


Send tax notice to:  
Investment Associates, LLC  
2148 Pelham Parkway, Building 600  
Pelham, AL 35124

  
20031205000788490 Pg 1/43 138.00  
Shelby Cnty Judge of Probate, AL  
12/05/2003 09:30:00 FILED/CERTIFIED  
Conservation

STATE OF ALABAMA     )  
COUNTY OF SHELBY    )

**STATUTORY WARRANTY DEED**

\$1,167,530.84

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, METROPOLITAN LIFE INSURANCE COMPANY, a New York corporation (the "Grantor"), in hand paid by INVESTMENT ASSOCIATES, LLC, an Alabama limited liability company (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").

This conveyance is subject to the following:

1. Taxes for the year 2004, a lien but not yet due and payable.
2. Easement to Southern Telephone and Telegraph Company recorded in Volume 320, page 878, in the Probate Office of Shelby County, Alabama.
3. Easement to Water Works Board of the City of Birmingham recorded in Volume 312, page 926, in the Probate Office of Shelby County, Alabama.
4. Easement recorded in Volume 347, page 866, in the Probate Office of Shelby County, Alabama.
5. Easement for Alabama Power Company recorded in Real 340, page 804, Real 348, page 751, Misc. Volume 14, page 424, Real 34, page 614, Real 84, page 298, Real 340, page 816, Real 105, page 875 and Real 131, page 763, in the Probate Office of Shelby County, Alabama.
6. Restrictions appearing of record in Real 268, page 605, in the Probate Office of Shelby County, Alabama.
7. Easement to Shelby County Education Board recorded in Instrument 1999-29881, in the Probate Office of Shelby County, Alabama.
8. Easement to BellSouth Telecommunications recorded in Instrument 1999-29883, in the Probate Office of Shelby County, Alabama.

9. That certain Reciprocal Easement Agreement dated November 25, 2003 between Grantor and Grantee to be recorded in the Probate Office of Shelby County, Alabama in connection herewith.
10. The covenants, conditions and restrictions set forth in the Declaration of Protective Covenants (Commercial) attached hereto as Exhibit "B" and made a part hereof.
11. The covenants, conditions and restrictions set forth in the Declaration of Protective Covenants (Residential) attached hereto as Exhibit "C" and 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 claiming by, through, or under the Grantor, but not further or otherwise.

ALL of the purchase price recited above was paid from the proceeds of a purchase money mortgage executed simultaneously with delivery of this deed.

IN WITNESS WHEREOF, each of the Grantor and the Grantee has by its respective duly authorized officer set its signature and seal, this the 25 day of November, 2003.

GRANTOR:

METROPOLITAN LIFE INSURANCE  
COMPANY, a New York corporation

By: *Victor W. Turner* *KW*

Its: VICE PRESIDENT

STATE OF GEORGIA     }  
COUNTY OF FULTON   }

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Victor W. Turner as 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 this 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 25<sup>th</sup> day of November, 2003.

*Kathleen D. Coady*  
Notary Public

[SEAL]





**GRANTEE:**

INVESTMENT ASSOCIATES, LLC  
an Alabama limited liability company

By: NSH Corp., its Member

By: *Jonathan Belcher*  
Its: VICE PRESIDENT

STATE OF ALABAMA }  
COUNTY OF JEFFERSON }

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Jonathan Belcher, as VP of NSH Corp., an Alabama corporation, in its capacity as Member of INVESTMENT ASSOCIATES, 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 this instrument, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation, acting in its capacity as member of said limited liability company.

Given under my hand and official seal, this the 25 day of November, 2003.

*M G N*  
Notary Public  
My Commission Expires May 21, 2004

[SEAL]

This instrument prepared by:  
Gregory K. Mixon  
MAYNARD, COOPER & GALE, P.C.  
1901 Sixth Avenue North  
2400 AmSouth/Harbert Plaza  
Birmingham, Alabama 35203-2602  
(205) 254-1000



## Exhibit A

### (Legal Description)

#### PARCEL I - Commercial:

A parcel of land situated in the NE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  and the NW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 1, Township 19 South, Range 2 West, Shelby County more particularly described as follows:

Commence at the NE corner of Section 1, Township 19 South, Range 2 West and run South  $89^{\circ}40'25''$  West for a distance of 1327.50 feet; thence run South  $2^{\circ}36'42''$  East for a distance of 4.08 feet; thence run South  $83^{\circ}13'42''$  West for a distance of 127.39 feet; thence run South  $80^{\circ}44'11''$  West for a distance of 122.39 feet; thence run South  $82^{\circ}09'09''$  West for a distance of 336.12 feet; thence run South  $28^{\circ}14'23''$  West for a distance of 6.13 feet to the Point of Beginning; thence continue along the last described course for a distance of 931.71 feet; thence run South  $61^{\circ}45'37''$  East for a distance of 63.04 feet; thence run South  $28^{\circ}14'23''$  West for a distance of 188.79 feet to a point on the Northeastern boundary of the Inverness Elementary School Property; thence run North  $65^{\circ}40'29''$  West along said school boundary for a distance of 337.05 feet to a point on a curve to the right, said curve having a radius of 2824.79 feet and a central angle of  $8^{\circ}11'11''$ , a chord length of 403.26 feet and a chord bearing North  $23^{\circ}31'00''$  East, said curve being the Eastern right of way of Valleydale Road (Shelby County Hwy 17), thence run 403.60 feet along the arc of said curve; thence run North  $27^{\circ}36'35''$  East for a distance of 611.60 feet along the Eastern right of way of Valleydale Road; thence run South  $62^{\circ}23'25''$  East for a distance of 12.00 feet to a point on a curve to the right having a radius of 80.00 feet, a central angle of  $87^{\circ}02'48''$ , a chord length of 110.18 feet and a chord bearing of North  $71^{\circ}07'59''$  East; thence run 121.54 feet along the arc of said curve; thence run South  $65^{\circ}20'37''$  East for a distance of 115.43 feet to a point on a curve to the left, said curve having a radius of 201.26 feet, a central angle of  $34^{\circ}17'06''$ , a chord length of 118.64 feet and a chord bearing of South  $82^{\circ}29'10''$  East; thence run 120.43 feet along the arc of said curve to the Point of Beginning.

