

This instrument prepared by:
Calvert C. Sullins
Burr & Forman LLP
420 North 20th Street, Suite 3100
Birmingham, Alabama 35203

**ARTICLES OF INCORPORATION
OF
INVERNESS OFFICE PARK ASSOCIATION, INC.**

The undersigned, for the purpose of forming a corporation pursuant to the provisions of the Alabama Nonprofit Corporation Act (Code of Alabama (1975), Sections 10-3A-1, et seq.) hereby adopts the following Articles of Incorporation and certifies as follows:

1. **NAME.** The name of the corporation is "**Inverness Office Park Association, Inc.**" (hereinafter referred to as the "Association").

2. **DURATION.** The period of duration of the Association shall be perpetual.

3. **PURPOSES.** The purposes for which the Association is organized are:

(a) To provide for the efficient preservation of the appearance, value and amenities of certain property which is subject to the Declaration of Protective Covenants for Inverness Office Park (the "Declaration") executed by Metropolitan Life Insurance Company as Developer and recorded or to be recorded in the Probate Office of Shelby County, Alabama, and also certain property which is subject to those certain covenants set forth in the deeds and agreements recorded in the Probate Office of Shelby County, Alabama as set forth on Schedule A, which is attached hereto and incorporated herein by reference (collectively, the "Deeds"). The property described in the Deeds is referred to herein as the "Deed Property". The property subject to the Declaration is herein referred to as the "Declaration Property." The Deed Property and the Declaration Property are hereinafter collectively referred to as the "Development." Capitalized terms not otherwise defined herein shall have the same meanings given to them in the Declaration.

(b) To purchase, lease, or otherwise acquire, directly or indirectly, common areas of the Development, including, but not limited to the Common Areas, as defined in the Declaration, for the benefit of the Owners and the owners of the Deed Property, and to operate, maintain, manage, repair and replace such common areas and other improvements in or benefiting the Development for which the obligation to maintain has been delegated and accepted.

(c) To the extent provided in the Declaration, to control the specifications, architecture, design, appearance, siting and landscaping of all improvements to be constructed, placed or permitted to remain on any lot or building in the Development and all alterations, changes and additions thereto.

(d) To perform and carry out the acts, duties, responsibilities and conditions delegated to the Association in the Declaration, the Deeds, these Articles of Incorporation, the Bylaws of this Association and all amendments thereto.

(e) To own, lease, license, operate, purchase, acquire, hold, improve, develop, manage, sell, convey, transfer, exchange, release and dispose of, either alone or in conjunction with others, real and personal property, tangible and intangible, of every kind, character and description.

(f) To enforce all of the terms and provisions of the Declaration and the Deeds and to make, amend, establish and enforce reasonable rules and regulations governing the administration, operation and management of the Development.

(g) To make, levy, collect and enforce Assessments, as defined in the Declaration, and other common area maintenance fees as may be set forth in the Deeds, and to use and expend such Assessments and fees in the manner set forth in the Declaration and/or the Deeds.

(h) To employ personnel and contract for services, material and labor, including contracting for the management of the common areas of the Development, including, but not limited to the Common Areas, as defined in the Declaration, and all other portions of the Development.

(i) To purchase and maintain insurance for such coverages, with such insurance carriers, in such amounts, at such rates and with such deductibles as may be necessary for the protection of the Association, its officers, directors and members or as may be otherwise required in the Declaration or the Deeds.

(j) To enforce any of the provisions of the Declaration or the Deeds by legal and equitable actions as may from time to time be necessary.

(k) To enter into, make and perform contracts of every kind for any lawful purpose without limit as to amount, with any person, firm, association, partnership, limited partnership, corporation, municipality, county, state, territory, government, governmental subdivision, or body politic.

(l) To operate without profit for the sole and exclusive benefit of the Development.

(m) To carry on any other business in connection with the foregoing, to transact any or all lawful business for which corporations may be incorporated under the Alabama Nonprofit Corporation Act, as amended, and to have and exercise all powers necessary or convenient to effect the purpose of the Association in accordance with and subject to the terms and provisions of the Declaration.

4. **INITIAL REGISTERED OFFICE AND AGENT.** The location and mailing address of the initial registered office of the Association and the name of its initial registered agent as such address are as follows:

Taylor & Mathis Inc
22 Inverness Center Parkway
Suite 650
Birmingham AL 35242
Attn: Betty Swann

5. **MEMBERS.** The Association shall have no members.

