

After recording please return to:
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Atlanta, Georgia 30339

DECLARATION OF USE RESTRICTIONS
(Inverness Corners & Inverness Plaza)

THIS DECLARATION OF USE RESTRICTIONS (this "Declaration") is made this 20th day of July, 2022, by BRANCH INVERNESS ASSOCIATES, LP, a Delaware limited partnership (hereinafter referred to as "Declarant").

W I T N E S S E T H:

WHEREAS, Declarant is the owner of two (2) shopping centers located in Shelby County, Alabama, commonly known as: (a) Inverness Corners, which is more particularly described on Exhibit A attached hereto ("Inverness Corners"), and (b) Inverness Plaza, which is more particularly described on Exhibit B attached hereto ("Inverness Plaza"); and

WHEREAS, in anticipation of Declarant's potential sale of Inverness Corners and/or Inverness Plaza to separate owners, Declarant desires to establish and create certain use restrictions applicable to both Inverness Corners and Inverness Plaza, as more particularly set forth herein;

NOW, THEREFORE, Declarant hereby declares that, for the duration of the applicable leases described in Article I, that Inverness Corners and Inverness Plaza are now and shall be hereafter owned, held, transferred, sold, conveyed, leased, and subleased subject to the use restrictions hereinafter set forth in this Declaration, and every grantee of any interest in Inverness Corners and Inverness Plaza, by acceptance of a deed or other conveyance, whether or not such deed or other conveyance shall be signed by such grantee and whether or not such grantee shall otherwise consent in writing, shall take title subject to this Declaration and shall be deemed to have assented to and agreed to the same.

ARTICLE I
RECITALS AND DEFINED TERMS

1.1 The foregoing recital of facts and defined terms are incorporated herein to the same extent as if hereinafter fully set forth.

1.2 “Planet Fitness Lease” as used herein, shall mean the Agreement of Lease dated November 8, 2010, by and between Declarant, as successor-in-interest to I & G Inverness Retail, L.L.C., as Landlord, and United PF LAN, LLC, as successor-in-interest to PLA-FIT 280, LLC, as Tenant, as such lease may have been amended and assigned from time to time, for certain premises described therein located in Inverness Plaza.

1.3 “Beverage Place Lease” as used herein, shall mean the Lease Agreement dated October 4, 1985, by and between Declarant, as successor-in-interest to Metropolitan Life Insurance Company, as Landlord, and Joseph P. Rueschenberg, as successor-in-interest to Hinton-Mears of Inverness, Inc., as Tenant, as such lease may have been amended and assigned from time to time, for certain premises described therein located in Inverness Plaza.

1.4 “Winn-Dixie Lease” as used herein, shall mean the Lease dated February 14, 2013, by and between Declarant, as successor-in-interest to I & G Inverness Retail, L.L.C., as Landlord, and Winn-Dixie Montgomery Leasing, LLC, as Tenant, as such lease may have been amended and assigned from time to time, for certain premises described therein located in Inverness Corners.

ARTICLE II USE RESTRICTIONS

2.1 Planet Fitness Lease Use Restriction. For so long as the Planet Fitness Lease is in effect in Inverness Plaza, no other part of Inverness Corners or Inverness Plaza shall be leased, rented, occupied, or used for the purpose of conducting as its primary business (or for the primary use of) a health/physical fitness club (“Fitness Exclusive Use”); provided a business shall not be deemed to use its premises in the Shopping Center primarily for the Fitness Exclusive Use if: (i) it devotes less than 20% of the area of such premises to the Fitness Exclusive Use; (ii) on an annual basis, less than 20% of the gross revenues from such premises are generated by the Fitness Exclusive Use; or (iii) with respect to Inverness Corners only, it devotes less than 5,000 square feet of such premises to the operation of the Fitness Exclusive Use.

2.2 Beverage Place Lease Use Restriction. For so long as the Beverage Place Lease is in effect in Inverness Plaza, no other part of Inverness Corners or Inverness Plaza shall be leased, rented, occupied, or used for any in-line shop whose primary retail business is the retail sale of alcoholic beverages and related goods; provided however, the restriction contained therein with respect to Inverness Corners (but not Inverness Plaza) shall not prohibit a lease with any in-line shop whose primary retail business is the sale of beer and wine and related goods. For the avoidance of doubt, such restriction shall not apply to freestanding or standalone shops in either Inverness Corners or Inverness Plaza.

