

RE-RECORD

DECLARATION OF COVENANTS AND EASEMENTS

THIS DECLARATION, executed on this 14th day of July, 2000, by CAG Realty, LLC, ("Declarant"), WITNESSES THAT:

US. 40 (WAS HNGTON STREET)

WHEREAS, Declarant owns in fee simple the real property which is (a) generally located at the intersection of State Road 40 and Yorkshire Boulevard East, in Hancock County, Indiana, (b) more particularly described in Exhibit A and (c) is hereinafter referred to as "Real Estate"

Grantee: Block "B" in Glen Oaks Village, Section One

WHEREAS, the deed conveying the interest of Caryn A. Guba to Declarant was recorded in the Office of the Recorder of Hancock County, Indiana, on the 31st day of January, 2000, as Instrument No. 20010490.

Instrument No. 2001049

WHEREAS, the deed conveying the interest of Philip P. Guba to Declarant was recorded in the Office of the Recorder of Hancock County, Indiana, on the 29th day of February as Instrument No. 2002102;

WHEREAS, Declarant is developing the Real Estate as a controlled and coordinated complex of commercial and retail buildings and support facilities (the "Project");

WHEREAS, each parcel of real property designated as such by Developer from time to time within the Real Estate and the Project is hereinafter referred to as a "Parcel," and each present or future owner of a Parcel is hereinafter referred to as an "Owner";

WHEREAS, Declarant, the Owners and the current and future mortgagees, grantees, assigns and successors of Declarant and the Owners are hereinafter referred to as the "Parties in Interest";

WHEREAS, each Parcel of the Real Estate upon which a building is built, constructed or erected is hereinafter referred to as an "Improved Parcel";

WHEREAS, various parties may acquire mortgage, leasehold or ownership interests in part or all of the Real Estate, the Project or one or more of the Parcels or the Improved Parcels; and

WHEREAS, Declarant desires in this Declaration to provide for the construction, installation, use, operation, maintenance, repair and replacement of improvements, roads, equipment, fixtures and facilities located within and/or through those portions of the Project which are defined or specified for common benefit of the Owners in this Declaration.

NOW, THEREFORE, Declarant, in consideration of the premises and in order to facilitate the development of the Project as a controlled and coordinated complex of commercial and retail buildings and support facilities upon the terms and conditions set forth in this Declaration (a) declares, creates, makes and reserves in this Declaration certain easements and covenants which

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shall bind, and inure to the benefit of, the Parties in Interest and (b) reserves certain rights in this Declaration (including without limitation, the right to subsequently limit such easements and/or modify such covenants except those easements contained in the original plat or any document subsequently recorded regarding the Real Estate), which easements, covenants and reserved rights are as follows:

ARTICLE I

Easements

Carlyle & Susan

HANCOCK COUNTY RECORDER
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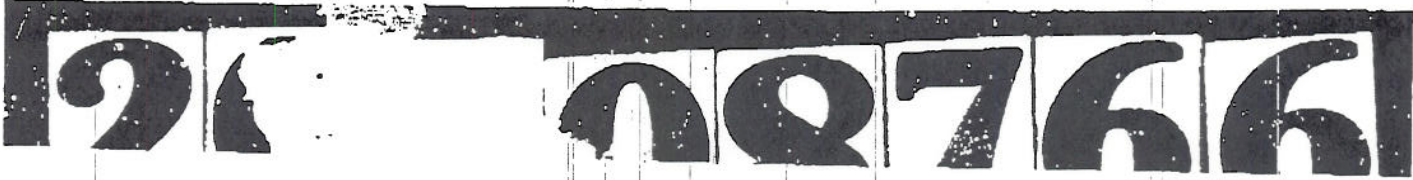
Section 1. Access and Parking Easements. Declarant hereby declares, creates, makes and reserves the following access and parking easements (the "Access and Parking Easements"): First, perpetual and nonexclusive mutual easements appurtenant to the Parcels for the benefit of the Parcels, Declarant, the Owners and all other Parties in Interest, each of which easements shall be in, on, under, over, above, across and through the entirety of the Real Estate excepted as set forth in Article II, Section 4); and second, easements in gross in favor of Declarant, each of which easements shall be in, on, under, over, above, across and through the entirety of the Real Estate. The Access Easements and all rights in and to the Access Easements are declared, created, made and reserved for the purposes of (a) providing access, ingress and egress by vehicular and pedestrian traffic to and from each Improved Parcel from and to public streets and roadways over and across the common access drive, sidewalks and walkways (the "Common Access Way(s)"); (b) providing a system for directing and controlling the flow, progress and pattern of the vehicular and pedestrian traffic over and across the Common Access Ways (the "Traffic Control System"); (c) providing common parking for the Improved Parcels (the "Common Parking Areas") and (d) further developing the Project. All of the Access and Parking Easements shall be subject to subsequent limitation as provided in Sections 5 and 6 of this Article I and to the covenants in Article II, Sections 1 and 2, regarding use and contributions for certain expenses (the "Owner Covenants"). Access to Yorkshire Boulevard East shall be limited to the common drive in existence on the date this Declaration is recorded. All Parcels shall utilize the common drive for access to Yorkshire Boulevard East. Any damage to the common drive caused in whole or in part by construction traffic shall be repaired by, and at the sole cost of, the owner of the Parcel where the construction is occurring. An owner shall bare the cost of any environmental remediation or clean-up associated with the owner's (or owner's patrons) use of any parking facility or any use of the owner's Parcel.

