

THIS INSTRUMENT PREPARED BY:

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1 Independence Plaza
Suite 510
Birmingham, Alabama 35209**

**STATE OF ALABAMA)
)
COUNTY OF SHELBY)**

**DECLARATION OF PROTECTIVE COVENANTS
FOR LAKE HEATHER ESTATES, A PRIVATE SUBDIVISION**

KNOW ALL MEN BY THESE PRESENTS, that:

WHEREAS, by that certain Statutory Warranty Deed dated August 26th, 1992 and recorded at Instrument Number 992-18226 in the Office of the Judge of Probate of Shelby County, Alabama, from **METROPOLITAN LIFE INSURANCE COMPANY**, a New York Corporation, (herein referred to as "Grantor") conveyed to **LAKE HEATHER DEVELOPMENT CO., INC.**, an Alabama corporation, (herein referred to as "Developer"), approximately forty three (43) acres of land, described in Exhibit "A", attached hereto and made a part hereof; and

WHEREAS, Developer desires to develop said land as a subdivision of Inverness, which subdivision will be known as Lake Heather Estates, a private subdivision (herein referred to as the "Subdivision"), located in the City of Hoover, Shelby County, Alabama; and

WHEREAS, Grantor and Developer desire to subject the property described on Exhibit "A" and each lot to be located in said Subdivision to and impose upon said lots mutual and beneficial restrictions, covenants, terms, conditions and limitations for the benefit of all the lots in the said Subdivision, the future owners of said lots, and any other party as may be specified herein.

NOW, THEREFORE, Grantor and Developer do hereby proclaim, publish and declare that all of said lots in 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 Developer and Grantor 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. Subject only to Article IX hereof, the restrictions contained herein shall apply only to the property described in Exhibit "A" and shall not apply to any other lands owned by Grantor.

Calhoun Title

*CSC
[Signature]*

ARTICLE I

DEFINITIONS

Section 1.1 "Access Easement" shall mean the easement for vehicles and pedestrian ingress and egress as depicted on the Subdivision Plat which will be filed for record and further referred to in Article V hereof.

Section 1.2 "Articles" shall mean the Articles of Incorporation of the Association, as said Articles may be amended from time to time.

Section 1.3 "Association" shall mean and refer to Lake Heather Homeowners' Association, Inc., an Alabama nonprofit corporation, and its successors and assigns.

Section 1.4 "Board" or "Board of Directors" shall mean the Board of Directors of the Association.

Section 1.5 "Bylaws" shall mean the Bylaws of the Association, as such Bylaws may be amended from time to time.

Section 1.6 "Committee" shall mean the architectural control committee created pursuant to Article II hereof.

Section 1.7 "Control Period" shall mean the period of time during which the Developer shall be in control of the Association as permitted and authorized by Article VIII hereof.

Section 1.8 "Declaration" shall mean this entire document, as same may from time to time amended.

Section 1.9 "Governmental Authority" shall mean any and all city, county, state and federal governmental or quasi-governmental agencies, bureaus, departments, divisions or regulatory authorities having jurisdiction over any portion of the Subdivision.

Section 1.10 "Member" shall mean any person who is a member of the Association. Every lot owner shall be a Member. Unless otherwise specified, any required vote of the Members shall be computed by allowing each Member the number of votes equal to the number of lots owned by such Member.

Section 1.11 "Subdivision" shall mean and refer to that certain real property described on Exhibit "A" hereto and on the Subdivision Plat to be filed for record in the Shelby County Probate Court and including all of the lots, the Access Easement, and all other easements and restrictions as reflected on the Subdivision Plat.

Section 1.12 "Subdivision Plat" shall mean the recorded map or plat covering any or all of the lots and lands referred to in this Declaration, and any amendments or supplements thereof, which will be recorded in the Office of the Judge of Probate of Shelby County, Alabama.

ARTICLE II

ARCHITECTURAL CONTROL COMMITTEE AND REQUIREMENTS OF CONSTRUCTION

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

Section 2.2 The Committee shall be composed of five (5) members. During the Control Period the Grantor and Developer reserve the right to appoint all initial and successor members of the Committee. The Developer shall have the power to appoint three (3) members and the Grantor shall have the power to appoint two (2) members. After the end of the Control Period, then the Association, acting through the Board, shall have the power, to appoint three (3) members of the Committee and the Grantor two (2). Beginning January 1, 2000, the Association shall have the power to appoint all the members of the Committee. Neither the members of the Committee, nor its designated representatives, shall be entitled to any compensation for services performed pursuant to this covenant. A majority of the Committee may designate one or more representatives to act for it. Each member of the Committee shall serve for a one (1) year term or until his successor shall be appointed by the Grantor, Developer or the Association, as the case may be.

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

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

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

Section 2.5 One set of prints of the drawings and specifications (herein referred to as "plans") for each house or other structure or improvement proposed to be constructed on each lot shall be submitted for review and approval or disapproval by the Committee. The scope of review by the Committee shall be limited to appearance only and shall not include any responsibility or authority to review for structural soundness, compliance with building or zoning codes or standards, or any other similar or dissimilar factors. The plans submitted to the Committee shall be retained by the Committee. Said plans should be delivered to the general office of Grantor and Developer in the Inverness area at least thirty (30) days prior to the date construction is scheduled to commence. Each such plan must include the following:

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

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

2.5.3 All plans must state the elevations of all sides of the proposed structure as such sides will be after finished grading has been accomplished.

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, easements, setbacks, all trees over 6" in diameter as measured 2' above ground and the species thereof, drives, fences, and underground trench locations at a scale of $1" = 20'$. No tree may be cut or removed until the plan and the siting are approved.

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

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

Section 2.6

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

- (a) Brick.
- (b) Stone.
- (c) Stucco or Dryvit or similar synthetic stucco exterior systems.

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- (d) Natural-colored asphalt shingles or slate roofing. White roofing of any material is not acceptable.
- (e) Paint, in natural colors or earthtones.

Exterior materials shall be uniform on all sides of a residence as this criteria prohibits the practice of placing materials on the sides and back of a residence that are essentially different from the front elevation.

2.6.2 Openings of garages shall not be visible from the street. In cases where it is unavoidable and openings of garages are visible or partially visible from a street, electric automatic door closers shall be used. No open garage is to face a neighboring yard without screening approved by the Committee.

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 or otherwise) shall be permitted, except for temporary utilities for construction purposes.

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

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

2.6.7 Swimming pools shall be permitted, provided that the location and fencing of the swimming pool areas must be within approved setback lines and the materials for such fencing and the location of the swimming pool area shall be subject to approval by the Committee.