2.3 Winn-Dixie Lease Use Restriction. For so long as the Winn-Dixie Lease is in effect in Inverness Corners, no part of Inverness Plaza shall be leased, rented, occupied, or used for a grocery supermarket.

ARTICLE III MISCELLANEOUS

3.1 Covenants Run with the Land. The covenants and agreements made hereunder shall constitute covenants running with, and shall be appurtenant to, Inverness Corners and Inverness Plaza, and shall be binding upon and inure to the benefit of the parties which have an interest in the benefited or burdened shopping centers and their respective successors and assigns in title.

3.2 Amendments. The provisions of this Declaration may be modified, rescinded or amended in whole or in part only by the current owners of Inverness Corners and Inverness Plaza in a written instrument duly recorded in the public records of Shelby County, Alabama.

3.3 Severability. If any term, provision, covenant, or agreement contained herein or the application thereof to any person or circumstance shall be held illegal or unenforceable, the validity of the remaining terms, provisions, covenant, or agreements or the application of such term, provision, covenant, or agreement to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby.

3.4 Governing Law. This instrument shall be construed in accordance with the laws of the State of Alabama.

3.5 Term. The restrictions, covenants and conditions set forth in this Declaration shall be binding upon and enforceable for a period of twenty (20) years from the date this Declaration is filed in the public records maintained, after which time, such restrictions, covenants, and conditions shall be extended automatically for successive periods of twenty (20) years each unless terminated by the owners of Inverness Corners or Inverness Plaza.

3.6 Enforcement. This Declaration may be enforced by the respective owners of Inverness Corners or Inverness Plaza by any action available at law or in equity, including, but not limited to, injunctive relief and specific performance.

[Signature Page Follows]

IN WITNESS WHEREOF, this Declaration is executed under seal this 7th day of July, 2022.

DECLARANT:

BRANCH INVERNESS ASSOCIATES, LP, a Delaware limited partnership

By: BRANCH RETAIL GP, LLC, a Georgia limited liability company, its General Partner

By: BRANCH RETAIL PARTNERS, LP, a Delaware limited partnership, its Sole Member

By: BRANCH RETAIL MANAGEMENT, LLC, a Georgia limited liability company, its General Partner

By: BRANCH ADMINISTRATIVE MANAGER, LLC, a Georgia limited liability company, its Manager

