

STATE OF ALABAMA)
COUNTY OF SHELBY)

Inst # 1995-14190

06/01/1995-14190
09:25 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
013 MCD 38.50

AGREEMENT AND AMENDED DECLARATION OF PROTECTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENTS, that:

WHEREAS, by that certain Statutory Warranty Deed dated November 17, 1993, from METROPOLITAN LIFE INSURANCE COMPANY, a New York Corporation, (herein referred to as "Grantor") to BENCO LLC., (hereinafter referred to as "Developer"), Developer is the owner of approximately 6.933 acres of land, described as "Tract One" and approximately 1.00 acre of land, described as "Tract Two" in Exhibit "A", attached hereto and made a part hereof; and

WHEREAS, Developer has determined that "Tract Two" is better suited for a residential development in conjunction with the development of the adjacent parcel known as "Tract One", and

WHEREAS, Grantor has approved this change in permitted use for "Tract Two", and

WHEREAS, the City of Hoover has approved the rezoning of "Tract Two" from "Planned Commercial" to "Planned Residential", and

WHEREAS, Developer has determined that "Tract One" and "Tract Two" are better suited for detached single family dwellings of a garden home nature, and

WHEREAS, Developer and Grantor desire to amend the Declaration of Protective Covenants for "Tract One" and "Tract Two", as stated herein.

NOW, THEREFORE, Grantor and Developer do hereby proclaim, publish and declare that the property described as "Tract One" and "Tract Two" in Exhibit "A" shall be subject to, held and shall be held, conveyed, hypothecated or encumbered, rented, used, occupied and improved subject to the following restrictions, which shall run with the land and shall be binding upon Developer and upon all parties having or acquiring any right, title, or interest in and to the real property or any part or parts thereof subject to such restrictions. The following restrictions shall specifically supersede the Declaration of Protective Covenants previously recorded for this "Tract One" and "Tract Two" on November 22, 1993.

ARTICLE I

MUTUALITY OF BENEFIT AND OBLIGATION

SECTION 1.1 The restrictions and agreements set forth herein are made for the mutual and reciprocal benefit of each and every lot in the Subdivision and are intended to create mutual, equitable servitudes upon each of said lots in favor of each and all the other lots therein, to create reciprocal rights between the respective owners of said lots; and to create a privity of contract and estate between the grantees of said lots, their heirs, successors and assigns.

Taylor, Matthew

Inst # 1995-14190

ARTICLE II

ARCHITECTURAL CONTROL COMMITTEE AND REQUIREMENTS OF CONSTRUCTION

SECTION 2.1 Concept. It is intended that the Subdivision development will be a residential community of high esteem and quality homes in a delightful recreation-oriented environment.

2.2 Architectural Control Committee. The Architectural Control Committee (herein referred to as 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 the Subdivision. Provided, however, that Grantor reserves the right to appoint the initial and successor members of the Committee, one (1) member of which shall be a representative of Developer, and none of whom need to be an owner of a lot in the Subdivision, until December 31, 2013, or until Grantor elects to terminate its control of the Committee, whichever shall first occur. After terminating control of the Committee by Grantor, as aforesaid, then the subdivision homeowners association, if formed, or if not, then the record owners of a majority of the lots in this Subdivision shall have the power, through a duly recorded written instrument, to change the membership of the Committee or to withdraw from the Committee or restore it to any of its powers and duties. Neither the members of the committee, nor its designated representatives, shall be entitled to any compensation for services performed pursuant to this covenant. A majority of the Committee may designate one or more representatives to act for it.

The primary authority of the Committee shall be to examine and approve or disapprove all initial and subsequent plans, including site plans, for construction of improvements on lots within this subdivision in accordance with the provisions of these covenants. The Committee shall have such other responsibilities, duties and authority as provided for herein, but the Committee shall not have any responsibility, duty, power or authority not provided for herein.

2.3 Plat Approval. Any and all preliminary and final subdivision plats, maps or any other such surveys prepared for the purpose of recording the Subdivision in any Map Book in the office of the Judge of Probate of Shelby County, Alabama, or for placing the Subdivision on record with any other governmental authority or agency having jurisdiction over the property or the Subdivision, shall be subject to and shall require the approval in writing of the Committee before being submitted to the City of Hoover for approval or before being placed of record in any manner.