#### PARCEL II - Residential:

A parcel of land situated in the W  $\frac{1}{2}$  of the NE  $\frac{1}{4}$  of Section 1, Township 19 South, Range 2 West, Shelby County more particularly described as follows:

Commence at the NE corner of Section 1, Township 19 South, Range 2 West and run South  $89^{\circ}40'25''$  West for a distance of 1327.50 feet; thence run South  $2^{\circ}36'42''$  East for a distance of 4.08 feet to the Point of Beginning; thence run South  $83^{\circ}13'42''$  West for a distance of 127.39 feet; thence run South  $80^{\circ}44'11''$  West for a distance of 122.39 feet; thence run South  $82^{\circ}09'09''$  West for a distance of 336.12 feet; thence run South  $28^{\circ}14'23''$  West for a distance of 937.84 feet; thence run South  $61^{\circ}45'37''$  East for a distance of 63.04 feet; thence run South  $28^{\circ}14'23''$  West for a distance of 188.79 feet to a point on the Northeastern boundary of the Inverness Elementary School Property; thence run South  $65^{\circ}40'29''$  East along said school boundary for a distance of 376.49 feet to the Northwestern corner of said school property; thence run South  $24^{\circ}19'36''$  West along the Eastern boundary of said school property for a distance of 1339.81 feet; thence run South  $57^{\circ}07'13''$  East for a distance of 289.98 feet to a point on the Southern line of the SW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of said Section 1, said point being 183.99 feet East of the Southwest corner of said  $\frac{1}{4}$  -  $\frac{1}{4}$  section; thence run North  $89^{\circ}34'55''$  East, along said South line of said  $\frac{1}{4}$  -  $\frac{1}{4}$  section for a distance of 205.87 feet to a point on the Northwestern boundary of Lot 104A according to the Resurvey of a Part of Meadow Brook Highlands as recorded in Map Book 14, page 81, in the Probate Office of Shelby County, Alabama; thence run in a Northeasterly direction along the Northwest boundaries of the following five Lots: Lots 104A and 106B according to said resurvey, Lot 107A according to the Resurvey of Lots 106, 106A & 107 Meadow Brook Highlands as recorded in Map Book 14, page 60 in said Probate Office, and Lots 108 and 109 according to the survey of Meadow Brook Highlands as recorded in Map Book 14, page 21 in said Probate Office, for a distance of 958.97 feet to the Southwestern corner of said Lot 13A according to the Resurvey of Lots 12 & 13 First Sector The Ridge at Meadowbrook as recorded in Map Book 14, page 92 in said Probate Office; thence run in a Northeasterly direction along the Northwestern boundary of Lots 13A and 12A according to said resurvey for a distance of 201.46 feet to the Southwestern corner of Lot 11 according to the Survey of the First Sector of The Ridge at Meadowbrook as recorded in Map Book 14, page 41, in said Probate Office; thence run in the Northerly direction along the Western boundary of Lots 11, 10 and 9 according to said survey of the First Sector of The Ridge at Meadowbrook for a distance of 238.02 feet; thence run in a Northeasterly direction along the Northwestern boundary of Lots 9, 8, 7, 6 and 5 according to said survey of the First Sector of The Ridge at Meadowbrook for a distance of 507.18 feet, more or less, to a point on the Eastern boundary of the NW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of said Section 1; thence run in a Northerly direction along said line for a distance of 1015 feet, more or less, to the Point of Beginning.



## **EXHIBIT B**

This **EXHIBIT B** is attached to and by reference made a part of that certain Statutory Warranty Deed dated November 25, 2003, from **METROPOLITAN LIFE INSURANCE COMPANY**, a New York corporation (hereinafter referred to as "Grantor") to **INVESTMENT ASSOCIATES, LLC**, an Alabama limited liability company (hereinafter referred to as "Grantee").

### **DECLARATION OF PROTECTIVE COVENANTS (COMMERCIAL)**

Grantor hereby establishes, solely for the benefit of itself or any successor Inverness Developer (as defined below), if any, the covenants and restrictions set forth herein (the "Covenants and Restrictions"). In addition, Grantor and Grantee hereby covenant and agree that the conveyance herein of Parcel 1 by the within and foregoing Statutory Warranty Deed (hereinafter "Property") is subject to, held and shall be held, conveyed, hypothecated or encumbered, rented, used, occupied and improved subject to the Covenants and Restrictions, which shall run with the land and shall be binding upon Grantee, the heirs, legal representatives, successors and assigns of Grantee, and all parties having or acquiring any right, title, or interest in and to the real property and any part or parts thereof subject to such Covenants and Restrictions. The term "Inverness" as used herein shall mean all those tracts and parcels of land located in the City of Hoover, Shelby County, Alabama, and more particularly described in Exhibit "B-1" attached hereto and made a part hereof. The term "Inverness Developer" as used herein shall mean any entity or person which (i) owns at least three of the following projects within Inverness: Inverness Corners Shopping Center, Inverness Plaza Shopping Center, Inverness Country Club and Facilities, Inverness Cliffs Apartments, Lake Heather Reserve, Inverness Landing Apartments, Office Buildings #10, #22, #31, #40, #42, #44 and #104, and (ii)

has the majority responsibility for enforcing development standards within Inverness.

## **ARTICLE I**

### **COMMENCEMENT OF CONSTRUCTION**

1.1 Time of Commencement. Grantee shall commence construction on the Property of a one-story Class A retail shopping center (hereinafter the "Retail Shopping Center"), to be used for the purposes set forth in Article II hereof, within eighteen (18) months from the date of execution of the within and foregoing Statutory Warranty Deed. The gross leasable area of the Retail Shopping Center shall not exceed 75,000 square feet. Commencement of construction shall be defined as grading of the Property to completion, or other tangible initiation of work by Grantee.

1.2 Plans. Grantee hereby agrees that construction of the Retail Shopping Center shall substantially conform with the exterior plans and appearance specifications, if any, approved by Grantor in the manner provided in ARTICLE II hereinbelow.

1.3 Inverness. The Property conveyed by the within and foregoing Statutory Warranty Deed is hereby declared to be part of and is designated as part of Inverness.