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

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

2.6.10 ALL MAILBOXES SHALL BE CONSTRUCTED AND LOCATED ACCORDING TO PLANS AND SPECIFICATIONS WHICH PLANS SHALL BE PROVIDED BY DEVELOPER SO AS TO MAINTAIN A UNIFORM QUALITY AND APPEARANCE AMONG ALL MAILBOXES IN THE SUBDIVISION. Developer's design for mailboxes must be submitted to the Committee for approval.

2.6.11 All houses shall have an outside yard light located at the intersection of the driveway and the street. All such lights shall be operated by a photo-electric cell so as to automatically turn on at dusk and turn off at dawn. ALL SUCH LIGHTS AND POLES SHALL BE CONSTRUCTED AND LOCATED ACCORDING TO PLANS AND SPECIFICATIONS WHICH PLANS SHALL BE PROVIDED BY DEVELOPER SO AS TO MAINTAIN A UNIFORM QUALITY AND APPEARANCE AMONG ALL STREET LIGHTS

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IN THE SUBDIVISION. Developer's design for street lights and poles must be submitted to the Committee for approval.

2.6.12 Since the establishment of inflexible building setback lines for location of houses on lots tends to force construction of houses both directly behind and directly beside other homes with detrimental effects on privacy, view and preservation of specimen trees, no specific setback lines are established by these restrictions. In order to assure that location of houses will be staggered where practical and appropriate, so that the maximum amount of view and breeze will be available to each house and that the structures will be located with regard to the topography of each individual lot, the Committee reserves unto itself, its successors and assigns, the right to control absolutely and to solely decide the precise site and location of any houses or other structures including, without limitation, all fencing, swimming pools, dog houses, detached structures and the like, upon all lots in the Subdivision. Such location shall be determined by the Committee only after reasonable opportunity is afforded the owner or builder to recommend a specific site. Notwithstanding any provision of this Subsection 2.6.12, no house, building or other structure shall be placed at an elevation below the one hundred year flood elevation on Lake Heather calculated to be at Elev. 498.00.

2.6.13 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.

2.6.14 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.

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

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

2.6.17 During construction, the builder must keep homes and garages clean and yards cut.

2.6.18 Chain link, wire or metal fences of any type shall not be used for any purpose. All fences, including fences for backyards, swimming pools, dog pens, gardens, or for any other purpose must be approved by the Committee prior to construction. No fence of any kind shall be permitted in the front yard of any lot, or on the rear of any lot (except for fences immediately surrounding a swimming pool) which has a rear lot line adjacent to Lake Heather.

2.6.19 No outside clothes lines shall be allowed.

2.6.20 There shall be no signs nailed to trees at any time. All builders' or contractors' signs are to be removed from the lot after the house has been completed.

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

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

2.6.23 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.

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

2.6.25 Without the prior written consent of the Committee, no house shall have exterior block walls covered with stucco paint or masonry paint.

2.6.26 These provisions shall not be construed to any way relieve the owner of a lot from obtaining a building permit or other authorization to construct a house from the City of Hoover and all such houses and other structures shall comply with all codes of the City of Hoover, which code requirements include, without limitation, certain side yard and front and rear setback limitations for each house on a lot.

The Committee reserves the right to change, alter, add to and make exceptions from the above regulations and design criteria from time to time at its discretion.

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

Section 2.8 The Subdivision is located in an area which may include sinkholes and subsurface conditions which may result in sinkholes. Approval of the submitted plans by the Committee as herein provided shall not be construed in any respect as a representation or warranty of the Grantor, Committee and/or the Developer to the owner submitting such plans, or successors or assigns of such lot owner, that the surface or subsurface conditions of the lot are suitable for the construction of the improvements contemplated by such plans. It shall be the sole responsibility of the owner to determine the suitability and adequacy of the surface and subsurface conditions of the lot for the construction of any and all structures and other improvements thereon.

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Section 2.9 Neither the Grantor nor the Committee and its individual members, nor the Developer and its partners, agents, and employees and the officers, directors, agents, and employees of its partners, shall be liable to any owner, or the successors, assigns, licensees, lessees, employees and agents of any owner, for the loss or damage to the improvements, or structures now or hereafter located upon any lot in the Subdivision, or on account of injuries to any owner, occupant, or other person in or upon the lot, which are caused by, surface or subsurface conditions, whether such are known or unknown to the Developer, the Grantor or the Committee. This release of damages shall include, without limitation, sinkholes, underground mines, and limestone formations, under or on any lot or Subdivision.

ARTICLE III

EXCLUSIVE RESIDENTIAL USE AND IMPROVEMENTS

Section 3.1 All lots in the Subdivision shall be known and described as residential lots and shall be used for detached single family residential purposes exclusively and, except as allowed the Developer in Section 3.4, no lot shall be further subdivided so as to increase the number of lots in the Subdivision. No structure, except as otherwise provided, shall be erected, altered, placed or permitted to remain on any residential lot other than one detached single family residence dwelling not to exceed three (3) stories, including the basement as a story, and a private garage for not more than three (3) cars. This shall not prohibit the construction of one residence upon two (2) or more lots.

Section 3.2 Except as otherwise provided, every dwelling building erected on any lot in the Subdivision, exclusive of one-story open porches, garages, carports and other unairconditioned, unfinished spaces, shall each have not less than 3,200 square feet of enclosed, heated, habitable area in the case of a one-story structure, 3,400 square feet in the case of a one and one-half story structure, and 3,800 square feet in the case of a two or more story structure. The first or main floor area, exclusive of one-story open porches, garages, carports and finished basements, shall be not less than 2,400 square feet in the case of one and one-half, two, and two and one-half story structures.

Section 3.3 No more than one family unit shall occupy any dwelling house.

Section 3.4 During the Control Period, the Developer shall be authorized to consolidate adjacent lots which it owns into one or change the interior lot lines on two or more contiguous lots owned by the Developer; provided, however, any such change shall be approved by the Committee and reflected by an amendment to the Subdivision Plat approved by the City of Hoover.

With respect to the Expansion Lot shown on Exhibit "B" hereto and which will be identified as such on the Subdivision Plat when it is filed for record, the Developer, or his successors or assigns, shall be authorized in the exercise of its absolute discretion, to further subdivide the Expansion Lot to the maximum number of lots permitted by the City of Hoover Planning and Zoning Codes. Any such further subdivision of the Expansion Lot shall be subject only to the approval of the Committee and the Planning Commission for the City of Hoover and shall be reflected by amendment to the Subdivision Plat. The approval of neither

the Association or any lot owner shall be required for the further subdivision of the Expansion Lot, and each lot owner shall be deemed by his acceptance to a deed to a lot to have consented to the power of amendment herein reserved by Developer and to any amendments previously or hereafter executed by Developer pursuant hereto. If required by a regulatory authority, title company, utility or otherwise, each lot owner shall further be deemed by his acceptance of a deed to a lot to have appointed Developer his attorney-in-fact to give, execute and record the consent of the lot owner to any and all amendments to this Declaration which Developer may wish to exercise pursuant to the powers herein reserved.

