety (90) days.

9. Article VI, Section 6.1, is hereby deleted and the following is substituted in lieu thereof:

6.1 For the purpose of establishing, maintaining, operating and providing common community services of every kind and nature required or desired within the subdivision for the general use and benefit of all lot owners, including but not limited to, road maintenance, traffic control, general planting within roadway areas and enforcement of the restrictive covenants contained herein, each and every lot owner and future lot owner, in accepting the deed or contract for any lot or lots in Kerry Downs agrees to and shall be a member and shall be subject to the obligations and duly enacted by-laws, rules, and regulations of the Master

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Association and any association of the homeowners of Kerry Downs (the "Association") which may be incorporated or unincorporated, profit or non-profit.

10. Article VII, Section 7.1, is hereby deleted and the following is substituted in lieu thereof:

7.1 In the event of a violation or breach of any of these restrictions, or any amendments thereto by any property owner or family of such owner or agent of such owner, the owner(s) of lot(s), the Master Association, or any party to whose benefit these restrictions inure shall have the right to proceed at law or in equity to compel compliance with the terms or conditions hereof, to prevent the violation or breach of said restrictions, to sue for and recover damages or other dues or take all such courses of action at the same time, or such other legal remedy it may deem appropriate. No delay or failure on the part of an aggrieved party to invoke an available remedy set forth herein shall be held to be a waiver of that party or an estoppel of that party or of any other party to assert any right available to him upon the recurrence or continuation of said violation or the occurrence of a different violation.

IN WITNESS WHEREOF, the undersigned constituting 75% of the record owners of lots in Kerry Downs, have hereunto set their hands and seals as of this 25 day of November, 1991.

STATE OF ALA. SHELBY CO.  
I CERTIFY THIS  
INSTRUMENT WAS FILED

91 NOV 25 AM 10:37

JUDGE OF PROBATE

Rose Marie Brothers  
Secretary Kerry Downs  
Homeowners Association

1. Deed Tax	\$	
2. Mtg. Tax	\$	
3. Recording Fee	\$	10.00
4. Indexing Fee	\$	3.00
5. No Tax Fee	\$	
6. Certified Fee	\$	1.00
Total	\$	14.00