## **ARTICLE II**

### **PERMITTED USES, PLAN APPROVAL**

2.1 Permitted Uses. The Retail Shopping Center to be constructed on the Property shall be so constructed and used only for the following purposes:

2.1.1 Retail users and/or other compatible uses commonly found in high quality shopping centers; provided however, that the following uses shall not be permitted: (i) grocery stores, (ii) low cost providers, area discount department stores, (iii) a home improvement center, (iv) apartments, (v) commercial office buildings, (vi) Sams Wholesale or (vii) Costco.



2.1.2 Other compatible uses as may be approved in writing by Grantor.

2.1.3 Any use hereunder shall comply with all laws, ordinances, rules, regulations and requirements of any governmental authority or agency having jurisdiction over the Property, including those relating to the use, maintenance, storage and disposal of "hazardous substances" (as that term is defined in the Comprehensive Environmental Response, Compensation and Liability Act, and the rules and regulations promulgated pursuant thereto, as may be amended from time to time), contaminants, oil, radioactive or other materials, the removal of which is required or the maintenance of which is prohibited, penalized or regulated by any governmental unit.

2.1.4 The Property shall not be used or occupied (a) as a nightclub, bar (not incidental to a permitted restaurant), Chili's 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 Hooters is presently operated in the metropolitan Birmingham, Alabama area (provided, however, restaurants such as Houston's, Ruby Tuesday, Canyon Café, 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; laundry "dry- cleaning" plant or laundry "dry-cleaning" full service operation or any other operation that employs dry-cleaning chemicals standard to the industry; 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 modern 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 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; (f) adult day care, child care; and (g) church or religious use.

2.2 Quality of Appearance. The exterior of the Retail Shopping Center and the site development on the Property will be planned and constructed to a level of quality and appearance comparable to the other Class A high quality retail shopping centers in Inverness. The exterior appearance of the Retail Shopping Center and the site development on the Property shall be compatible with the existing appearances and site development schemes of retail shopping centers in Inverness (including, but not limited to, Inverness Corners and Inverness Plaza). All utilities serving the Property or the Retail Shopping Center or both shall be underground except for temporary utilities for construction purposes and Grantee shall pay any additional costs to any utility company for such underground service; all exterior lighting placed on the Property or the Retail Shopping Center shall conform to those types of lighting which are compatible with similar Class A high quality retail shopping centers in Inverness (including, but not limited to, Inverness Corners and Inverness Plaza).

2.3 Plan Approval. Construction of the Retail Shopping Center or site development of the Property shall not commence unless and until Grantee has obtained from Grantor, in the manner set forth hereinbelow, Grantor's unqualified and unconditional approval of any and all

preliminary and final exterior plans and appearance specifications, as hereinafter described, relating to such construction of the Retail Shopping Center and site development on the Property, including, without limitation, plans and specifications for the exterior of the Retail Shopping Center, for parking areas, for driveways, for lighting, for ingress and egress designs, for signs to be placed on the exterior of the Retail Shopping Center or on the Property, including color, location, nature and size, for landscaping and for all other items relating to the exterior appearance of the Retail Shopping Center and the site development of the Property. The scope of review by Grantor shall be limited to exterior appearance only and shall not include any responsibility or authority to review for structural soundness, compliance with retail shopping center or zoning codes or standards, or any similar or dissimilar factors. Commencement of construction prior to receipt of a Letter of Approval of the Grantor, a copy of which must be signed by the Grantee, and returned to the Grantor for retention, is strictly prohibited. In the event the Grantor is no longer the Inverness Developer, Grantor shall give notice to Grantee to indicate the successor party (which owns Property in Inverness) to whom the proposed plans are to be forwarded. All such plans and specifications shall be submitted to Grantor for Grantor's review and approval or disapproval in the following manner:

2.3.1 Preliminary Plans and Specifications. Grantee will submit to Grantor, for Grantor's review and approval or disapproval, preliminary plans of the front, sides and rear exterior elevations, of the Retail Shopping Center; specifications for exterior materials of the Retail Shopping Center; and a site plan of the Property showing all proposed improvements, grades, curbs, curb cuts, landscaping, lighting, and location of exterior signs (the "Site Layout"). Within twenty (20) business days from the date Grantor receives all such preliminary plans and specifications in whole, Grantor will give Grantee written notice of Grantor's approval or



disapproval thereof, which approval shall not be denied if the design of the Retail Shopping Center is consistent with the design of other similar types of modern Class A high quality retail shopping centers in Inverness. If such notice is not so given within such period of time, Grantor shall be deemed to have approved such preliminary plans and specifications. Any approval by Grantor, whether actual or implied, of such preliminary plans or specifications or both shall in no event obligate Grantor to approve the final plans and specifications.

2.3.2 Final Plans and Specifications. Grantee will submit to Grantor, for Grantor's review and approval or disapproval, final plans, specifications and samples which shall include, without limitation, working drawings of the exterior of the Retail Shopping Center, final specifications of exterior materials of the Retail Shopping Center, working drawings of the front, sides and rear exterior elevations of the Retail Shopping Center, detailed landscaping plans, and detailed plans for exterior signs and for lighting (collectively, the "Final Plans"). Within twenty (20) business days from the date Grantor receives all such final plans and specifications, Grantor will give Grantee written notice of Grantor's approval or disapproval thereof. If such notice is not so given within such period of time, Grantor shall be deemed to have approved such final plans and specifications. The construction of the Retail Shopping Center and the development of the site shall be in strict compliance with said final plans and specifications submitted to and approved by Grantor, if any.

2.4 Additional Construction. From and after the time the Retail Shopping Center is completed in accordance with the provisions of Sections 2.1 through 2.3, or otherwise completed, Grantee will not construct any additional buildings without first procuring Grantor's consent to the exterior components thereof.

2.5 Modification to Retail Shopping Center. Any material modifications of the exterior of the Retail Shopping Center or of the site development of the Property which are proposed by Grantee subsequent to Grantor's approval of the final plans and specifications in accordance with Section 2.3.2 will be in character with the final plans and specifications so approved by Grantor and compatible with the architecture of other structures and with the site development (including, without limitations, signs, driveways, curbs, and landscaping) of Inverness Corners and Inverness Plaza. Grantee shall make no such material and adverse modification unless and until Grantee first obtains Grantor's approval of preliminary and final plans and specifications therefor. Grantor's approval of such preliminary and final plans and specifications shall be obtained in the same manner set forth in Section 2.3, except that Grantor shall give Grantee written notice of its approval or disapproval of such plans within fifteen (15) business days of its receipt of all plans and specifications.