ARTICLE IV

GENERAL PROHIBITIONS AND REQUIREMENTS

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

Section 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 and Developer reserve for themselves, their agents and the Committee 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, Developer, or the Committee detracts from the overall beauty and safety of the Subdivision. Such entrance upon such property for such purposes shall be only between the hours of 7:00 a.m. and 6:00 p.m. on any day except Sunday and shall not be a trespass. Grantor, Developer, or the Committee may charge the owner a reasonable cost for such services, which charge shall constitute a lien upon such lot enforceable by appropriate proceedings at law or equity. The provisions of this paragraph shall not be construed as an obligation on the part of Grantor, Developer, or the Committee to mow, clear, cut or prune any lot nor to provide garbage or trash removal services.

Section 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.

Section 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 carried on any lot.

Section 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.

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Section 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 Committee so as not to be visible from any street, lake or common recreational area at any time, except during refuse collection. It is prohibited for any garbage containers to be placed or left for pick up in the street or otherwise in a place that is visible from any street or Lake Heather. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted.

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

Section 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 sixty (60) days.

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

Section 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.

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

Section 4.12 NO TREE HAVING A DIAMETER OF SIX INCHES (6") OR MORE (MEASURED FROM A POINT TWO FEET ABOVE GROUND LEVEL), NOR ANY FLOWERING TREES OR SHRUBS, SHALL BE REMOVED FROM ANY LOT AFTER COMPLETION OF CONSTRUCTION WITHOUT THE EXPRESS WRITTEN

AUTHORIZATION OF THE COMMITTEE. If it shall deem it appropriate, the Committee may mark certain trees, regardless of size, as not removable without written authorization.

ARTICLE V

EASEMENTS

Section 5.1 Subject to the terms and conditions of this Declaration and the rules, regulations, fees and charges from time to time established by the Board, Developer does hereby grant to each lot owner and occupant of a house the nonexclusive right, privilege and easement of access to and the use and enjoyment of the Access Easement in common with Developer, its successors and assigns, and all other owners and occupants. The Access Easement identified as such on the Subdivision Plat is for the purpose of ingress and egress and within the Access Easement is the roadway for the Subdivision, the security gates and guard houses, fences, lighting, planting and the like and utilities, including but not limited to water, sewers, (sanitary and storm), cable television, gas, telephone, and electricity. The Access Easement is a private easement and the recordation of the Subdivision Plat, or this Declaration shall not be deemed to dedicate the same to the public or for the public to have acquired any rights therein. All such improvements to the Access Easement shall be initially installed or programmed by the Developer at its sole cost and expense, however, the costs of the repair, maintenance and replacement of all such improvements shall be paid by the Association through assessments and charges on the lots as set forth in Articles VI and VII. Subject to the provisions of Section 5.1.2 below, the easement and rights granted pursuant hereto are and shall be permanent and perpetual, are nonexclusive, are appurtenant to and shall pass and run with title to each lot. The easements and rights granted herein are expressly subject to the rights reserved by Developer to restrict access to the Subdivision as provided in Sections 5.1.1 and 5.1.2 below and to take any action necessary or desired in order to cause any of the private roadways within the Subdivision to be dedicated to and accepted as a public roadway by any Governmental Authority, as provided in Section 5.1.2 below.

5.1.1 Developer does hereby establish and reserve for itself, the Association and their respective successors and assigns, the right and privilege, but not the obligation, to (i) maintain guarded or electronically-monitored gates controlling, limited and restricting vehicular and pedestrian access to and from any portion of the Subdivision. Each owner, by acceptance of a deed or other instrument conveying any interest in any lot, dwelling or multi-family area, does hereby waive all rights of uncontrolled and unlimited access, ingress to and egress from such Subdivision in order to provide a secure and safe environment, access and ingress to and egress from the Subdivision may be controlled, restricted and limited to exclude the general public therefrom.

DURING SAID CONTROL PERIOD THE DEVELOPER SHALL HAVE THE ABSOLUTE RIGHT TO DETERMINE THE OPERATION OF THE SECURITY SYSTEM (E.G. SECURITY GUARDS VS. CONTROLLED GATES) AND ITS DECISION AT ANY TIME SHALL BE ABSOLUTELY FINAL.

5.1.2 Notwithstanding anything provided to the contrary in this Declaration, during the Control Period Developer (i) does hereby establish and reserve the right, in its sole and

absolute discretion, at any time and from time to time, to dedicate the Access Easement as a public roadway to any Governmental Authority designated by Developer without requirement of the approval or consent of any owner, occupant or mortgagee be obtained and (ii) shall be and hereby is authorized and entitled to execute any and all agreements, documents, instruments and subdivision plats pursuant to which Access Easement is submitted for dedication as a public roadway. Each owner, by acceptance of a deed to a lot, dwelling or multi-family area, and each mortgagee, by the acceptance of any mortgage on any lot, dwelling or multi-family, shall be deemed to, and each does hereby, irrevocably appoint the Developer as its respective agent and attorney-in-fact for the purpose of executing, signing, acknowledging, swearing to and recording any and all instruments, certificates, documents, agreements and subdivision plats relating to the dedication of the Access Easement for and in the name of any such owner and mortgagee in their name, place and stead. The power and authority granted herein is hereby declared to be irrevocable and a power coupled with an interest which shall survive the death or dissolution of any owner or mortgagee and be binding on all owners and mortgagees and their respective heirs, executors, administrators, personal representatives, successors and assigns and anyone having any interest in any lot, dwelling, multi-family area, common areas or in any of the easement rights created or granted in this Declaration. The rights reserved by Developer pursuant to this Section 5.1.2 shall revert to the Association at the end of the Control Period and at such change the Association shall have the same rights reserved herein to Developer; provided, however, for the Association to make such election shall require an amendment to this Declaration adopted in accordance with Article XIV hereof. Upon any election to convert the Subdivision to a "public" subdivision, as allowed herein, the security gate system constructed within the Access Easement shall be decorative only and not in limitation of access to the Subdivision.

Section 5.2 An easement thirty (30) feet in width and bounded on one side by Lake Heather is hereby retained and reserved over each of said lots adjacent to Lake Heather. No fence, wall, hedge or shrub planting which would obstruct access to the property covered by said easement shall be placed or permitted to remain on lots. No tree four inches (4") or more in diameter measured at a point two feet (2') above the average height of the ground at the base, nor any shrub or dogwood tree of any size may be removed from this easement area without the specific prior approval of the Grantor or its successors and assigns. Violation of this covenant shall be subject to a liquidated damage sum of \$40.00 per inch of diameter measured as hereinbefore specified for each tree, \$20.00 for each shrub and \$100.00 for each dogwood tree removed without the specified authorization, except that the maximum liquidated damages shall not exceed \$2,000.00 for any lot. The recovery of such liquidated damages shall be available to Grantor and its successors and assigns. Grantor reserves the right to make selected plantings of trees and other vegetation within the thirty foot (30') easement in order to establish and/or maintain a buffered relationship between Lake Heather and residential uses as herein intended. Grantor hereby covenants to provide the owner of any lots with a description of the work to be done at least fourteen (14) days in advance of the actual work so that the mutual interests and desires of the owner and Grantor may be properly coordinated.