6. **DIRECTORS.**

(a) **Number of Directors.** The business and affairs of the Association shall be managed by a Board of Directors. The number of Directors constituting the initial Board of Directors shall be three (3). Thereafter, the number of Directors shall be fixed in the manner provided in the Bylaws and may thereafter be increased or decreased from time to time by amendment to or in the manner provided in the Bylaws; provided, however, that (i) the number of Directors shall, in no event, consist of less than three (3) Directors, (ii) no decrease in the number of Directors shall have the effect of shortening

the term of any incumbent Director; (iii) Developer shall have the right to elect all members of the Board of Directors of the Association to remove any Directors, either with or without cause, and may appoint a successor to such removed Director or otherwise fill any vacancies on the Board as long as Developer owns any real property within the Development; and (iv) at such time as Developer no longer owns any real property within the Development or at such time Developer elects to terminate its exclusive voting rights, the Developer shall, upon thirty (30) days' notice, call a meeting of the owners of the Deed Property and the owners of the Declaration Property, whereby the Board shall resign and such owners shall elect, by a majority vote, new members of the Board as provided in Section 3.3 of the Bylaws. Thereafter, by affirmative vote of a majority of the owners of the Deed Property and the owners of the Declaration Property, such owners shall (i) elect the members of the Board and (ii) have the right to remove, either with or without cause, at any time or from time to time, any of the members of the Board and appoint a successor to such removed Director. Directors need not be owners of real property within the Development or residents of the State of Alabama. The name and address of each person who is to serve as an initial Director of the Association until their successors are elected and qualified or until such Directors are removed as provided in Section 7(b) of these Articles are as follows:

Betty Swann
59 Burnham Street
Birmingham, AL 35242

Victor W. Turner
50 Stone Creek Trail
Alpharetta, GA 30004

William Runge
4253 Glen Meadow Dr
Norcross, GA 30092-1921

(b) **Removal.** For so long as Developer owns any real property within the Development, Developer shall have the right at any time and from time to time to remove any Director, either with or without cause, and may appoint a successor to such removed Director or otherwise fill any vacancies on the Board, in each case without any consent or approval of any of the members. At such time as Developer no longer owns any real property within the Development, the owners of the Deed Property and the owners of the Declaration Property shall have the right at any time and from time to time to remove any Director, either with or without cause, and may appoint a successor to such removed Director. Any vacancies which may thereafter arise on the Board shall be filled as provided in the Bylaws.

(c) **Powers.** Except as may be otherwise provided to the contrary in the Declaration, these Articles of Incorporation or the Bylaws of the Association, all powers of the Association shall be exercised by or under the authority of, and the business and affairs of the Association shall be managed under the direction of, the Board of Directors.

7. **INCORPORATOR.** The name and address of the incorporator is as follows:

Calvert C. Sullins
420 North 20th Street
Suite 3100
Birmingham, Alabama 35203

8. **DISTRIBUTION OF ASSETS UPON DISSOLUTION.**

(a) Upon dissolution of the Association, all of its assets remaining after provision for creditors and payment of all costs and expenses of such dissolution shall be distributed in the following manner:

(i) Assets held by the Association upon condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred or conveyed in accordance with such requirements.

(ii) Real property contributed to the Association without the receipt of other than nominal consideration by Developer shall be returned to Developer, unless it refuses to accept the conveyance (in whole or in part); and

(iii) All remaining assets shall be distributed among the owners of property within the Development, with each owner's share of the assets to be determined in accordance with the ratio that the annual common area Assessment or fee of an owner in the last complete fiscal year bears to the sum of the annual common area Assessments and fees of all owners in such year.

(b) Dissolution of the Association shall be accomplished as set forth in the Alabama Nonprofit Corporation Act.

9. **INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES, MANAGERS AND AGENTS.**

(a) The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action, suit or proceeding, whether civil, criminal, administrative or investigative, including appeals (other than an action by or in the right of the Association), by reason of the fact that he is or was a director, officer, employee, manager, or agent of the Association, or is or was serving at the request of the Association as a director, officer, partner, employee, manager or agent of another corporation, partnership, limited liability company, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgment, fines and amounts paid in settlement, actually and reasonably incurred by him in connection with such claim, action, suit or proceeding, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association; and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any claim, action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(b) The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee, manager or agent of the Association, or is or was serving at the request of the Association as a director, officer, partner, employee, manager or agent of another corporation, partnership, limited liability company, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit, if he acted in good faith and in a manner he reasonably believed to be in or not

opposed to the best interests of the Association; provided, however, that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for willful, deliberate or wanton misconduct in the performance of his duty to the Association, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite that adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

(c) To the extent that a director, officer, employee, manager or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Sections 9(a) and (b) above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith, notwithstanding that he has not been successful on any other claim, issue or matter in any such action, suit or proceeding.