2.6 Signs. Any exterior sign(s) will conform to the Hoover Overlay District Regulations. Any free standing signage shall be subject to Grantor's sole approval.

2.7 Disapproval of Plans. In the event Grantor ever disapproves any preliminary or final plans or specifications of the Retail Shopping Center or of any modification of the Retail Shopping Center or of the site development, or disapproves of any other plans or specifications required to be submitted by Section 2.3 through 2.6, Grantor shall specify in detail those objections which Grantor may have to same.

2.7.1 The factors which Grantor may consider in determining the approval or disapproval of any preliminary and final plans and specifications are to include the following:

- (a) Building and architectural standards concerning the exterior of the Retail Shopping Center and all improvements exterior thereto;



- (b) Aesthetics (including design, appearance, color, size, location, finish, lighting, proportions, and graphics of signage);
  - (c) Exterior or exposed materials;
  - (d) Site Layout; and
  - (e) Compatibility (including architectural, signage, and landscaping)
- with existing improvements and property contained within Inverness (including but not limited to Inverness Corners and Inverness Plaza).

2.7.2 If Grantor repurchases the Property pursuant to Section 5.1 or Section 5.2 below;

(a) The purchase price shall be the same price Grantee paid for the property.

(b) The closing of the repurchase shall take place within thirty (30) days at a time and place in Birmingham, Alabama, designated by Grantor by written notice to Grantee at least five (5) business days prior thereto.

(c) At closing, the purchase price (as provided in Paragraph 2.7.2(a) above) shall be paid by Grantor to Grantee in immediately available funds (including, without limitation, a cashier's check).

(d) At closing, Grantee shall deliver to Grantor a Statutory Warranty Deed, duly executed by Grantee, conveying insurable fee simple title to the Property, free and clear of all liens and encumbrances, subject only to the exceptions contained herein affecting the Property and those exceptions more particularly set forth in the Statutory Warranty Deed executed and delivered by Grantor to Grantee in connection with Grantee's purchase of the Property.

(e) At closing, all real property and ad valorem taxes and other taxes and assessments levied upon or assessed against the Property for the year in which the closing occurs shall be prorated as of the closing date.

(f) Grantee will deliver exclusive possession of the Property on the closing date subject to those matters set forth in subparagraph (d) above.

(g) After the above-referenced closing, this declaration of Covenants and Restrictions shall be null and void.

2.8 Drainage Provisions. The following provisions shall apply to drainage:

2.8.1 In connection with the construction of the Retail Shopping Center and of any modifications thereof and of any additional buildings and with the site development of the Property, Grantee shall make such provision for drainage of the Property affected by such construction and development as is satisfactory to any appropriate county, municipal, or governmental agencies having authority over such construction and development. In addition, Grantee shall not permit its development of the Property to increase the drainage velocity of stormwater from the Property into Lake Heather, and Grantee must take all measures necessary in order to prevent such increase in drainage velocity, including the installation of one or more detention ponds on the Property, if necessary. Further, Grantee hereby covenants and agrees to hold Grantor harmless against any and all loss, cost, damage, or injury which Grantor shall ever suffer or endure because of Grantee's failure to make adequate provisions for drainage of the Property after said proposed construction and development.

2.8.2 Existing drainage shall not be altered in such a manner as to divert the flow of water onto an adjacent lot or lots, unless approved by the adjacent lot owner(s) and/or the proper government authorities. Grantor shall work with the Grantee and in accordance with the



governing body/authority concerning any changes to drainage and procure requisite approvals from the proper agencies prior to any alteration of existing drainage.

### **ARTICLE III**

#### **REPAIR OF DAMAGE; INDEMNITY**

3.1 Grantee shall 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 Grantee, its agents, representatives, designees, employees, or successors or assigns, in connection with the construction of the Retail Shopping Center or the site development on the Property, including, without limitation, any right-of-way curbs, median curbs, signs, or pavement in the rights-of-way of dedicated or undedicated roads within; and Grantee 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 IV**

#### **MAINTENANCE**

4.1 Maintenance of Property. Before such construction of the Retail Shopping Center is commenced, during such construction, and after such construction is completed, the Property and areas contiguous to road right of ways including any future access roads, shall be kept grassed, mowed, and otherwise maintained by Grantee in an attractive appearance and to a level of quality equal to or better than maintenance of other sites or common areas maintained in similar projects in Inverness. In the event Grantee fails to keep the Property so grassed, mowed, and maintained, Grantor, its representatives, agents, or employees shall have the right, after seven (7) days' notice to Grantee, to enter onto the Property and perform all work needed or desired in order to maintain the Property in the manner provided. Such entrance upon the

Property for such purposes shall not be a trespass. Grantee hereby agrees to pay Grantor such documented costs and expenses as Grantor shall incur by so acting to maintain the Property within ten (10) days from the receipt by Grantee of a statement from Grantor for any such work.

4.2 Maintenance During Construction. The following provisions shall be observed:

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

4.2.2 All building debris, stumps, trees, etc., must be removed from the Property by builder as often as necessary to keep the Property attractive. Such debris shall not be dumped in any area of Inverness.

4.2.3 During construction, all vehicles, including those delivering supplies, must be parked on the building lot where the construction is under way so as to not unnecessarily damage any other adjacent property.

## **ARTICLE V**

### **RIGHT OF REPURCHASE**

5.1 Failure to Begin Construction; Failure to Obtain Approval of Final Plans. In the event (i) Grantee shall not have commenced construction within the time period set out in Section 1.1, or (ii) Grantor shall disapprove the Final Plans and the parties are unable to agree upon such Final Plans within twenty (20) business days after Grantor's written disapproval thereof, Grantor shall have the right, but not the obligation, to repurchase the Property for an amount not to exceed the purchase price paid Grantor for the Property as set forth in Section 2.7.2 and Section 5.3.

5.2 Resale. In the event that (i) the Grantee desires to convey the Property to any party which is not Grantee's parent, subsidiary, an affiliated corporation or any entity which is



directly or indirectly controlled by a parent, subsidiary or affiliated corporation prior to the expiration of eighteen (18) months after the purchase from Grantor, and (ii) the Grantee and/or its transferee has not begun construction of the Retail Shopping Center thereon within such eighteen (18) month period, Grantor shall have and retains the option to purchase the Property from Grantee as set forth in Sections 2.7.2 and 5.3 hereof at an amount not to exceed the purchase price paid to Grantor for the Property as set forth in Section 2.7.2 and 5.3 hereof. Grantee shall give Grantor written notice of Grantee's desire to sell the Property and Grantor shall have thirty (30) days after receipt thereof to give notice to Grantee of its intent to repurchase.