Section 5.3 An easement shall be granted and is hereby reserved for the Developer herein and its successors and assigns the right to use, dedicate and/or convey to the State of Alabama, to Shelby County, to the City of Hoover and/or to the appropriate utility company or other companies, rights-of-way or easements on, over or under the ground to erect, maintain

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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, on, in or over strips of land ten feet (10') in width along the rear property line of each lot, and ten feet (10') in width along each side line of each lot, with a further easement reserved to cut or fill a 3:1 slope along the boundaries of all public streets or roads built in the Subdivision. An easement is further granted to all police, fire protection, ambulance and all similar persons to enter upon the private driveways and streets on the Property in the performance of their duties. An easement is hereby granted to the Association, its officers, agents, employees and to any management company elected by the Association to enter in or to cross over the lots as provided for herein. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said Property except as initially programmed and approved by the Developer or as thereafter approved by Developer or the Association's Board of Directors. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Developer shall have the right to grant such easement without conflicting with the terms hereof. The easements provided for in this Article shall in no way affect any other recorded easement on said premises.

Section 5.4 An easement is hereby granted to the Developer and the lot owners, and their successors and assigns, the right to use Lake Heather, all in accordance with the terms and provisions for such use which Grantor has adopted for Lake Heather or may hereafter adopt. The uses which have been adopted permit only sailboats and boats with electric trolling motors, canoes, paddle boats, and row boats.

Section 5.5 At some future date Grantor may elect to dedicate Lake Heather to the Inverness Community, an owners' association or otherwise. In such event, and provided the lot owner's property includes shoreline along said lake or access thereto, the lot owner and its successors and assigns shall be required to pay its pro rata share of any and all expenses or cost of so maintaining Lake Heather for such time as these restrictions remain in force.

Each lot owner(s) pro rata share shall be computed by multiplying total lake maintenance expenses by a fraction, the numerator of which represents lot owner(s) shoreline footage) (or shoreline access) and the denominator of which represents total lake shoreline footage.

Section 5.7 Drainage flow shall not be obstructed or diverted from drainage swales, storm sewers and/or utility easements as designated herein, or as may hereafter appear on any plat of record in which reference is made to these covenants. Developer may cut drainways for surface water wherever and whenever such action may appear to Developer to be necessary in order to maintain reasonable standards of health, safety and appearance. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health and appearance. Except as provided herein, existing drainage shall not be altered in such a manner as to divert the flow of water onto an adjacent lot or lots. The provision hereof shall not be construed to impose any obligation upon Developer to cut such drainway.

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Section 5.8 Developer reserves for itself, its successors and assigns an exclusive easement for the installation or maintenance of radio and television cables within the rights-of-way and easement areas referred to.

Section 5.9 Developer reserves the right to impose further restrictions and to grant or dedicate additional easements and roadway rights-of-way on any unsold lots in the Subdivision.

ARTICLE VI ASSOCIATION

The operation and administration of the Subdivision as a whole shall be performed by the Association, which is incorporated as a not-for-profit corporation, and which shall be organized and shall fulfill its functions pursuant to the following provisions:

Section 6.1 The name of the Association shall be: Lake Heather Homeowners' Association, Inc. (the "Association").

Section 6.2 The powers and duties of the Association shall include those set forth in the Alabama Code statutes pertaining to not-for-profit corporations and in the Declaration and Bylaws of the Association, and, in addition (but not in limitation), as follows:

- (a) Reconstruct, repair or refinish any improvement or portion thereof in any Access Easement;
- (b) Construct, reconstruct, repair, replace or refinish any road improvement or surface upon any portion of such Access Easement used as a road, street, walk or parking area;
- (c) Replace injured and diseased trees or other cover to the extent that the Board deems necessary for the conservation of water and soil and for aesthetic purposes;
- (d) Place and maintain in any such Access Easement such signs as the Board may deem appropriate for the proper identification, use and regulation thereof; and
- (e) Do all such other acts which the Board deems necessary to preserve and protect the Subdivision and the beauty thereof, in accordance with the general purposes specified in this Declaration.

The Board shall be the sole judge as to the appropriate maintenance of all grounds within the Access Easement.

Section 6.3 The Association shall have the right to provide the following services and implement the powers provided in Section 6.2 hereof, the cost of which shall be paid out of the charges provided for in Article VII hereof, and adopt rules, regulations, procedures and policies with respect to:

- (a) garbage and trash collection and removal;
- (b) motor vehicle operation;
- (c) parking of motor vehicles on streets or roads in the Access Easement;
- (d) all improvements within the Access Easement;
- (e) such other matters including the general welfare of the Subdivision as a whole.

Section 6.4 There shall be one member of the Association for each lot within the Subdivision. If a lot is owned by more than one person, a designation will be filed designating who will be the member of the Association. Change of membership in the Association shall be established by recording in the public records of Shelby County, Alabama, a deed or other instrument establishing a record title to a lot of the Subdivision, and the delivery to the Association of a certified copy of such instrument, the lot owner designated by such instrument thereby becoming a member of the Association. Membership of the prior lot owner shall be thereby terminated. The vote for a lot shall be cast by the lot owner thereof, or the duly authorized proxy of the lot owner. Each lot owner is entitled to one vote for each lot he owns.

Section 6.5 The affairs of the Association shall be conducted by a Board of Directors of three (3) directors (or such other number as may be provided in the Bylaws), who shall be designated in the manner provided by the Bylaws.

Section 6.6 Every director and every officer of the Association shall be indemnified by the Association against expenses and liabilities, in the manner provided by the Association's Bylaws.

Section 6.7 The Association may obtain fidelity bond coverage for any person or entity handling funds of the Association, including employees of professional managers, if any, retained by the Association.

Section 6.8 The following person, whose residence is located in Shelby County, Alabama, is designated as an agent to receive service of process upon the Association:

Name: Charles Givianpour
Address: 5104 Cyrus Circle
Birmingham, Alabama 35242

Section 6.9 In the event any improvement located in an Access Easement thereon is wrongfully damaged or destroyed by any lot owner or any of his guests, tenants, licensees, agents or members of his family, such owner does hereby authorize the Association to repair said damaged area, and the Association shall so repair said damaged area in a good workmanlike manner in conformance with the original plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Association, in the discretion of the Association. The amount necessary for repairs plus 20% of such amount for overhead shall be paid by said owner, upon demand, to the Association and the

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Association may enforce collection of same in the same manner as provided elsewhere in this Declaration for collection and enforcement of assessments.