(d) Any indemnification under Sections 9(a) and (b) above (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the director, officer, employee, manager or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Sections 9(a) or (b) above. Such determination shall be made: (1) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to, or who have been wholly successful on the merits or otherwise with respect to, such claim, action, suit or proceeding, or (2) if such a quorum is not obtainable, or, even if obtainable, if a quorum of disinterested directors so directs, by independent legal counsel in a written opinion.

(e) Expenses (including attorneys' fees) incurred in defending a civil or criminal claim, action, suit or proceeding may be paid by the Association in advance of the final disposition of such claim, action, suit or proceeding as authorized in the manner provided in Section 9(d) above upon receipt of an undertaking by or on behalf of the director, officer, employee, manager or agent to repay such amount if and to the extent that it shall be ultimately determined that he is not entitled to be indemnified by the Association as authorized in this Section 9.

(f) The indemnification authorized by this Section 9 shall not be deemed exclusive of and shall be in addition to any other right to which those indemnified may be entitled under any statute, rule of law, provisions of these Articles of Incorporation, Bylaws, the Declaration or agreement, or the vote of members or disinterested directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee, manager or agent and shall inure to the benefit of the heirs, executors and administrators of such a person. It is the policy of the Association that indemnification of directors, officers, employees and agents shall be made to the fullest extent permitted by law.

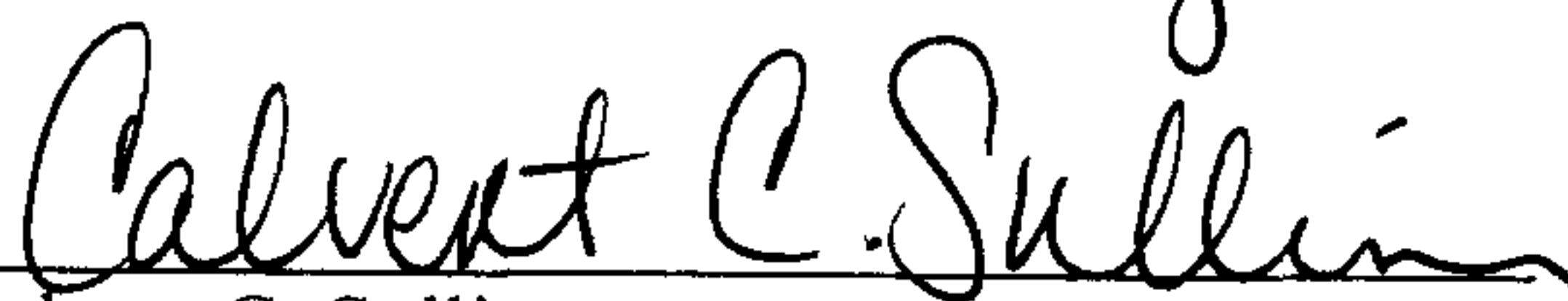
(g) The Association shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, manager or agent of the Association, or is or was serving at the request of the Association as a director, officer, partner, employee, manager or agent of another corporation, partnership, limited liability company, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Section 9.

10. **AMENDMENT.** Subject to any restrictions set forth in the Declaration, these Articles of Incorporation may be amended at any time and from time to time by Developer or, provided that the approval of the Developer is first obtained, by the vote of the Board of Directors of the Association, until

the earlier of such time as Developer no longer owns any real property within the Development or such time as the Developer elects to terminate its exclusive voting rights. After the exclusive voting rights of Developer have been terminated as herein provided, these Articles of Incorporation may be amended, subject to the terms and provisions of the Declaration, by the vote of the Board of Directors of the Association.

11. **INCORPORATION BY REFERENCE.** All the terms, provisions, definitions, covenants, and conditions set forth in the Declaration and the Deeds are hereby expressly incorporated herein by reference as fully set forth herein. In the event of any conflict or ambiguity between the terms, provisions, definitions, covenants, and conditions set forth in these Articles of Incorporation and the Declaration or the Deeds, then the provisions of the Declaration and/or the Deeds, as applicable, shall at all times control.