2.4 Plan Approval. All plans and specifications for any structure or improvement whatsoever to be erected on or moved upon or to any lot, and the proposed location thereof on any lot or lots, the construction material, exterior paint and finishes, the roofs, landscaping, and later changes or additions after initial approval thereof and any remodeling, reconstruction, alterations or additions thereto on any lot shall be subject to and shall require the approval in writing of the Committee before any work is commenced. THE SCOPE OF REVIEW BY THE COMMITTEE SHALL BE LIMITED TO APPEARANCE ONLY AND SHALL NOT INCLUDE ANY RESPONSIBILITY OR AUTHORITY TO REVIEW FOR STRUCTURAL SOUNDNESS, COMPLIANCE WITH BUILDING OR ZONING CODES OR STANDARDS, OR ANY OTHER SIMILAR OR DISSIMILAR FACTORS. Commencement of construction prior to a receipt of a Letter of Approval of the Committee, a copy of which must be signed by the Developer or lot owner, as appropriate, and returned to the Committee for retention, is strictly prohibited.

2.5 Review Documents. One set of prints of the drawings and specifications (herein referred to as "plans") for each different type of dwelling unit or other structure proposed to be constructed on the lots shall be submitted for review and approval

or disapproval by the Committee. The scope of review by the Committee shall be limited to appearance only and shall not include any responsibility or authority to review for structural soundness, compliance with building or zoning codes or standards, or any other similar or dissimilar factors. The plans submitted to the Committee shall be retained by the Committee. Said plans should be delivered to the general office of Inverness at least thirty (30) days prior to the date construction is scheduled to commence. Each such plan must include the following:

2.5.1 All plans for structures shall be not less than 1/8" = 1' scale.

2.5.2 All plans must take into consideration the particular topographic and vegetative characteristics of the lot or lots involved.

2.5.3 The site grading plan shall provide sufficient detail so as to enable the Committee to relate to finished grade conditions around the proposed structures.

2.5.4 The foundation and floor plan(s) shall show the existing grade on each elevation in order that the extent of cut and/or fill areas may be easily and clearly determined.

2.5.5 The site plan shall show all outlines, setbacks, tree save areas, drives, fences, and underground trench locations at a scale of 1" = 20'. No tree may be cut or removed until the plan and the siting are approved.

2.5.6 All plans must include a summary specifications list of proposed materials and samples of exterior materials, including paint or other finish samples, which cannot be adequately described and of materials with which the Committee is unfamiliar.

After the plan for the structures is approved, the dwelling units or other structures must be staked out and such siting approved by the Committee before tree cutting, clearing or grading is done. No tree may be cut or removed until both the plan and the siting are approved by the Committee.

2.6 Design Criteria, Structure.

2.6.1 It is the intent of the Grantor and Developer that the Subdivision generally present a traditional architectural environment. The following types of exterior materials, among others, are acceptable, subject to final approval of the actual appearance of such materials by the Architectural Control Committee:

- (a) Brick.
- (b) Stone.
- (c) Stucco or Dryvit or similar synthetic stucco exterior systems.
- (d) Natural-colored asphalt shingles or slate roofing. White roofing of any material is not acceptable.
- (e) Paint, in natural colors or earthtones.

In intent, this criteria frowns upon the practice of placing materials on the sides and back of a residence that are essentially different from the front elevation.

2.6.2 Garages shall not have permanently opened entrances and shall have electric automatic door closers.

2.6.3 No window-mounted air conditioning units shall be allowed.

2.6.4 All energy requirements of the Subdivision shall be initially provided by the electrical utility provider serving the Inverness area which will require that heating and air conditioning systems, stoves, hot water heaters, dryers, and other appliances installed within the improvements constructed on a lot be designed to operate exclusively using electricity as their respective sources of energy. However, subject to Grantor's prior written approval, Developer may elect to install gas lines to serve the subdivision. Electrical distribution shall be underground and no overhead wiring (electrical, telephone or otherwise) shall be permitted, except for temporary utilities for construction purposes.

2.6.5 No exterior radio or television antennas or satellite dishes shall be allowed.

2.6.6 All plumbing, heating and exhaust ventilation piping or other equipment shall be located on the rear of the dwelling roofs, or in other inconspicuous places and shall be painted in such a way as to match the roof color or the color of adjoining materials.