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Section 2. Utility Easements. Declarant hereby declares, creates, makes and reserves the following utility easements (the "Utility Easements"): First, perpetual and nonexclusive mutual easements appurtenant to the Parcels for the benefit of the Parcels, Declarant, the Owners and all other Parties in Interest, each of which easements shall be in, on, under, over, above, across and through the entirety of the Real Estate (except as set forth in Article II, Section 4); and second, easements in gross in favor of Declarant, each of which easements shall be in, on, under, over, above, across and through the entirety of the Real Estate. The Utility Easements and all rights in and to the Utility Easements are declared, created, made and reserved for the purposes of (a) providing systems for general water delivery service, water delivery service for irrigation and fire protection, sanitary sewer service, natural gas service, public electrical power service, public telephone service and other communications services to the Parcels (collectively referred to as the "Utility System(s)") and (b) further developing the Project. The Utility Systems shall include all equipment, fixtures and facilities used in connection with the Utility Easements, such as mains, pipes, lines, valves, meters,



lift stations and other utility facilities. All of the Utility Easements shall be subject to subsequent limitation as provided in Sections 5 and 6 of this Article I and to the Owner Covenants.

Section 3. Drainage and Irrigation Easements. Declarant hereby declares, creates, makes and reserves the following surface and storm water drainage and irrigation easements (the "Drainage and Irrigation Easements"): First, perpetual and nonexclusive mutual easements appurtenant to the Parcels for the benefit of the Parcels, Declarant, the Owners and all other Parties in Interest, each of which easements shall be in, on, under, over, above, across and through the entirety of the Real Estate (except as set forth in Article II, Section 4); and second, easements in gross in favor of Declarant, each of which easements shall be in, on, under, over, above, across and through the entirety of the Real Estate. The Drainage and Irrigation Easements and all rights in and to the Drainage and Irrigation Easements are declared, created, made and reserved for the purposes of (a) providing a system of surface and storm water drainage for the entirety of the Project (the "Drainage System"), (b) providing a system of irrigation for the entirety of the Project (the "Irrigation System") and (c) further developing the Project. The Drainage System and the Irrigation System shall include all equipment, fixtures and facilities used in connection with the Drainage and Irrigation Easements, such as detention ponds, retention areas, ditches, tiles, pipes, lines, pumps, pump stations, sprinklers, wells and other drainage and irrigation facilities. All of the Drainage and Irrigation Easements shall be subject to subsequent limitation as provided in Sections 5 and 6 of this Article I and to the Owner Covenants. A Detention Pond (the "Pond") which forms an integral part of the Drainage system exists on Parcel 3. The Owners shall share in the cost of the maintenance of the Pond and any associated systems, including, but not limited to, the chemicals needed to control algae growth in the Pond. Pond maintenance costs shall be shared among the Owners based on the proportion of (A) the aggregate gross floor space of all completed buildings on the owner's parcel(s) to (B) the aggregate gross floor space of all completed buildings in the project (the "Building Proportion"). If the size of the Pond is determined to be inadequate resulting from an Owners construction project, the Owner whose project caused the inadequacy shall bare the cost of enlarging or reconfiguring the Pond. Declarant has drilled a well on Parcel 3 to be used to supply the irrigation system. The water lines for the irrigation system shall be extended to the boundary line of Parcel 3 by Declarant. The successive Owners of Parcels 1 and 2 shall connect to the well line and utilize this line to irrigate Parcel 1 and 2. The successive Owner of Parcel 1 and 2 shall pay all costs associated with the irrigation lines on the successive Owner's Parcel and shall reimburse Declarant for 1/3 of the original drilling costs and the cost associated with making the water available to the boundary of Parcel 3.