IN WITNESS WHEREOF, the undersigned Incorporator has hereunto subscribed, as applicable, his name to these Articles of Incorporation as of the 2nd day of February, 2005.


Calvert C. Sullins

SCHEDULE A DEEDS

1. Statutory Warranty Deed dated November 19, 1981, from 2154 Trading Corporation to the Industrial Development Board of the Town of Pelham, recorded November 30, 1981 in Book 336, Page 505, Probate Office of Shelby County, Alabama. (Altec Site)
2. Limited Warranty Deed dated March 2, 2000, from Metropolitan Life Insurance Company to Vulcan Properties, LLC, recorded March 3, 2000, as Instrument No. 2000-06720, Probate Office of Shelby County, Alabama. (American Homes & Land Site)
3. Limited Warranty Deed dated May 14, 1981, from 2154 Trading Corporation to Charles W. Daniel, recorded May 15, 1981, in Book 332, Page 901, Probate Office of Shelby County, Alabama; Limited Warranty Deed dated November 19, 1981, from 2154 Trading Corporation to First National Bank of Columbiana, recorded December 17, 1981, in Book 336, Page 802, Probate Office of Shelby County, Alabama. (First Union Credit Union)
4. Limited Warranty Deed dated July 17, 1996, from Metropolitan Life Insurance Company to Prime Hospitality Corp., recorded July 18, 1996, as Instrument No. 1996 – 23101, Probate Office of Shelby County, Alabama. (AmeriSuites Sites)
5. Statutory Warranty Deed dated November 30, 2000, from Metropolitan Life Insurance Company to Bankcorp South Bank, recorded December 1, 2000, as Instrument No. 2000-41313, Probate Office of Shelby County, Alabama. (Bankcorp South Site)
6. Deed dated July 28, 1977, from 2154 Trading Corporation to McWane, Inc., recorded in Deed Book 307, Page 134, Probate Office of Shelby County, Alabama. (Barber Site)
7. Limited Warranty Deed dated January 3, 1994, from Metropolitan Life Insurance Company to HealthSouth Real Property Holding Corporation, recorded January 4, 1994, as Instrument No. 1994-00021, Probate Office of Shelby County, Alabama. (HealthSouth Site)
8. Statutory Warranty Deed dated November 25, 2003, from Metropolitan Life Insurance Company to McKibbin Hotel Group of Birmingham, Alabama, LLP, recorded December 2, 2003, as Instrument No. 20031202000779900, Probate Office of Shelby County, Alabama. (Homewood Suites Site)
9. Statutory Warranty Deed dated October 15, 1990, from Metropolitan Life Insurance Company to Inverness Center Realty, Inc., recorded October 15, 1990, in Book 314, Page 370, Probate Office of Shelby County, Alabama. (Inverness Dental Site)
10. Statutory Warranty Deed dated June 17, 2003, from Metropolitan Life Insurance Company to The Mandala Project, LLC, recorded June 18, 2003, as Instrument No. 200306180000380530, Probate Office of Shelby County, Alabama. (Inverness Village Site)
11. Limited Warranty Deed dated June 18, 1998, from Metropolitan Life Insurance Company to HealthSouth Real Property Holding Company, recorded July 1, 1998, as Instrument No. 1998-24495, Probate Office of Shelby County, Alabama. (Red Mountain Bank Site)
12. Ground Lease dated September 16, 1986, between 2154 Trading Corporation and First Alabama Bank. (Regions Bank Site)

13. Limited Warranty Deed dated December 14, 1998, from Metropolitan Life Insurance Company to Selkirk Partners, LLC, recorded January 14, 1999, as Instrument No. 1999-01847, Probate Office of Shelby County, Alabama. (Selkirk Site)

State of Alabama Shelby County

Certificate of Incorporation

Of **Inverness Office Park Association, Inc.**

The undersigned, as Judge of Probate of Shelby County, State of Alabama, hereby certifies that duplicate originals of Articles of Incorporation of Inverness Office Park Association, Inc., duly signed and verified pursuant to the provisions of Section Non Profit of the Alabama Business Corporation Act, have been received in this office and are found to conform to law.

ACCORDINGLY the undersigned, as such Judge of Probate, and by virtue of the authority vested in her by law, hereby issues this Certificate of Incorporation of Inverness Office Park Association, Inc., is hereto a duplicate original of the Articles of Incorporation.

Given under my hand and Official Seal on
this the **2nd day** of February, 2005.

Patricia Yeager Fuhrmeister

Patricia Yeager Fuhrmeister
Judge of Probate