2.6.7 No swimming pools shall be allowed in the Subdivision.

2.6.8 Dust abatement and erosion control measures shall be provided by the Developer or owner in all stages of construction.

2.6.9 Concrete paving is preferred and suggested for driveway surfaces. Where possible, brick or stone walkways are encouraged.

2.6.10 All chimneys shall have finished caps of the basic exterior finish material or a fabricated metal cap of a color and finish to match the basic exterior finish material.

2.6.11 No exposed metal areas of the dwelling structures or related equipment shall be of a reflective or silver finish and all such metal shall be of either a factory painted finish or a dark anodized finish which blends with adjoining areas.

2.6.12 During construction, all vehicles, including those delivering supplies, must enter the building site only on driveways approved by the committee and such vehicles must be parked on the building lot where the construction is underway so as to not unnecessarily damage trees.

2.6.13 All building debris, stumps, trees, etc., must be removed from each lot by Developer as often as necessary to keep the house and lot attractive. Such debris shall not be dumped in any area of Inverness.

2.6.14 During construction, Developer must keep homes and garages clean and yards cut.

2.6.15 Chain link or wire type fences of any type may not be used for any purpose. Any fencing used in or about the dwelling units shall be of brick, stone and/or ornamental iron type construction.

2.6.16 No outside clothes lines shall be allowed.

2.6.17 There shall be no signs nailed to trees at any time.

2.6.18 All proposed exterior redecorating, including painting, must be approved by the Committee or its successors or assigns.

2.6.19 Drainage of surface water, storm water, and/or foundation drains may not be connected to sanitary sewers.

2.6.20 Existing drainage shall not be altered in any manner, and specifically shall not be altered in such a manner as to divert the flow of water onto an adjacent lot or lots or onto the Inverness Country Club Golf Course (the "Golf Course").

2.6.21 There shall be no detached auxiliary structures, or other types of exterior unconnected structures which are of a temporary nature, including, but not limited to, storage sheds, trailers or tents. Dog houses shall be permitted, but shall be so placed or screened by shrubbery or other appropriate material approved in writing by the Committee so as not to be visible from any street or the Golf Course at any time.

2.7 Limits of Liability. Neither the Committee, nor any architect nor agent thereof, shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications. It is specifically agreed that the scope of review by the Committee shall be limited to appearance only and shall not include any responsibility or authority to review for structural soundness, compliance with building or zoning codes or standards, or any other similar or dissimilar factors. Neither the Committee nor any member thereof shall be liable to any lot owner for any action taken or omitted to be taken by the Committee or the individual members thereof in the performance of their respective duties hereunder.

ARTICLE III

EXCLUSIVE RESIDENTIAL USE AND IMPROVEMENTS

SECTION 3.1 All lots in the Subdivision shall be known and described as residential lots and shall be used for detached single family dwellings of a garden home nature. No structure shall be erected, altered, placed or permitted to remain on any residential lot other than one detached single family garden home dwelling not to exceed three (3) stories, including the basement as a story, and a private garage for not more than two (2) cars. Development of the Subdivision shall be restricted to a gross density not to exceed 4.1 units per acre.

3.2 No dwelling units shall be located any nearer to the street, the Golf Course, or adjoining property lines than the setback lines of the final boundary survey and/or recorded subdivision map.

3.3 The entrance to the Subdivision shall be located on Valleydale Road and there shall be no ingress/egress via Applecross Road.

ARTICLE IV

GENERAL PROHIBITIONS AND REQUIREMENTS

SECTION 4.1 It shall be the responsibility of each lot owner to prevent the development of any unclean, unsightly or unkept conditions of buildings or grounds on such lot which shall tend to decrease the beauty of the specific area or of the neighborhood as a whole.