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Section 4. Sign Easements. (a) Declarant hereby declares, creates, makes and reserves sign easements (the "Sign Easements") in, on, under, over, above, across and through the portions of the Real Estate depicted and described on the plat recorded contemporaneously herewith. The Sign Easements and all rights in and to the Sign Easements are declared, created, made and reserved for the purposes of installing, erecting and providing one or more signs with one or more panels (the "Signs") which identify and/or advertise certain of the Owners and certain of the occupants and tenants of buildings in the Project (collectively referred to as the "Tenants"); provided that the reservation herein of the Sign Easements shall not be deemed to impose upon Declarant any obligation to erect, install or provide any Sign or to otherwise exercise any of the rights herein reserved to Declarant; provided further, that no sign shall be erected or installed which is in violation of the sign ordinance of the Town of Cumberland or Hancock County and no neon sign shall be permitted. Declarant shall have the absolute and exclusive right, in its sole discretion, to determine, designate and dictate which Owners and Tenants may use panels on the Signs from time to time (the



"Sign Users"). The Sign Easements shall be appurtenant to the Parcels owned or occupied by the Sign Users (the "Sign User Parcels") and be deemed to be granted for the benefit of the Sign User Parcels and the Sign Users, from time to time. The Sign Easements shall be subject to subsequent limitation as provided in Sections 5 and 6 of this Article I and to the Owner Covenants. Declarant intends to erect a sign or signs on the Real Estate. The subsequent Owners of Parcel 1 and 2 shall each pay 1/3 of total original cost of erecting any such sign. In addition, the Owner of Parcel 1 and 2 shall pay all costs associated with the Owner modifying the original sign to advertise the business being conducted on the Parcel.

(b) **Glen Oaks Village Sign.** The Glen Oaks Village Subdivision sign is granted an easement for its current location as marked on the plat. The Glen Oaks Village Subdivision Owners Association shall maintain this sign.

Section 5. Easement Rights Reserved and Limited.

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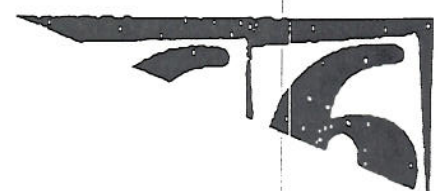
(a) **Rights Reserved.** In conjunction with the declaration, creation, making and reservation of the Access and Parking Easements, Utility Easements, Drainage and Irrigation Easements and Sign Easements (collectively referred to herein as the "Declared Easements"), Declarant reserves the following rights, which rights are subject to the limitations set forth in Subsection 5(b) of this Article I:

(i) From time to time and at any time, to install, service, maintain, repair and replace any portion of the Common Access Ways, the Utility Systems, the Drainage System, the Irrigation System or the Signs. The rights set forth in this clause (i) are collectively referred to as the "Easement Maintenance Rights";

(ii) From time to time and at any time, to execute and record, without the consent of any Owner or Party in Interest, additional instruments which Declarant, in its sole discretion, determines to be necessary or appropriate to accomplish the purposes of Sections 1 through 5 of this Article I, which bind the Owners and Parties in Interest and which (A) limit the area of any Declared Easement to a defined or specified part of the Real Estate, (B) define or specify the location of any Declared Easement relocated by Declarant pursuant to clause (iii) of this Subsection or (c) memorialize the abandonment or relocation of any Declared Easement pursuant to clause (iii) of this Subsection;