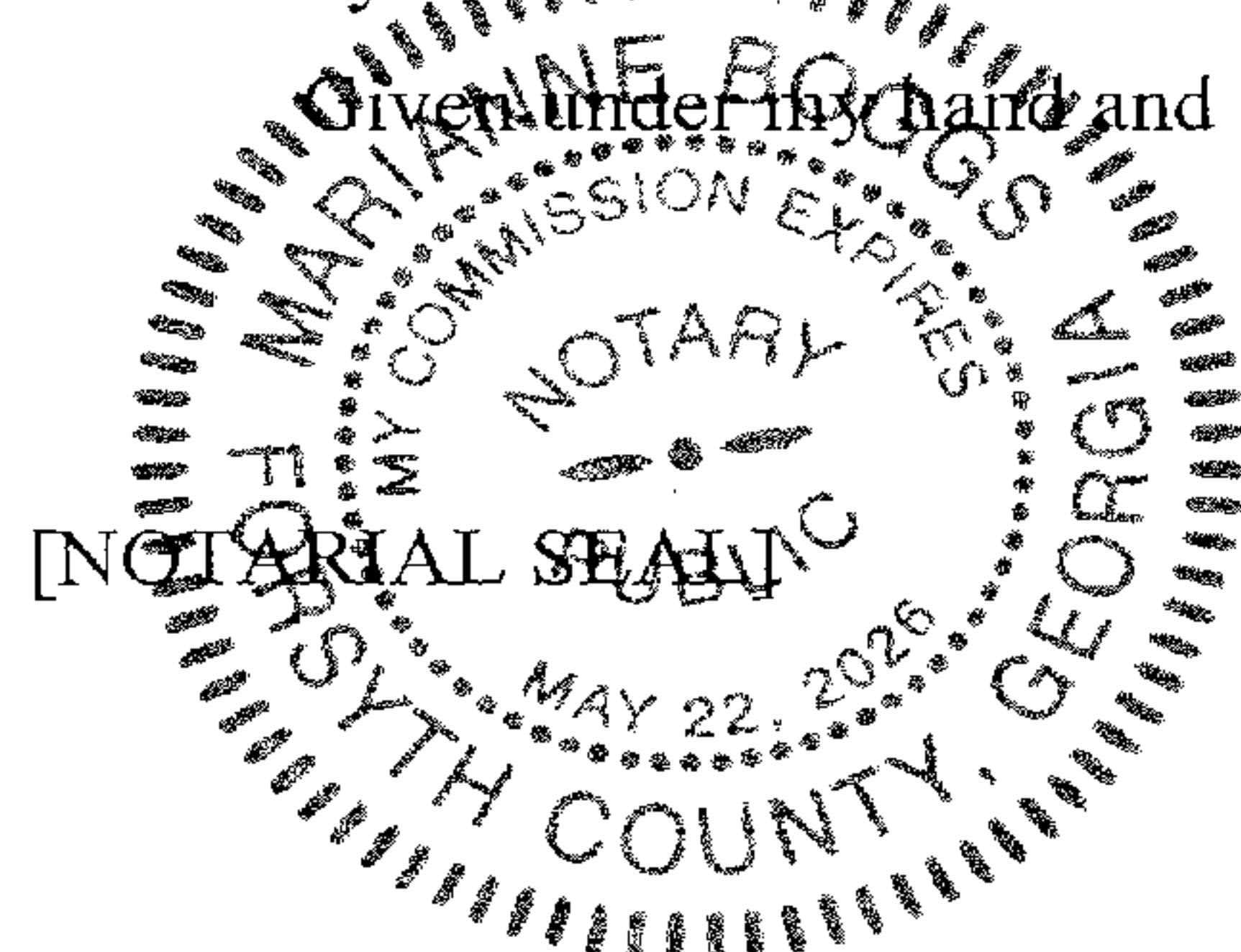
By: [Signature] (SEAL)
Brett J. Horowitz,
Authorized Member

STATE OF GEORGIA)

FULTON COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Brett J. Horowitz whose name as Authorized Member of Branch Administrative Manager, LLC, a Georgia limited liability company, as Manager of Branch Retail Management, LLC, a Georgia limited liability company, as General Partner of Branch Retail Partners, LP, a Delaware limited partnership, as Sole Member of Branch Retail GP, LLC, a Georgia limited liability company, as General Partner of Branch Inverness Associates, LP, a Delaware limited partnership is signed to the foregoing Declaration and who is known to me, acknowledged before me on this day that, being informed of the contents of said Declaration, he, in his capacity as such Authorized Member and with full authority, executed the same voluntarily for and as the act of said Delaware limited partnership, on the day the same bears date.

Given under my hand and seal this the 7th day of JULY, 2022.



Marianne Borg
Notary Public
My Commission Expires: 5-22-2026

EXHIBIT A

Legal Description of Inverness Corners

Lots 1, 2, 3 and 4 according to Survey of Inverness Corners Subdivision, as recorded in Map Book 44, Page 113, in the Probate Office of Shelby County Alabama.

For the avoidance of doubt, the above description of the Shopping Center includes:

Lots 1-A and 1-B1 according to the Resurvey of Lot 1B, Inverness Corners Subdivision as recorded in Map Book 51, Page 76, in the Probate Office of Shelby County, Alabama.

EXHIBIT B

Legal Description of Inverness Plaza

Lot 1 according to Survey of Inverness Plaza Subdivision, as recorded in Map Book 44, Page 112, in the Probate Office of Shelby County, Alabama.



Filed and Recorded
Official Public Records
Judge of Probate, Shelby County Alabama, County
Clerk
Shelby County, AL
07/25/2022 10:35:51 AM
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Allie S. Bayl