4.2 All lots within the Subdivision, whether the dwelling units thereon are occupied or unoccupied, shall at all times be maintained in a neat and attractive condition and in such manner as to prevent their becoming unsightly by reason of unattractive growth on such lot or the accumulation of rubbish or debris thereon. In order to implement effective control of this item, Grantor reserves for itself, its agents and the Committee the right, after ten (10) days' notice to the Developer or any lot owner, to enter into the Subdivision, or upon any residential lot therein, with such equipment and devices as may be necessary for the purpose of mowing, removing, clearing, or cutting underbrush, weeds or other unsightly growth and trash which in the opinion of the Grantor or the Committee detracts from the overall beauty and safety of the Subdivision. Such entrance upon such property for such purposes shall be only between the hours of 7:00 a.m. and 6:00 p.m. on any day except Sunday and shall not be a trespass. Grantor or the Committee may charge the owner a reasonable cost for such services, which charge shall constitute a lien upon such lot enforceable by appropriate proceedings at law or equity. The provisions of this paragraph shall not be construed as an obligation on the part of Grantor or the Committee to mow, clear, cut or prune the Subdivision or any lot therein, nor to provide garbage or trash removal services. Also, all maintenance for the common area of the Subdivision will be the responsibility of the property owners within the Subdivision. Such common areas shall include, but not be limited to, the shoulders and rights-of-way along those portions of the streets known as Valleydale Road and Applecross Road which adjoin the Subdivision.

4.3 No animals, livestock or poultry of any kind or description except the usual household pets shall be kept in the Subdivision or on any lot therein; provided, however, that no household pet may be kept in the Subdivision, on any lot therein, for breeding or commercial purposes; provided further, that any household pets must be kept on a leash when permitted to be outside.

4.4 No noxious, offensive or illegal activities shall be carried on within the Subdivision, or upon any lot therein, nor shall anything be done within the Subdivision, or on any lot therein, which may be or may become an annoyance or nuisance to the neighborhood. No commercial activity shall be carried on within the Subdivision, or on any lot therein.

4.5 No oil or natural gas drilling, refining, quarrying or mining operations of any kind shall be permitted within the Subdivision and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted within the Subdivision; nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted within the Subdivision.

4.6 No trash, garbage or other refuse shall be dumped, stored or accumulated within the Subdivision or on any lot therein. Trash, garbage or other waste shall not be kept on any lot except in sanitary containers or garbage compactor units. Garbage containers, if any, shall be kept in a clean and sanitary condition, and shall be so placed or screened by shrubbery or other appropriate material approved in writing by the Committee so as not to be visible from any street or the Golf Course at any time, except during refuse collection. It is prohibited for any garbage containers to be placed or left for pick up in the street or otherwise in a place that is visible from any street or the Golf Course. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted.

4.7 All signs, billboards or advertising structures of any kind are prohibited except Developer and contractor signs during construction periods and except one professional sign per lot of not more than 6 square feet to advertise property for sale during sales period. No sign is permitted to be nailed or attached to trees. No "for sale" sign shall be permitted on the rear of any lot facing the Golf Course.

4.8 If any dwelling or other structure on any lot in the Subdivision is destroyed in whole or in part for any reason, all debris must be removed and the lot restored to a sightly condition with reasonable promptness, provided that in no event shall such debris remain on any lot longer than sixty (60) days.

4.9 No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above any roadway shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight-line limitations shall apply on any lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. Except as herein provided, no trees shall be permitted to remain within such distance of such intersections unless the foliage is maintained at sufficient height to prevent obstruction of such sight-lines. Any such tree of a rare or unusual species may be permitted to remain in place upon application to and written permission from the Committee and approval by the appropriate city, county or state.

4.10 No boat, boat trailer, house trailer, camper or similar equipment or vehicle shall be parked or stored on any road, street, driveway, yard or lot located in the Subdivision for any period of time in excess of 24 hours except in garages. Also, no unkept or otherwise unattractive vehicle or piece of equipment may be parked or stored on any road, street, driveway, yard or lot except in garages.

4.11 There shall be no discharging of any type firearm or other weapon in the Subdivision of Inverness or any other area of the Inverness community.

ARTICLE V

EASEMENTS

SECTION 5.1 An easement to permit the doing of every act necessary and proper to the playing of golf on the Golf Course adjacent to the lots which are subject to these restrictions is hereby granted and established. These acts shall include, but not be limited to, entering onto the lot for the purpose of golf ball retrieval, provided such golf balls can be recovered without damaging any flowers, shrubbery or the property in general; the flight of golf balls over and upon such lots; the use of necessary and usual equipment upon such Golf Course; the usual and common noise level created by the playing of the game of golf; together with all other common and usual activity associated with the game of golf and with all the normal and usual activities associated with the operation of a country club.