(iii) From time to time and at any time to abandon or relocate any one or more of the Declared Easements (excluding easements referenced on the original plat or in other documents recorded prior to these declarations,) if the Declarant, in its sole discretion, determines that the abandonment or relocation is necessary or appropriate for (A) compliance with any law, statute, ordinance, rule, regulation, order or standard of any municipality or other political subdivision or governmental body or agency (collectively referred to as the "Municipality"), (B) compliance with the requirements of any public or private utility provider (collectively referred to as the "Utility Provider"). (C) the abandonment or relocation of another Declared Easement, (D) the construction, erection, installation or alteration of a building or other improvement or (E) the further development of the Project. The rights set forth in this clause (iii) are collectively referred to as the "Abandonment Rights";

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(iv) From time to time and at any time, to promulgate rules and regulations concerning the use by the Owners, the Tenants and the visitors, invitees and licensees of Declarant, the Owners and the Tenants (collectively referred to as the "Visitors") of (A) the Common Access Ways, the Common Parking Areas and the Access and Parking Easements, (B) the Utility Systems and the Utility Easements and (C) the Drainage System, the Irrigation System and the Drainage and Irrigation Easements. The Sign and the Sign Easement shall remain within the exclusive control of Declarant, and Declarant shall have the right, from time to time and at any time, to promulgate rules and regulations concerning the installation, use, service, maintenance, repair and replacement of the Sign;

(v) From time to time and at any time, to assign to the "Successor" (as defined in Article III, Section 1), in whole or in part, any of Declarant's interest or rights in and to any one or more of the Declared Easements, together with any or all of the rights reserved to Declarant in this Section 5;

(vi) From time to time and at any time, to assign or dedicate to any Utility Provider or to any Municipality, in whole or in part, any Common Access Way, the Traffic Control System, any Utility System, the Drainage System or the Irrigation System, together with (A) the easements declared, created, made and reserved for the Common Access Ways, the Traffic Control System, the Utility System, the Drainage System or the Irrigation System assigned or dedicated and (B) any rights reserved to Declarant which are reasonably necessary or appropriate to enable the Utility Provider or the Municipality to provide adequate access, utility service, surface drainage or irrigation to the Parcels; and

(vii) From time to time and at any time, to enter into any agreement with any Utility Provider or Municipality which Declarant, in its sole discretion, determines to be necessary or appropriate to accomplish the purposes of this Declaration, which binds the Owners and the Parties in Interest and which declares or defines the rights and obligations of Declarant, the Owners, the Parties in Interest and the Utility Provider or the Municipality in connection with (A) the service provided by the Utility Provider or the Municipality, (B) the use and maintenance of the Common Access Ways, the Traffic Control System, the Utility Systems, the Drainage System, the Irrigation System and the easements declared, created, made and reserved for the Common Access Ways, the Traffic Control System, the Utility Systems, the Drainage System or the Irrigation System.

(b) Limitations on Rights. Notwithstanding any covenant, condition, term or provision to the contrary in this Declaration:

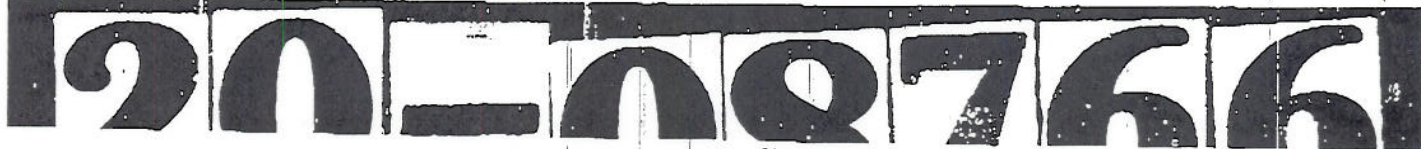
(i) Declarant shall not abandon or relocate any portion of any Common Access Way, unless Declarant (A) replaces such portion of Common Access Way with a Common Access Way which (1) is of the same or increased capacity and of the same or improved construction quality and (2) provides access, ingress and egress by vehicular traffic to and from each Improved Parcel, and (B) provides adequate temporary access, ingress and egress by vehicular traffic to (and from) each Improved Parcel while such replacement Common Access Way is under construction;