5.3 Time to Repurchase. In the event Grantor, in its sole election and at its sole discretion, so elects to repurchase the Property under the provisions of Section 5.1 or 5.2, Grantor shall give Grantee written notice of such election to repurchase within thirty (30) days after the date which is eighteen (18) months from the date hereof. If Grantor does not so notify Grantee within such thirty (30) day period, Grantor shall be deemed to have waived its right of repurchase under Section 5.1 and/or 5.2, as the case may be. In the event Grantor declines to exercise its right to repurchase under Section 5.1 or 5.2, as the case may be, or fails to notify Grantee within such thirty (30) day period, then Grantee shall be free to construct on the Property such Retail Shopping Center as shall be compatible with other retail shopping centers in Inverness and shall be free to choose such site development plan as shall be compatible with other portions of said surrounding Inverness common area, subject to the provisions of Article II. In the event Grantor gives notice of the intent to repurchase pursuant to Sections 5.1 or 5.2 to Grantee within the applicable thirty (30) day period, the closing of the repurchase by Grantor shall be consummated.

## **ARTICLE VI**

### **GENERAL RESTRICTIONS**

6.1 Nuisances. No noxious, offensive, or illegal activities shall be carried on upon any parcel nor shall anything be done on any parcel, which may be or may become an annoyance or nuisance to the Inverness area.

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

6.3 Antennas. All outside radio and television antennas shall be properly screened.

6.4 Trash. No trash, garbage, or other refuse shall be dumped, stored, or accumulated on the Property. Trash, garbage or other waste shall not be kept on the Property, 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 as not to be visible from any road or lake within sight distance of the parcel at any time except during refuse collection. No outside burning of wood, leaves, trash, garbage or other refuse shall be permitted.

6.5 Access. The Property shall be accessed solely from Valleydale Road.

## **ARTICLE VII**

### **ENFORCEMENT**

7.1 In the event of a violation or breach of any of these restrictions, or any amendments thereto by any property owner, or agent of such owner, the Inverness Developer, if



any (who shall have been identified as such in writing), 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 charges, 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 any 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 difference violation. Grantor shall not be responsible in any way for any delay or failure to enforce or seek to enforce any violation or breach of any of these restrictions or amendments thereto.

## **ARTICLE VIII**

### **DURATION AND AMENDMENT**

8.1 The Restrictions contained in this Declaration shall run with and bind the Property, shall inure to the benefit of the Inverness Developer, its successors and assigns for so long as there is an Inverness Developer, but in no event longer than twenty (20) years (the "Restriction Period") from the date hereof, unless waived in writing by the Inverness Developer; provided, however, this Declaration shall automatically terminate without any further act of any party at such time that there no longer exists any Inverness Developer.

8.2 This Declaration may be modified or amended by the written consent of (i) Grantor, its successors or assigns, or any successor Inverness Developer and (ii) the then-current owner of the Property, which modification or amendment shall become effective upon the filing of same in the real property records of Shelby County, Alabama.

## **ARTICLE IX**

### **RECIPROCAL NEGATIVE EASEMENTS**

9.1 Grantor and Grantee covenant and agree that the hereinabove provided restrictions shall not encumber or restrict or burden, either as reciprocal negative easements or as implied covenants or as restrictive covenants or as equitable servitudes or as any other right or interest or claim, any other properties owned in part or entirely by Grantor and which may benefit from the hereinabove provided restrictions, it being the intention of Grantor and Grantee that only the Property shall be restricted thereby. Grantor hereby expresses its general intent to use these same restrictions, as they may be modified, on other property in Inverness, as it may be specifically designated by deed as such from time to time.

## **ARTICLE X**

### **SEVERABILITY**

10.1 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 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.



Signed, sealed and delivered  
by Grantor in the presence of:

GRANTOR: METROPOLITAN LIFE  
INSURANCE COMPANY,  
a New York corporation

James M. [Signature]  
Witness

By: Victor W. Turner *WT*  
Title: VICE PRESIDENT

STATE OF GEORGIA}  
COUNTY OF FULTON}

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Victor W. Turner 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 this instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