5.2 Residential landscaping should enhance the privacy of the dwelling units; however, it is the intent of the community to maintain the greenbelt and common property areas without strict definition of property lines, and it is hoped that the resident owners will adhere to this intent. It is intended that the natural ground cover of the land can weave throughout the residential development without being impeded by lots totally planted in grass without recognition of the natural elements of the land.

5.3 An easement thirty (30) feet in width, unless otherwise specified, and bounded on one side by the entire lot boundary line or lines which define the Golf Course property is hereby retained and reserved over each of said lots adjacent to the Golf Course for the purpose of maintaining a natural buffer area between golf and residential uses. No fence, wall, hedge or shrub planting which would obstruct access to the property covered by said easement from the golf course shall be placed or permitted to remain on lots. No tree 4 inches or more in diameter measured at a point 2 feet above the average height of the ground at the base, nor any shrub or dogwood tree of any size may be removed from this easement area without the specific prior approval of Grantor or its

successors or assigns. Violation of this covenant shall be subject to a liquidated damage sum of \$40.00 per inch of diameter measured as hereinbefore specified for each tree, \$20.00 for each shrub and \$100.00 for each dogwood tree removed without the specified authorization, except the maximum liquidated damages shall not exceed \$2,000.00 for any lot. The recovery of such liquidated damages shall be available to Grantor and its successors and assigns in title to the Golf Course. Grantor reserves the right to make selected plantings of trees and other vegetation within the 30 foot easement in order to establish and maintain a buffered relationship between the golf and residential uses as herein intended. Grantor hereby covenants to provide the owner of any lot with a description of the work to be done at least 14 days in advance of the actual work so that the mutual interests and desires of the owner and Grantor may be properly coordinated.

5.4 An easement shall be granted and is hereby reserved for the Developer herein and its successors and assigns the right to use, dedicate and/or convey to the State of Alabama, to Shelby County, to the City of Hoover and/or to the appropriate utility company or other companies, rights-of-way or easements on, over or under the ground to erect, maintain and use utilities, electric and telephone poles, wires, cables, cable television, conduits, storm sewers, sanitary sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water, or other public conveniences or utilities.

5.5 Drainage flow shall not be obstructed or diverted from drainage swales, storm sewers and/or utility easements as designated herein, or as may hereafter appear on any plat of record in which reference is made to these covenants. Developer may cut drainways for surface water wherever and whenever such action may appear to Developer to be necessary in order to maintain reasonable standards of health, safety and appearance. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health and appearance. Except as provided herein, existing drainage shall not be altered in such a manner as to divert the flow of water onto an adjacent lot or lots or onto the Golf Course. The provision hereof shall not be construed to impose any obligation upon Developer to cut such drainway.

5.6 Developer reserves for itself, its successors and assigns an exclusive easement for the installation or maintenance of radio and television cables within the rights-of-way and easement areas referred to.

5.7 No permanent structure may be constructed or placed in any drainage easement area. Each lot owner within the Subdivision also agrees, by acceptance of a deed to any lot within the Subdivision, to assume, as against Grantor and Developer, their successors or assigns, all the risks and hazards of ownership or occupancy attendant to such lot, including but not limited to its proximity to the Golf Course fairways.

ARTICLE VI

PROPERTY OWNERS ASSOCIATION

SECTION 6.1 If at any time, from this date forward, a subdivision homeowners association is established or developed within the property subject to these Covenants, then each owner of land herein or any subdivided portions thereof, is responsible to join and become a part of said subdivision homeowners association and is required to pay the dues or assessments which may be established by said subdivision homeowners association and agrees to be bound by the rules, regulations and requirements established by said subdivision homeowners association.

6.2 Each and every lot owner and future lot owner, in accepting a deed or contract for any lot or lots in the Subdivision agrees to pay to Developer or other appropriate authorities the charges and fees provided for in Article VII and to the subdivision homeowners association, when formed, any annual assessments or charges and special assessments from time to time fixed or established by such Association in accordance with the Articles of Incorporation and/or By-Laws for such Association. It is agreed that the regular and special assessments, together with interest and cost of collection, shall be charged on the land and constitute a continuing lien upon the lot against which assessment is made, except that such lien shall be subordinate to prior recorded bona fide mortgages. Each assessment, together with such interest thereon and cost of collection thereof, shall be the personal obligation of the person owning such property at the time the assessment fell due.