(ii) Declarant shall not abandon or relocate any portion of any Irrigation System or Drainage System unless Declarant (A) replaces such portion of any Irrigation System or Drainage System with a system which is of the same or increased pressure, volume or capacity, as

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applicable, and (B) provides adequate temporary drainage or irrigation services to each Improved Parcel affected by the abandonment or relocation, as the case may be, while such replacement system is being installed;

(iii) Subject to the conditions, terms and provisions set forth in Section 6 of this Article I, and upon approval of the "Construction Plans" (as defined in Article II, Section 3) for a building, permanent parking area, permanent access way or permanent sidewalk or walkway, (A) the area of all Utility Easements and Drainage and Irrigation Easements shall, for so long as such improvement continues, be deemed to be limited to that part of the Real Estate which is not under, over or above a building or the foundation of a building or over or above a permanent parking area and (B) the area of all Access and Parking Easements shall, for so long as such improvement continues, be deemed to be limited to that part of the Real Estate which is not under, over or above a building or the foundation of a building; provided that the area of any Utility Easement or Drainage and Irrigation Easement may include that portion of the Real Estate which is under a permanent parking area, permanent accessway or permanent sidewalk or walkway; provided that the use of such portion of a Utility Easement or Drainage and Irrigation Easement does not materially impair the use of the permanent parking area, permanent driveway or permanent sidewalk or walkway;

(iv) Declarant shall not exercise any rights reserved to Declarant in Subsection 5(a) of this Article I in a manner which unreasonably interferes with the lawful and intended use of any Parcel; provided that in no event shall an abandonment or relocation of any one or more of the Declared Easements be deemed to be an unreasonable interference if (A) Declarant complies with the conditions, terms and provisions of Subsection 5(b), clauses (i) and (ii), of this Article I, as may be applicable, and (B) such abandonment or relocation is necessary or appropriate for compliance with (1) any law, statute, ordinance, rule, regulation, order or standard of any Municipality or (2) the requirements of any Utility Provider; and

(v) Any party exercising the rights reserved to Declarant in Subsection 5(a) of this Article I which damages any parking area, access way, sidewalk, walkway, lighting, landscaped area or other surface improvements (collectively referred to as the "Surface Improvement(s)") when exercising such rights shall restore the damaged Surface Improvement to a condition substantially the same as that which existed before such damage occurred.

Section 6. Nature and Assignment of Easements and Rights.

(a) **Defined Easement Locations.** Notwithstanding any covenant, condition, term or provision to the contrary in this Declaration, any Declared Easement may be limited to a defined or specified part of the Real Estate by (i) an additional instrument (the "Easement Instrument(s)") executed by Declarant pursuant to its reserved rights in Subsection 5(a), clause (ii), of this Article I, (ii) pictorial representation in documents, diagrams, or surveys that are made available by Declarant to the Owners, (iii) legal description or other description in documents, diagrams or surveys that are made available by Declarant to the Owners, or (iv) construction, installation or use permitted or authorized by Declarant (the "Defined Easement(s)"). A document, diagram or survey shall be deemed to have been made available to the Owners only if the document, diagram or survey is (i) recorded by Declarant in the Office of the Recorder of Hancock County, Indiana, or (ii) available by Declarant for inspection by the Owners during regular business hours at the offices of Declarant at, or at such other place as Declarant, from time to time and at any time, may designate in writing. Except as expressly provided in this Subsection, no pictorial

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representation, legal description, other description, construction, installation or use shall be deemed to limit, define or specify any Declared Easement.

(b) **Perpetual and Permanent Easements.** Except as hereinafter provided in this Section, all Declared Easements (subject to the limitation thereof by Declared Easements becoming Defined Easements) shall be perpetual and permanent. Each appurtenant Declared Easement and the benefits thereof shall (i) run with the land benefited by the appurtenant Declared Easement and (ii) inure to the benefit of Declarant and the Owners of the benefitted Parcels and all other Parties in Interest as to such Parcels. Each Declared Easement in gross and the benefit thereof shall inure to the benefit of Declarant and the Successor. Each appurtenant Declared Easement and Declared Easement in gross and the burdens thereof shall (i) run with and bind the land burdened by such appurtenant Declared Easement or Declared Easement in gross and (ii) bind the Owners of the burdened Parcels and all other Parties in Interest as to such Parcels.