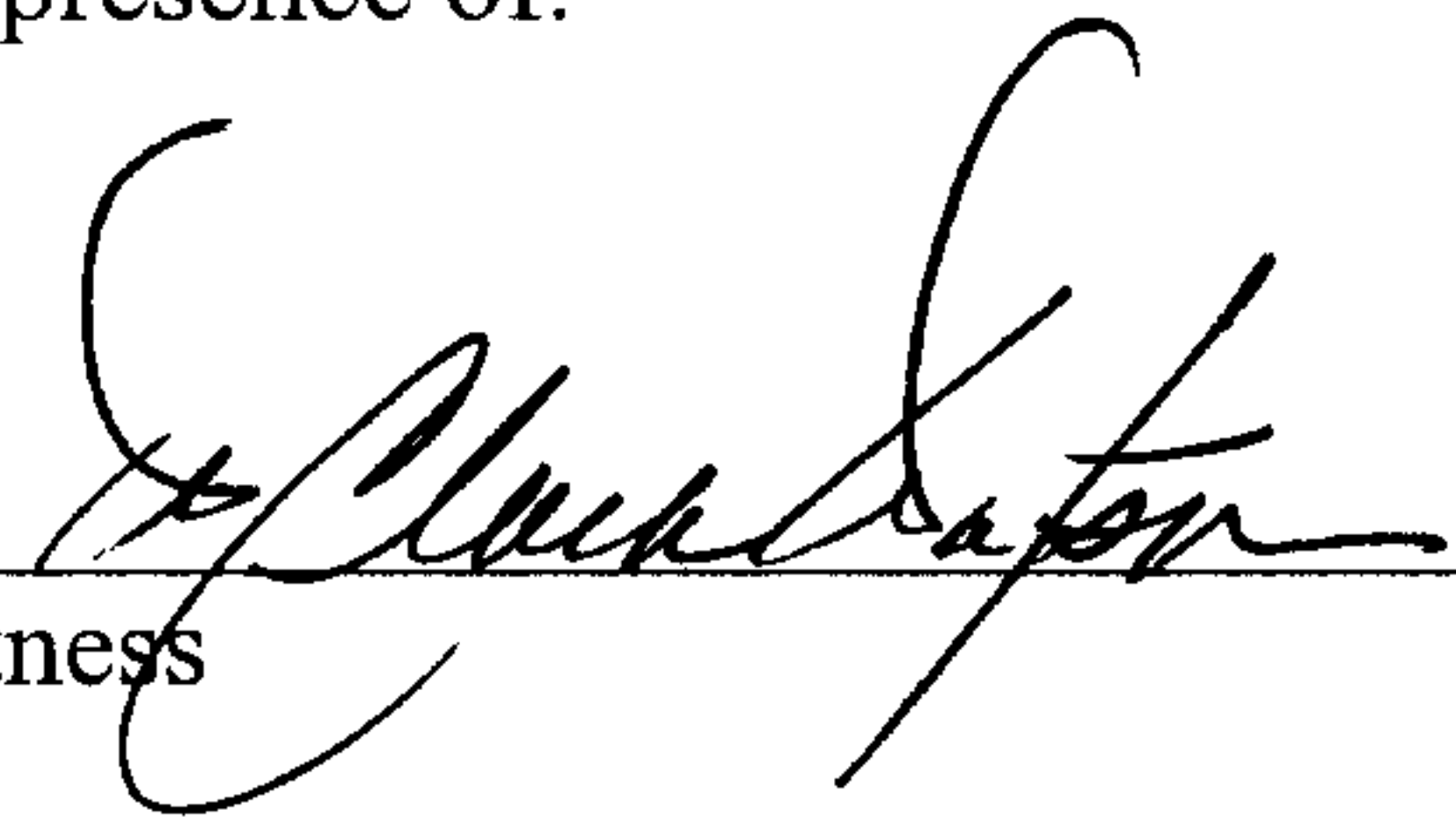
Given under my hand and official seal, this the 21<sup>st</sup> day of November, 2003.

Kathleen D. Coady  
Notary Public

[SEAL]

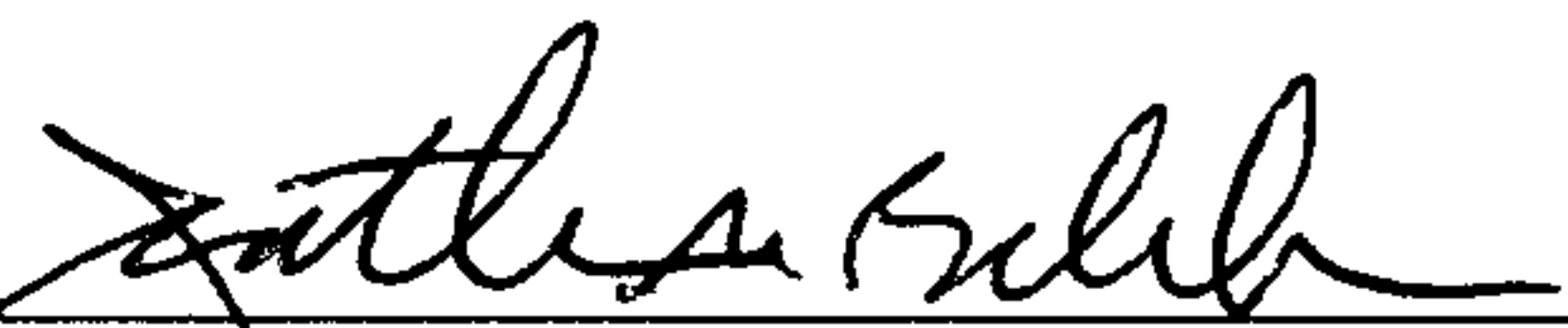


Signed, sealed and delivered  
the presence of:

  
Witness

GRANTEE: INVESTMENT by Grantee in  
ASSOCIATES, LLC,. an Alabama limited  
liability company


By: NSH CORP., its Member

By:   
Title: Vice President

STATE OF ALABAMA }  
COUNTY OF STAFFORD }

I, the undersigned authority, a Notary Public in and for said County in said State,  
hereby certify that Jonathan Belcher, as VP of NSH Corp., an  
Alabama corporation, in its capacity as Member of INVESTMENT ASSOCIATES, 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 this  
instrument, he/she, as such officer and with full authority, executed the same voluntarily for  
and as the act of said corporation, acting in its capacity as member of said limited liability  
company.

Given under my hand and official seal, this the 25 day of November, 2003.

  
Notary Public

[SEAL]