ARTICLE VII

SEWAGE TREATMENT FACILITY AND OTHER PUBLIC SERVICES

SECTION 7.1 Individual sewage disposal systems shall not be permitted within the Subdivision. The sewage treatment facility available to the Subdivision is to be provided by Shelby County. By accepting a deed to a lot, the owner of such lot covenants and agrees to pay to Shelby County or its successors or assigns, a monthly or quarterly sewage treatment fee or charge to cover the cost of providing such service. It is agreed that the sewage treatment fee shall be charged on the land and constitute a continuing lien upon the lots against which such fee is charged, except that such lien shall be subordinate to prior recorded bona fide mortgages. Such fee charged and the cost of collection thereof shall be the personal obligation of the person owning such property at the time the fee becomes due. The owner of a lot covenants and agrees to maintain the sanitary sewer service line on his lot in good repair.

7.2 Fire protection is currently provided to the Inverness community, which will include the real estate subject to this declaration, by the City of Hoover. INVERNESS, GRANTOR OR DEVELOPER IS UNDER NO OBLIGATION TO PROVIDE FIRE PROTECTION SERVICE, OR TO ASSURE THAT SUCH FIRE PROTECTION SERVICE IS PROVIDED BY OTHERS.

7.3 Police protection is currently provided to the Inverness community, which will include the real estate subject to this declaration, by the City of Hoover. INVERNESS, GRANTOR OR DEVELOPER IS UNDER NO OBLIGATION TO PROVIDE SECURITY SERVICE, OR TO ASSURE THAT SUCH SECURITY SERVICE IS PROVIDED BY OTHERS.

ARTICLE VIII

ENFORCEMENT

SECTION 8.1 In the event of a violation or a 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 Grantor, its successors and assigns, the owner(s) of lot(s), Developer, its successors and assigns, the Committee, the subdivision homeowners association when formed, or any other party to whose benefit these restrictions inure shall have the right to proceed at law or in equity to compel compliance with the terms and 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. Neither the Grantor, the Committee, nor any architect nor agent thereof, nor Developer

shall be responsible in any way for any delay or failure by any or all of such entities, their successors and assigns, to enforce or seek to enforce any violation or breach of any of these restrictions, or amendments thereto.

8.2 Each and every lot owner and future lot owners, in accepting a deed or contract for any lot or lots in the Subdivision agrees to adhere to these Protective Covenants governing the Subdivision. If said lot owner(s) does not adhere to said covenants and legal action is taken against the party in violation of said covenants, then the lot owner(s) in violation agrees to pay all attorney fees and other associated costs incurred by other parties in pursuing legal action to remedy violations of these covenants.

ARTICLE IX

DEVELOPER'S INDEMNIFICATION AGREEMENT

SECTION 9.1 Developer agrees to repair, restore, or replace, as Grantor shall direct, any property, whether personal or real, by whomever owned which is damaged, destroyed, or injured in any way by Developer, its agents, representatives, designees, employees, or successors or assigns, in connection with the initial development and construction of the Subdivision and the dwelling units therein, including, without limitation, any damage to right-of-way curbs, median curbs, signs, or pavement in the rights-of-way of dedicated or undedicated roads within Inverness, and Developer hereby agrees to indemnify and hold Grantor harmless from any and all liabilities, claims and losses resulting from or arising in connection with any such damage, destruction, or injury.

ARTICLE X

GRANTEE'S ACCEPTANCE AND INDEMNIFICATION AGREEMENT

SECTION 10.1 The grantee of any lot subject to the coverage of these Restrictions, by acceptance of the deed or other instrument conveying an interest in or title to, or the execution of a contract for the purpose thereof, whether from Developer or a subsequent owner of such lot, shall accept such deed or other contract upon and subject to each and all of these restrictions and the agreements herein contained.

10.2 Each and every lot owner and future lot owner, in accepting a deed or contract for any lot or lots in the Subdivision, whether from Developer or a subsequent owner of such lot, agrees to indemnify and reimburse Developer or Grantor, as the case may be, for any damage caused by such lot owner, or the contractor, agent or employees of such lot owner, to roads, streets, gutters, walkways or other aspects of public ways, including all surfacing thereon, or to water, drainage or storm sewer lines or sanitary sewer lines owned by Grantor or Developer, or for which Grantor or Developer has responsibility, at the time of such damage.