(c) **Instruments of Conveyance.** Each instrument which conveys, grants, transfers, creates, assigns or mortgages any interest in a Parcel that is benefited by a Declared Easement or that is burdened by a Declared Easement (the "Instrument(s) of Conveyance") shall be deemed (i) (unless the Instrument of Conveyance expressly states otherwise) to assign as an appurtenance to the interest in the Parcel, the right to the nonexclusive use and benefit of the Declared Easement(s) which benefit(s) the Parcel (whether or not the Instrument of Conveyance expressly assigns that right) and (ii) to impose, as a limitation or restriction upon the interest, the burdens of the Declared Easement(s) which burden the Parcel (whether or not the Instrument of Conveyance expressly imposes such limitation or restriction). In no event shall any party except Declarant and the Successor be deemed to be the holder or beneficiary of any Declared Easement in gross or any right or interest therein.

(d) **Conveyance by Declarant.** On the date that Declarant conveys all of its ownership interest in all of the Parcels that it owns at that time, all of the Declared Easements which are Declared Easements, the benefits and burdens thereof, and the interests and rights of all parties therein, shall terminate and have no further force and effect, unless the development of the Project is not yet complete, in which case such Declared Easements shall terminate when the development of the Project is completed. Completion of the development for purposes of this Section shall be deemed to have occurred upon the expiration of the "Development Period" (as defined in Section 7 of this Article I).

Section 7. Development of the Project. The period of developing the Project (the "Development Period") shall be deemed to be complete when Declarant executes and records an instrument in the Office of the Recorder of Hancock County, Indiana, stating that the Development Period is completed (the "Completion Statement"). Declarant shall have the right to record a Completion Statement without the consent of any Owner or Party in Interest, and the Completion Statement shall be binding on all Owners and Parties in Interest.

Section 8. Non-Dedication of Appurtenant Easements. This Declaration shall not be deemed to (a) dedicate for public purposes any Declared Easement, (b) dedicate or assign to a Utility Provider or Municipality any Declared Easement or the interest and rights of Declarant or the Owners in and to any Declared Easements (including without limitation, the rights reserved to Declarant in Section 5 of this Article I), or (c) otherwise subject any Declared Easement to the control of any Utility Provider or Municipality. The Declarant intends that all appurtenant Declared

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Easements shall be for the private use and enjoyment of Declarant and the Owners and shall remain the property of Declarant and the Owners; provided that this Section shall not be deemed to restrict in any way the rights reserved to Declarant in Section 5 of this Article I. If Declarant dedicates or assigns any Declared Easement to any Utility Provider or Municipality, then, to the extent that the Utility Provider or the Municipality maintains and repairs, or bears the expense of maintaining and repairing, any Declared Easement and the equipment, fixtures and facilities used in conjunction therewith, the Owner Covenants shall not obligate Declarant or the Owners to maintain and repair, or bear the expense of maintaining or repairing, any such dedicated easement or the equipment, fixtures and facilities used in conjunction therewith. This Article I, Section 8 shall not apply to any easement reflected on the original plat or any document subsequently recorded regarding the real estate.

Article II

Covenants

Section I. Covenants Concerning Use of Parcels.

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(a) **General Maintenance of Parcels.** Each Owner shall (i) maintain its Parcel(s), and the buildings, Surface Improvements and all other improvements on its Parcel(s) at all times in a good, safe, sanitary, clean and sightly condition, (ii) store refuse, rubbish, debris, trash and all other waste in a sanitary manner covered and screened from public view by a brick wall and provide each building on its Parcel with waste collection and removal service at least twice a month, or as reasonably necessary; (iii) accept and make deliveries and drop-offs (and load and unload goods, merchandise, materials and equipment) only (A) during normal business hours for the business(es) being conducted on that Owner's Parcel(s), (iv) comply with all applicable laws, statutes, ordinances, rules, regulations, orders and standards of any governmental authority (including without limitation, zoning ordinances and use restrictions) and with any and all reasonable rules, regulations and directions which Declarant may promulgate from time to time and (v) comply with the lighting and use standards set forth on Exhibit B.