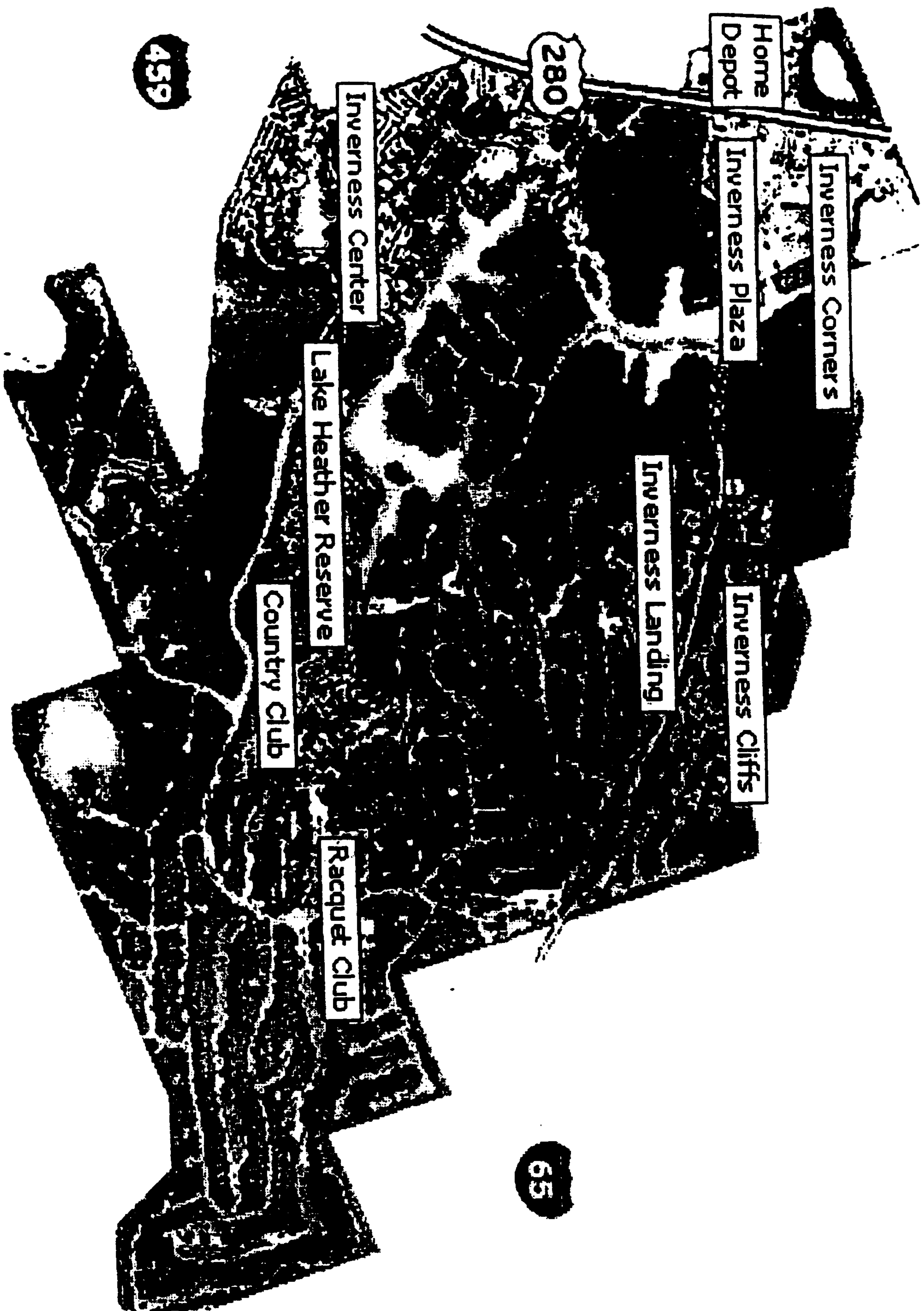
My Commission Expires May 21, 2004



# Master Site Plan

Exhibit B-1

(Inverness)



## **EXHIBIT C**

This **EXHIBIT C** is attached to and by reference made a part of that certain Statutory Warranty Deed dated November 25, 2003, from **METROPOLITAN LIFE INSURANCE COMPANY**, a New York corporation (hereinafter referred to as "Grantor") to **INVESTMENT ASSOCIATES, LLC**, an Alabama limited liability company (hereinafter referred to as "Grantee").

### **DECLARATION OF PROTECTIVE COVENANTS (RESIDENTIAL)**

Grantee desires to develop Parcel 2 of the property conveyed by the foregoing Statutory Warranty Deed (hereinafter "Property") as a residential subdivision of Inverness (herein referred to as the "Subdivision"), located in Shelby County, Alabama. Grantor and Grantee do hereby proclaim, publish and declare that the Property and all of said Lots in the Subdivision (herein "Lot or Lots") are 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 Grantee 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 restrictions contained herein, shall apply only to the Property and shall not apply to any other land owned by Grantor, even though such land may be contiguous with the Property.

### **ARTICLE I** **MUTUALITY OF BENEFIT AND OBLIGATION**

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.

**ARTICLE II**  
**COMMENCEMENT OF CONSTRUCTION**  
**AND REQUIREMENTS OF CONSTRUCTION**

**2.1     Concept.** It is intended that the Subdivision development will be a residential community of high esteem and quality single family detached dwellings ("Homes") in a delightful recreation-oriented environment.

**2.2     Time of Commencement; Inverness.** Grantee shall commence construction on the Property of the Subdivision within eighteen (18) months from the date of execution of the within and foregoing Statutory Warranty Deed (the "Deed"). The Property conveyed by the Deed is hereby declared to be and is designated as part of Inverness.

**2.3     Plans.** Grantee hereby agrees that construction of each of the Lots shall substantially conform with the exterior plans and appearance specifications, if any, approved by Grantor in the manner provided in Section 2.4 hereinbelow.

**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 Grantor before any work is commenced. The scope of review by the Grantor 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. In the event that Grantor does not provide written objections

to Grantee concerning the development within twenty (20) business days of the submittal of plans, then Grantor shall be deemed to approve the plans and Grantee may commence with any construction approved. Commencement of construction prior to a receipt of a Letter of Approval of the Grantor 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 Grantor. The scope of review by the Grantor 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 Grantor shall be retained by the Grantor. Said plans should be delivered to the general office of Inverness at least twenty (20) business 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 Grantor 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 Grantor is unfamiliar.

After the plan for the structure(s) is approved, the dwelling units or other structures must be staked out and such siting approved by the Grantor 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 Grantor.

## **2.6 Design Criteria, Structure.**

2.6.1 It is the intent of the Grantor and Grantee 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 Grantor:

- (a) Brick;
- (b) Stone;
- (c) Natural-colored asphalt shingles or slate roofing. White roofing of any material is not acceptable;
- (d) 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 Electrical distribution shall be underground and no overhead wiring (electrical, telephone, cable or otherwise) shall be permitted, except for temporary utilities for construction purposes.

2.6.5 No exterior radio or television antennas or satellite dishes larger than eighteen (18) inches shall be allowed. Any satellite dishes allowed within the development shall be mounted on the back of the respective Home and not visible from Valleydale Road.

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

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

2.6.9 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.

2.6.10 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.

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



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

2.6.13 During construction, Grantee must keep homes and garages clean and yards cut.

2.6.14 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.

2.6.15 No outside clotheslines shall be allowed.

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

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

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

2.6.19 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.

2.6.20 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 Grantor so as not to be visible from any street.

**2.7 Limits of Liability.** Neither the Grantor, 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 Grantor 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 Grantor nor any officer, director or shareholder thereof shall be liable to any Lot owner for any action taken or omitted to be taken by the Grantor or the individual officers, directors or shareholders thereof in the performance of their respective duties hereunder.