Section 6.10 The Association, by its execution of this Declaration, approves the foregoing and all of the covenants, terms and conditions, duties and obligations of this Declaration and Exhibits attached hereto. The owners, by virtue of their acceptance of the Deed of conveyance as to their lot, and other parties, by virtue of their occupancy of other houses, hereby approve the foregoing and all of the terms and conditions, duties and obligations set forth in the Declaration.

THE PROVISIONS OF THIS ARTICLE ARE QUALIFIED IN THEIR ENTIRETY BY THE PROVISION RELATING TO THE DEVELOPER'S CONTROL PERIOD CONTAINED IN ARTICLE VIII.

ARTICLE VII

COVENANTS FOR MAINTENANCE CHARGES

Section 7.1 Subject to the operation of the provisions of Article VIII hereof, the Developer, for each lot owned by it, hereby covenants, and each owner by acceptance of a deed to any lot is deemed to covenant and agree to pay to the Association (1) annual charges, and (2) special charges as herein provided. The annual and special charges, together with interest, costs and reasonable attorney's fees, shall be a charge on the lot and shall be a continuing lien upon the lot against which each such charge is made. Each such charge, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such lot at the time when the charge became due. The personal obligation for delinquent charges shall not pass to his successors in title unless expressly assumed by them.

Section 7.2 The charges levied by the Association shall be used exclusively for (i) the improvement and maintenance of all improvements within the Access Easement, (ii) the procuring of services for the owners, including, but not limited to, those services specified in Article VI hereof and such other services which may be approved by Members who own two-thirds (2/3) of the lots and (iii) capital improvements to the Access Easement.

Section 7.3 In addition to the annual charges, the Association may levy, in any given year, a special charge applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction or replacement of improvements upon the Access Easement, including fixtures and personal property related thereto, provided that any such charge shall have the assent of two-thirds (2/3) of the votes of the Members (voting in person or by proxy) at a meeting duly called for this purpose.

Section 7.4 Both annual and special charges must be fixed at a uniform rate for all lots and may be collected on a monthly, quarterly or annual basis. Each lot, whether or not improved, shall bear its pro rata part of the maintenance cost and shall be entitled to no reduction because all or some of the services for which the assessment is made are not being utilized by the owner of such lot.

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Section 7.5 The annual maintenance charges provided for herein shall commence as to all lots on the first day of the first year following the conveyance by Developer of a lot. Written notice of the annual charge shall be sent to every owner subject thereto. The due dates for the annual charge shall be established by the Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the charges on a specified lot have been paid.

Section 7.6 By his acceptance of title to a lot subject to this Declaration, each owner is and shall be deemed to covenant and agree to pay the Association the charges provided for herein, and agree to the enforcement of the charges in the manner herein specified. In the event the Association employs an attorney or attorneys for collection of any charge, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, or for any other purpose in connection with the breach of this Declaration, each owner agrees to pay reasonable attorney's fees and costs thereby incurred in addition to any other amounts due or any other relief or remedy obtained against said owner. In the event of a default in payment on any such charge when due, in which case the charge shall be deemed delinquent, and in addition to any other remedies herein or by law provided, the Association may enforce each such obligation in any manner provided by law or in equity, or without any limitation of the foregoing, by either or both of the following procedures:

(a) Enforcement by Suit. The Board of the Association may cause a suit at law to be commenced and maintained in the name of the Association against an owner to enforce each such charge obligation. Any judgment rendered in any such action shall include the amount of the delinquency, together with interest thereon at the maximum legal rate per annum from the date of delinquency, court costs and reasonable attorney's fees in such amount as the Court may adjudge against the delinquent owner.

(b) Enforcement by Lien. There is hereby created a claim of lien, with power of sale, on every lot to secure payment to the Association of any and all charges levied against any and all owners, together with interest thereon at the maximum legal rate which may be paid or incurred by the Association in connection therewith, including reasonable attorney's fees. At any time within ninety (90) days after the occurrence of any default in the payment of any such charge, the Association, or any authorized representative may, but shall not be required to make a written demand for payment to the defaulting owner, on behalf of the Association. Said demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand or claim of lien or a lien, but any number of defaults may be included within a single demand or claim of lien. If such delinquency is not paid within ten (10) days after delivery of such demand, or, even without such a written demand being made, the Association may elect to file such a claim of lien on behalf of the Association against the property of the defaulting owner. Such a claim of lien shall be executed and acknowledged by any officer of the Association, and shall contain substantially the following information:

1. The name of the delinquent owner;
2. The legal description and street address of property against which claim of lien is made;

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3. The total amount claimed to be due and owing for the amount of the delinquency, interest thereon, collection costs and reasonable attorney's fees (with any proper offset allowed);

4. That the claim of lien is made by the Association pursuant to this Declaration;
and

5. That a lien is claimed against said property in an amount equal to the amount stated.

Upon recordation of a duly executed original or copy of such a claim of lien, and mailing a copy thereof to said owner, the lien claimed therein shall immediately attach and become effective in favor of the Association as a lien upon the lot against which such was levied. Such a lien shall have priority over all liens or claims created subsequent to the recordation of the claim of lien thereof, except only tax liens for real property taxes on any lot, charges on any lot in favor of any municipal or other governmental assessing unit, and the liens which are specifically described in herein. Any such lien may be foreclosed by appropriate action in court or in the manner provided by law for the foreclosure of a realty mortgage or trust deed as set forth by the laws of the State of Alabama, as the same may be changed or amended. The lien provided for herein shall be in favor of the Association and shall be for the benefit of all other owners. The Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any lot. In the event such foreclosure is by action in court, reasonable attorney's fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law. Each owner hereby expressly waives any objection to the enforcement and foreclosure of this lien in this manner and also hereby expressly waives the defense of the statute of limitations applicable to the bringing of any suit or action thereon.

Section 7.7 The lien for the charges provided for herein shall be subordinate to the lien of any mortgage. The sale or transfer of any lot shall not affect the lien charged under this Article VII. The sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, however, shall extinguish the lien of such charge as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any charges thereafter becoming due or from the lien thereof.

Section 7.8 Assessments by the Board of Directors of the Association shall include a component to establish an adequate reserve fund for maintenance, repair and replacement of the improvements in the Access Easement. A working capital fund shall also be established and each lot owner purchasing a lot from the Developer shall pay a one time assessment equal to two months' assessments at the time of closing of the purchase by him of his lot to be used by the Association as a working capital fund.