10.3 Each and every lot owner and future lot owner, in accepting a deed or contract for any lot or lots in the Subdivision, whether from Developer or a subsequent owner of such lot, agrees and covenants to release, indemnify, protect and hold harmless the Grantor, its successors and assigns, and its agents, directors and employees (all of whom are included in the term "Grantor" for the purposes of this Section 10.3) from and against any and all claims, and demands by such owner, any member of his or her family, their employees, agents, guests, invitees, licensees, contractors, and employees or for damages to property and injury or death which may arise out of or be caused directly or indirectly by such owner's lot or lots, and/or the use of or construction on said lot or lots by said owner, any member of his or her family, their guests, agents, invitees, licensees, contractors, or employees or subcontractors of such contractors, or by any other person whomsoever. The indemnification by such owner as set forth above shall also cover any and all expenses of Grantor, including attorneys' fees, resulting from any claims or demands.

10.4 Each and every lot owner and future lot owner, in accepting a deed or contract for any lot or lots in the Subdivision, whether from Developer or a subsequent owner of such lot, agrees, in connection with the construction of any improvements on such lot or lots, to exercise due care, and to assure that any contractors of such owner, or employees and subcontractors of such contractors, will exercise due care and will comply with any and all governmental rules, regulations, codes and ordinances relating to safety, so as to protect the safety and health of the public, and the safety and health of such owner, his or her family, and any such contractor and its employees and subcontractors.

ARTICLE XI

TERM AND MODIFICATION

SECTION 11.1 These covenants and restrictions shall run with the land and can be changed, modified, amended, altered or terminated only by a duly recorded written instrument executed by the Grantor, its successors and assigns, until twenty (20) years from the date hereof, and thereafter by the then record owners (including mortgagees and other lien holders of record, if any) of two-thirds (2/3's) of the number of lots of this Subdivision.

ARTICLE XII

SEVERABILITY

SECTION 12.1 Every one of the Restrictions is hereby declared to be independent of, and severable from the rest of the restrictions and of and from every other one of the restrictions and of and from every combination of the restrictions. Invalidation by any court of any restriction in this instrument shall in no way affect any of the other restrictions which shall remain in full force and effect.

12.2 Developer may include in any contract or deed hereinafter made or entered into, such modifications and/or additions to these protective covenants and restrictions, which will by their nature raise the standards of the Subdivision, subject to written approval by Grantor.

ARTICLE XIII

CAPTIONS

SECTION 13.1 The captions preceding the various paragraphs and subparagraphs of these Restrictions are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provision of the Restrictions. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

ARTICLE XIV

NOTICES

SECTION 14.1 Any notice required to be sent to the Developer or to any lot owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed by United States mail, postage paid, to the address of the Developer or such lot owner at the time of such mailing.

ARTICLE XV

GOVERNING LAW

SECTION 15.1 Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by this Declaration as the same may be amended from time to time, said dispute or litigation shall be governed by the laws of the State of Alabama.

ARTICLE XVI

EFFECTIVE DATE

SECTION 16.1 This Declaration shall become effective when it has been recorded in the Office of the Judge of Probate of Shelby County, Alabama.

IN WITNESS WHEREOF, the parties hereto have caused these Restrictions to be properly executed and recorded in the Office of the Judge of Probate of Shelby County, Alabama.

Witness:

By: [Signature]

METROPOLITAN LIFE
INSURANCE COMPANY

By: [Signature]

Its: Asst. Vice President

Date Executed: May 26, 1995

STATE OF
COUNTY OF

) Georgia
) Cobb

I, Winifred Matthews a Notary Public in and for said County, in said State, hereby certify that Wayne A. Huey whose name as Asst. Vice President of Metropolitan Life Insurance Company, a New York 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, 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 26th day of May, 1995.

Winifred M. Matthews
Notary Public

My Commission Expires:

Notary Public, Cobb County, Georgia.
My Commission Expires May 19, 1998.

Witness:

BENCO LLC

~~By:~~

By:

Its:

Date Executed: 04-28-95

I, Betty A. Swann, a Notary Public in and for said County, in said State, hereby certify that Tommy Coker whose name as Member of BENCO LLC, an Alabama Limited Liability Company, 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, 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 28th day of April, 1995

Betty A. Swann
Notary Public

My Commission Expires:

10/31/95

Inst # 1995-14190

06/01/1995-14190
09:25 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
013 MCD 38.50