### **ARTICLE III**

#### **EXCLUSIVE RESIDENTIAL USE AND IMPROVEMENTS**

3.1 All Lots in the Subdivision shall be known and described as residential Lots and shall be used for single family detached dwellings. No structure shall be erected, altered, placed or permitted to remain on any residential Lot other than one single family detached dwelling not to exceed three (3) stories, including the basement as a story, and a private garage for not more than three (3) cars.

3.2 All dwellings must be built within any applicable setback lines established by applicable zoning codes or imposed by Grantor in its sole discretion.

### **ARTICLE IV**

#### **GENERAL PROHIBITIONS AND REQUIREMENTS**

4.1 It shall be the responsibility of each Lot owner to prevent the development of any unclean, unsightly or unkempt 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, whether occupied or unoccupied, and any improvements placed thereon, 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 and its agents the right, after ten (10) days notice to any Lot owner, to enter upon any residential Lot 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 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 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 to mow, clear, cut or prune any Lot 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 street known as Valleydale Road which adjoins the Subdivision.

**4.3** No animals, livestock or poultry of any kind or description except the usual household pets shall be kept on any Lot; provided, however, that no household pet may be kept on any Lot, 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 upon any Lot nor shall anything be done on any Lot which may be or may become an annoyance or nuisance to the neighborhood. No commercial activity shall be allowed on any Lot.

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

**4.6** No trash, garbage or other refuse shall be dumped, stored or accumulated on any Lot. 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 Grantor so as not to be visible from any street at any time, except during refuse collection. 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 Grantee and contractor signs during construction periods and except one professional sign per Lot of not more than six square feet to advertise property for sale during sales period. No sign is permitted to be nailed or attached to trees.

**4.8** Any dwelling or other structure on any Lot in the Subdivision which may be destroyed in whole or in part for any reason must be rebuilt within one (1) year. 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 thirty (30) 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 between 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 Grantor 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 or any other area of the Inverness community.

## **ARTICLE V** **EASEMENTS**

**5.1** 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.

**5.2** An easement shall be granted and is hereby reserved for the Grantee 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, right-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.

**5.3** 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. Grantee may cut drainways for surface water wherever and whenever such action may appear to Grantee 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. The provision hereof shall not be construed to impose any obligation upon Grantee to cut such drainway.

**5.4** Grantee reserves for itself, its successors and assigns an exclusive easement for the installation or maintenance of radio and television cables within the right-of-way and easement areas referred to.

**5.5** No permanent structure may be constructed or placed in any drainage easement area. Each Lot owner also agrees, by acceptance of a deed to a Lot, to assume, as against



Grantor and Grantee, their successors or assigns, all the risks and hazards of ownership or occupancy attendant to such Lot.

5.6 The Subdivision shall be accessed solely from Valleydale Road.

## **ARTICLE VI**

### **PROPERTY OWNERS ASSOCIATION**

6.1 If at any time, from this date forward, a Homeowners Association is established or developed within the Inverness community, then each owner of land herein or any subdivided portions thereof, is responsible to join and become a part of said homeowners association and is required to pay the dues or assessments which may be established by said Homeowners Association and agrees to be bound by the rules, regulations and requirements established by said 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 Grantee or other appropriate authorities the charges and fees provided for in Article VII and to the 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**

7.1 Individual sewage disposal systems shall not be permitted on any Lot. The sewage treatment facility available to the Subdivision is currently provided by the City of Hoover. By accepting a deed to a Lot, the owner of such Lot covenants and agrees to pay to the City of Hoover or its successors, assigns, or any other entity that may provide sewer service to the Subdivision, 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 or her 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. Grantor or Grantee 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. Grantor or Grantee is under no obligation to provide security service, or to assure that such security service is provided by others.



## **ARTICLE VIII**

### **ENFORCEMENT**

**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), Grantee, its successors and assigns, the Grantor, the 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, nor any architect nor agent thereof nor Grantee 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**  
**GRANTEE'S INDEMNIFICATION AGREEMENT**

9.1 Grantee 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 Grantee, 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 the Inverness community, and Grantee 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**

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 Grantee 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 Grantee or a subsequent owner of such Lot agrees to indemnify and reimburse Grantee 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 Grantee, or for which Grantor or Grantee 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 Grantee 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 Grantee 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 10.4) from and against any, and all liability, claims and causes of action whether arising at law or in equity because of any past or future subsidence, if any, of the land so conveyed, and any and all damage or destruction of property and injury to or death of any person located in, on, or under the surface of or over land so

conveyed, as the case may be, by reason of any exercise of any past mining and removing of minerals from the land so conveyed, and/or adjacent and nearby lands, or from any soil, subsoil or other conditions.

**10.5** 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 Grantee 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**

**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**

**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** Grantee 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**

**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**

**14.1** Any notice required to be sent to the Grantee 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 Grantee or such Lot owner at the time of such mailing.

### **ARTICLE XV** **GOVERNING LAW**

**15.1** Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by this Declaration of Protective Covenants 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.

IN WITNESS WHEREOF, METROPOLITAN LIFE INSURANCE COMPANY, a New York corporation, has caused these restrictions to be properly executed and recorded in the Office of the Judge of Probate of Shelby County, Alabama.

Signed, sealed and delivered  
by Grantor in the presence of:

GRANTOR: METROPOLITAN LIFE  
INSURANCE COMPANY,  
a New York corporation

James M. Hunt  
Witness

By: Victor W. Turner *VA*  
Title: VICE PRESIDENT

STATE OF GEORGIA}  
COUNTY OF FULTON}

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Victor W. Turner 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 this 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 21<sup>st</sup> day of November, 2003.

Kathleen D. Coady  
Notary Public

[SEAL]





Signed, sealed and delivered  
by Grantee in the presence of:

[Signature]  
Witness

GRANTEE: INVESTMENT  
ASSOCIATES, LLC,. an Alabama  
Limited liability company

By: NSH CORP., its Member

By: [Signature]  
Title: VP President

STATE OF ALABAMA }  
COUNTY OF SEMPER }

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Trish Belcher, as VP of NSH Corp., an Alabama corporation, in its capacity as Member of INVESTMENT ASSOCIATES, 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 this instrument, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation, acting in its capacity as member of said limited liability company.

Given under my hand and official seal, this the 25 day of November, 2003.

[Signature]  
Notary Public

[SEAL]

My Commission Expires May 21, 2004