ARTICLE VIII

CONTROL PERIOD

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Section 8.1 In view of Developer's financial commitment to the Subdivision, Developer's obligations as an initial owner of the lots to pay the expenses of the Subdivision and to maintain the improvements in the Access Easement and Developer's need to insure the success of the Subdivision, the Developer hereby reserves unto itself the right to manage all of the affairs of the Subdivision and all decisions of the Association, the exclusive right to elect the directors of the Association (who need not be lot owners) and the right to amend the Bylaws of the Association until ~~seventy five percent (75%)~~ ^{100%} of the lots have been conveyed to lot purchasers or ~~FOUR~~ ^{FIRST} years following the conveyance of the first lot, whichever shall ~~first~~ occur. This period of time shall be known as the "Control Period". The Developer may not terminate its management rights and responsibilities any time prior to the expiration of said Control Period. During the said Control Period, the Developer shall be exempt from payment of any lot assessments on any lot which it owns as provided for in this Declaration; and shall have the sole and exclusive right to take all actions and do all things on behalf of the Association. During said Control Period, the Developer shall pay all expenses and as reimbursement therefor and as compensation for their management services, Developer shall be entitled to receive and retain all of the charges payable by the lot owners during the said Control Period, and Developer shall have all of the rights of the Association to levy and enforce payment of the said assessments and charges. The Developer shall not be required to assess or create any reserves and at the termination of the Control Period and the assumption of the operation of the Association by the members, Developer shall not be required to render an accounting of income and expenses incurred during said Control Period.

ARTICLE IX

BUFFER ZONES FROM CONTINUOUS DEVELOPMENT

Section 9.1 For the mutual benefit of Grantor, Developer, and their respective successors and assigns, Seller does hereby establish the landscaped buffer (the "Buffer Property") shown on Exhibit "B" over Grantor's adjacent land along the north, northeast, east and southeast boundary lines of the Subdivision (the "Adjacent Land"). The legal description of the adjacent land is also set forth on Exhibit "B". This Buffer Property shall be for the purpose of maintaining a buffered relationship between the single family residential use by the Developer for the Subdivision and the use contemplated for the Adjacent Land. Grantor covenants and agrees that no portion of the Buffer Property shall be improved by the erection or construction of any structures or other improvements thereon and that the first fifty feet (50') of said Buffer Property, as measured from the boundary line of the Subdivision, shall, at all times, be maintained in its undisturbed and natural environmental condition. Grantor reserves the permanent and perpetual right and easement over, across and upon the remaining portion of the Buffer Property, commencing at the point fifty feet (50') from the boundary line of the Property, to install and maintain trees, shrubbery and other plant life in order to establish and/or maintain a buffered relationship between the residential and office uses as herein intended, or to perform grading and/or construct landscape berms, provided that

Grantor shall relandscape any areas so disturbed. The Buffer Property as described herein shall be shown on any recorded subdivision plats affecting the Adjacent Land.

Section 9.2 For the mutual benefit of Grantor, Developer, and their respective successors and assigns, Grantor does hereby covenant and agree as follows with respect to any buildings constructed on the Adjacent Land, to wit: (i) that any building structure constructed on the Adjacent Land within two hundred feet (200') of the boundary line of the Subdivision shall not exceed three (3) stories in height and, (ii) that any building structure constructed on the Adjacent Land within five hundred (500') of the boundary line of the Subdivision shall not exceed six (6) stories in height, plus a ground level. Nothing herein shall prevent or preclude Grantor, or its successors and assigns, from constructing site improvements, including, but not limited to, driveways, roads, and parking areas, some or all of which may be lighted, up to the Buffer Property as described in Section 9.1 hereinabove. It is understood by both Developer and Grantor that the buffer and building setback requirements established by this and the foregoing Section 9.1 shall apply to and govern the development of the Adjacent Land and are not intended to change or modify the ordinances, codes and regulations of the City of Hoover, either existing or future, provided, however, that the buffer and building setback requirements set forth in these Sections 9.1 and 9.2 shall not be applicable or of any force and effect as to any portion of the Adjacent Land which is developed for a single family residential use.

ARTICLE X

SEWAGE TREATMENT FACILITY AND OTHER PUBLIC SERVICES

Section 10.1 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 or assigns, a monthly or quarterly sewage treatment fee or charge to cover the cost of providing such service. It is agreed that the sewage treatment fee shall be charged on the land and constitute a continuing lien upon the lots against which such fee is charged, except that such lien shall be subordinate to prior recorded bona fide mortgages. Such fee charged and the cost of collection thereof shall be the personal obligation of the person owning such property at the time the fee becomes due. The owner of a lot covenants and agrees to maintain the sanitary sewer service line on his lot in good repair.

Section 10.2 Fire protection is currently provided to the Inverness community, which includes the Subdivision, by the City of Hoover. **INVERNESS, GRANTOR OR DEVELOPER IS UNDER NO OBLIGATION TO PROVIDE FIRE PROTECTION SERVICE, OR TO ASSURE THAT SUCH FIRE PROTECTION SERVICE IS PROVIDED BY OTHERS.**

Section 10.3 Police protection is currently provided to the Inverness community, which includes the Subdivision, by the City of Hoover. **INVERNESS, GRANTOR OR DEVELOPER IS UNDER NO OBLIGATION TO PROVIDE SECURITY SERVICE, OR TO ASSURE THAT SUCH SECURITY SERVICE IS PROVIDED BY OTHERS.**



ARTICLE XI
ENFORCEMENT

Section 11.1 In the event of a violation or a breach of any of these restrictions, or any amendments thereto by any property owner, or family of such owner, or agent of such owner, the Grantor, its successors and assigns, the owner(s) of lot(s), Developer, its successors and assigns, the Committee, the Association, or any other party to whose benefit these restrictions inure shall have the right to proceed at law or in equity to compel compliance with the terms and conditions hereof, to prevent the violation or breach of said restrictions, to sue for and recover damages or other dues, or take all such courses of action at the same time, or such other legal remedy it may deem appropriate. No delay or failure on the part of an aggrieved party to invoke an available remedy set forth herein shall be held to be a waiver of that party or an estoppel of that party or of any other party to assert any right available to him upon the recurrence or continuation of said violation or the occurrence of a different violation. Neither the Grantor, the Developer, the Committee, the Association, nor any architect nor agent thereof, 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.

Section 11.2 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 this Declaration 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 XII
DEVELOPER'S INDEMNIFICATION AGREEMENT

Section 12.1 Developer agrees to repair, restore, or replace, as Grantor shall direct, any property, whether personal or real, by whomever owned which is damaged, destroyed, or injured in any way by Developer, its agents, representatives, designees, employees, or successors or assigns, in connection with the initial development and construction of the Subdivision and the dwelling units therein, including, without limitation, any damage to right-of-way curbs, median curbs, signs, or pavement in the rights-of-way of dedicated or undedicated roads within Inverness, and Developer hereby agrees to indemnify and hold Grantor harmless from any and all liabilities, claims and losses resulting from or arising in connection with any such damage, destruction, or injury.

ARTICLE XIII

GRANTEE'S ACCEPTANCE AND INDEMNIFICATION AGREEMENT

Section 13.1 The grantee of any lot subject to the coverage of this Declaration, by acceptance of the deed or other instrument conveying an interest in or title to, or the execution of a contract for the purpose thereof, whether from Developer or a subsequent owner of such lot, shall accept such deed or other contract upon and subject to each and all of these restrictions and the agreements herein contained.

Section 13.2 Each and every lot owner and future lot owner, in accepting a deed or contract for any lot or lots in the Subdivision, whether from Developer or a subsequent owner of such lot, agrees to indemnify and reimburse Developer or Grantor, as the case may be, for any damage caused by such lot owner, or the contractor, agent or employees of such lot owner, to roads, streets, gutters, walkways or other aspects of public ways, including all surfacing thereon, or to water, drainage or storm sewer lines or sanitary sewer lines owned by Grantor or Developer, or for which Grantor or Developer has responsibility, at the time of such damage.

Section 13.3 Each and every lot owner and future lot owner, in accepting a deed or contract for any lot or lots in the Subdivision, whether from Developer or a subsequent owner of such lot, agrees and covenants to release, indemnify, protect and hold harmless the Grantor, its successors and assigns, and its agents, directors and employees (all of whom are included in the term "Grantor" for the purposes of this Section 13.3) 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.

Section 13.4 Each and every lot owner and future lot owner, in accepting a deed or contract for any lot or lots in the Subdivision, whether from Developer or a subsequent owner of such lot, agrees, in connection with the construction of any improvements on such lot or lots, to exercise due care, and to assure that any contractors of such owner, or employees and subcontractors of such contractors, will exercise due care and will comply with any and all governmental rules, regulations, codes and ordinances relating to safety, so as to protect the safety and health of the public, and the safety and health of such owner, his or her family, and any such contractor and its employees and subcontractors.

Section 13.5 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 Developer or a subsequent owner of such lot, acknowledges and accepts that the adjacent property lying to the North and East of the Subdivision, as well as the property located across Lake Heather to the North and West of the Subdivision, is zoned Planned Office (PO) under the City of Hoover's PUD zoning for Inverness. Subject to the provisions of Article IX hereof, such property may be developed by Grantor, or its successors and assigns, with multi-story office buildings, along with site

development and appurtenances which are customary in office development, including, but not limited to, lighted parking areas.

ARTICLE XIV

AMENDMENT OF DECLARATION

Section 14.1 An amendment may be proposed by written instrument signed by the owners of not less than one-fourth (1/4) of the lots within the Subdivision. Such proposed amendment or amendments shall be considered at a meeting of the owners after written or printed notice of such meeting, stating the time and place thereof, and reciting the proposed amendment or amendments in reasonably detained form, shall be mailed to the owners not less than ten (10) days nor more than fifty (50) days, before the date set for such meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States mail, addressed to each owner at the street address of his lot, the postage thereon being prepaid. Any owner may, by written waiver of notice signed by such owner, waive such notice, and such waiver whether before or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such owner. At such meeting, the amendment or amendments proposed must be approved by the affirmative vote of owners who own not less than two-thirds (2/3) of the total lots of the Subdivision in order for such amendment or amendments to become effective. Thereupon, such amendment or amendments to the Declaration shall be transcribed and certified by the Board as having been duly adopted and the original or executed copy of such amendment or amendments so certified and executed with the same formalities as a deed shall be recorded in the Office of the Judge of Probate of Shelby County, Alabama, within twenty (20) days from the date on which the same became effective, such amendment or amendments to specifically refer to the recording identifying the Declaration. Thereafter, a copy of said amendment or amendments, in the form in which the same were placed of record, shall be delivered to all of the owners, but mailing or delivering a copy thereof shall not be condition precedent to the effectiveness of such amendment or amendments. At any meeting held to consider such amendment or amendments, the written vote of any owner shall be recognized if such owner is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered at or prior to such meeting. Any such amendment adopted pursuant to this Section must be approved in writing by the Grantor prior to becoming effective.

Section 14.2 Notwithstanding the foregoing amendment provisions, any scrivener's error or omission may be corrected by the filing of any amendment to this Declaration consented to by Developer and any owners or mortgagees of record directly affected by the amendment. No other owner is required to consent to any such amendment. If there appears to be any other omissions or errors in this Declaration, scrivener's or otherwise, and such error or omission does not materially adversely affect the rights and interests of any other party, then such error or omission may be corrected by the filing of an amendment of this Declaration executed by the Developer without the consent of any other party.

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ARTICLE XV

SEVERABILITY

Section 15.1 Every one of the restrictions and consents herein are 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.

ARTICLE XVI

CAPTIONS

Section 16.1 The captions preceding the various paragraphs and subparagraphs of this Declaration 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 XVII

NOTICES

Section 17.1 Any notice required to be sent to the Developer or to any lot owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed by United States mail, postage paid, to the address of the Developer or such lot owner at the time of such mailing.

ARTICLE XVIII

GOVERNING LAW

Section 18.1 Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by this Declaration as the same may be amended from time to time, said dispute or litigation shall be governed by the laws of the State of Alabama.

ARTICLE XIX

EFFECTIVE DATE

Section 19.1 This Declaration shall become effective when it has been recorded in the Office of the Judge of Probate of Shelby County, Alabama.

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ARTICLE XX

MUTUALITY OF BENEFIT AND OBLIGATION AND BINDING EFFECT ON THE PARTIES

Section 20.1 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 and in all events run with the land and lots within the Subdivision.

Section 20.2 No restriction or provision herein is intended to be, or shall be construed as, a condition subsequent or as creating any possibility of a reverter. Each of the terms and conditions hereof shall be binding upon the successors and assigns of the parties hereto of each lot owner.

ARTICLE XXI

RIGHTS OF DEVELOPER WITH RESPECT TO UNIMPROVED LOTS

Section 21.1 Each lot owner by acceptance of a deed to a lot agrees that the Developer shall have a "right of first refusal" on the resale of unimproved lots running for a period of two (2) years from the date that any lot owner receives a deed to his or her lot. Each lot owner agrees to give Developer notice with the receipt by such lot owner of a bona fide offer for the purchase of the lot and upon receipt of such notice the Developer shall have a thirty (30) day period within which to "match" the price set forth in the bona fide offer. If the Developer elects not to "match" the price, this right of first refusal shall be deemed waived and the lot owner shall be free to sale the unimproved lot for the amount of (but not less than) the amount of the bona fide offer. This option of first refusal vested in the Developer shall expire as to all unimproved lots at the end of the Control Period.

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EXHIBIT "A"

TRACT I

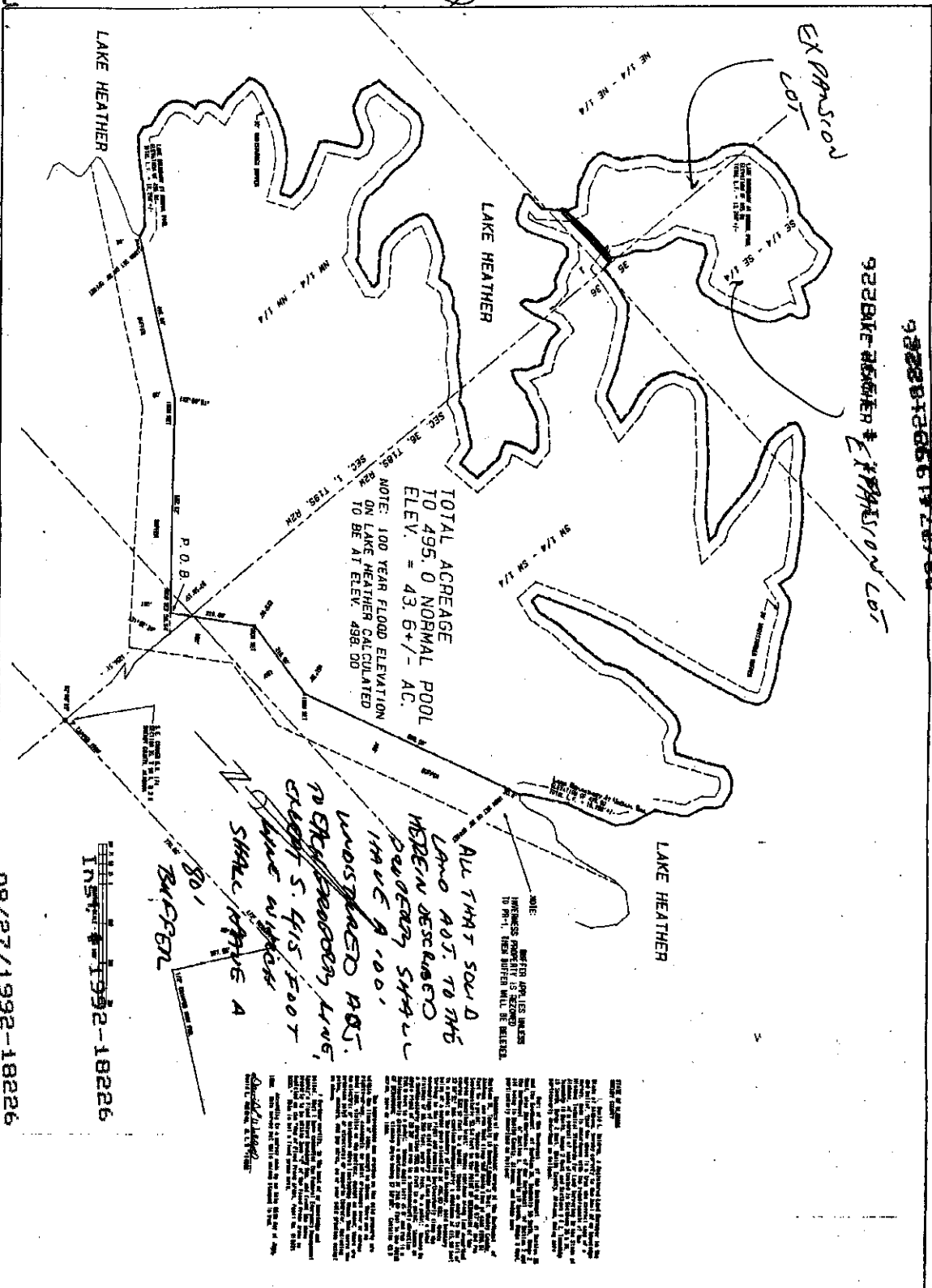
Part of the Southeast 1/4 of the Southeast 1/4 of Section 35 and the Southwest 1/4 of Section 36, Township 18 South, Range 2 West, along the Northeast 1/4 of the Northeast 1/4 of Section 2 and the Northwest 1/4 of Section 1, Township 19 South, Range 2 West, all being in Shelby County, Alabama, and being more particularly described as follows:

Commence at the Southeast corner of the Southwest 1/4 of Section 36, Township 18 South, Range 2 West, Shelby County, Alabama, and run West along the South line of same 1256.51 feet to a point; thence an angle left of 48 degrees 57' 40" and run Southwesterly 50.54 feet to the POINT OF BEGINNING of the herein described tract; thence continue along last described course 532.12 feet to a point; thence an angle to the left of 12 degrees 56' 51" and continue Southwesterly a distance of 415.00 feet to a point on the boundary of Lake Heather, said boundary being at a normal pool elevation of 495.00 MSL; thence turning to the right and running Southwesterly along the meanderings of the said boundary of Lake Heather a total distance of 10,250 feet, more or less, to a point; thence in a Southeasterly direction 590.00 feet to a point; thence an angle right of 28 degrees 30' and run in a Southwesterly direction 210.0 feet to a point; thence angle left 45 degrees 0' and run in a Southeasterly direction a distance of 210.00 feet to the POINT OF BEGINNING; closing angle being 97 degrees 58' 15". Contains 43.6 acres, more or less.

Subject to:

1. 1993 Ad valorem taxes.
2. Title to all minerals within and underlying the premises, together with all mining rights and other rights, privileges and immunities relating thereto, including rights set out in Deed Book 5, Page 355 and Deed Book 4, Page 442 and Deed Book 48, Page 427 in Probate Office of Shelby County, Alabama.
3. Declaration of Protective Covenants recorded at Instrument No. ~~94-1826~~ in the Office of the Judge of Probate of Shelby County, Alabama.

EXHIBIT "B"



08/27/1992-18226
 09:15 AM CERTIFIED
 SHELBY COUNTY JUDGE OF PROBATE
 032 MCO 86.00

08/27/1992-18226
 09:15 AM CERTIFIED
 SHELBY COUNTY JUDGE OF PROBATE
 032 MCO 86.00

BOUNDARY SURVEY FOR TAYLOR & MATHIS OF ALA. OF PART OF SECTIONS 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, SHELBY COUNTY, ALABAMA		<p>PARAGON ENGINEERING, INC. SUITE 200 2320 HIGHLAND AVENUE SOUTH BIRMINGHAM, ALABAMA 35208 (205) 930-1188</p>	REVISIONS NO. DATE DESCRIPTION BY
DATE: 08/27/1992 TIME: 09:15 AM BY: [Signature] FOR: [Signature]	1 08/27/1992 Initial Survey [Signature]		