(b) **Prohibition of Nuisances.** No Owner shall (i) create, cause, permit or suffer any nuisance to exist on its Parcel(s), (ii) cause, permit or suffer any unsightly condition, noxious or objectionable dust, gases, odors or noises to exist on, or emanate from, its Parcel(s), (iii) cause, permit or suffer any temporary structure (including without limitation, sheds, shacks and tents) to be built, constructed, erected or installed on its Parcel(s) (unless Declarant first approves the temporary structure in writing), (iv) cause, permit or suffer the storage of any material or object of any nature outside of a building (unless Declarant first approves the storage in writing), (v) cause, permit or suffer the storage, use, treatment, processing, handling, production, generation, disposal, release or transportation of any explosive, combustible, radioactive, hazardous or toxic material, substance or waste on or from its Parcel(s) (unless Declarant first approves the storage in writing), (vi) use (or cause, permit or suffer the use of) its Parcel(s) for a purpose which materially interferes with the lawful and intended use of another Parcel, (vii) cause, permit or suffer the Tenants of, or Visitors to, its Parcel(s) to park any vehicle on the Common Access Ways or (viii) attempt to dedicate any Declared Easement to a Utility Provider or Municipality. Notwithstanding the covenants and conditions set forth in this Section, neither the activities related to the construction, erection and installation of buildings or Surface Improvements on any Parcel, nor the consequences of such construction activities shall be deemed to be a violation of any of the covenants, conditions,

terms and provisions set forth in this Section unless the activities materially and unreasonably interfere with the lawful and intended use of another Parcel.

(c) **Zoning Changes and Variances.** No Owner shall seek to change a zoning classification for any Parcel or to secure a zoning variance, special use exception or variance or exception from applicable building standards, setbacks, other use restrictions or subdivision control ordinances (collectively referred to herein as the "Zoning Change(s)") for any Parcel unless Declarant approves in writing the proposed Zoning Change. If Declarant seeks a Zoning Change for a Parcel which Declarant owns or if Declarant, in its sole discretion, approves in writing any Owner's proposal to seek a Zoning Change, then unless the Zoning Change involves a material change in the use of the Parcel which will unreasonably interfere with the lawful and intended use of another Parcel, each Owner shall (i) be deemed to have consented to the Zoning Change and (ii) execute any and all documents which Declarant, in its sole discretion, determines to be necessary or appropriate stating, representing, certifying or acknowledging that the Owner consents to the Zoning Change.

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Section 2. Maintenance and Contribution Covenants.

(a) **Maintenance of Common Access Ways.**

(i) Declarant shall maintain and repair the Common Access Ways and the Traffic Control System. Declarant shall replace, in whole or in part, the Common Access Ways and the Traffic Control System, when Declarant, in its sole discretion, determines that replacement is necessary or appropriate to satisfy the obligations of Declarant to maintain and repair the Common Access Ways and the Traffic Control System under this Declaration. Declarant may procure and maintain policies of public liability insurance in such amounts as Declarant, in its sole discretion, deems to be appropriate, which insure Declarant and the Owners against liability for property damage, personal injury and loss of life occurring on, or in connection with, the use of the Common Access Ways (the "Access Way Liability Insurance"), and Declarant may procure and maintain policies of hazard insurance in such amounts as Declarant, in its sole discretion, deems to be appropriate to cover casualty damages to, and destruction of, the Common Access Ways and the Traffic Control System (the "Access Way Hazard Insurance").

(ii) Each Owner shall pay to Declarant a share of the expenses that Declarant incurs in connection with operating, maintaining, repairing, replacing, landscaping and illuminating the Common Access Ways, the Traffic Control System and the Access and Parking Easements (the "Common Access Way Expenses"). The Common Access Way Expenses shall include all real estate taxes and all premiums for, and all costs and expenses of, procuring and maintaining, the Access Way Liability Insurance and the Access Way Hazard Insurance. If Declarant dedicates any Access Easement to a Municipality, and if, as a condition of accepting the dedication, the Municipality requires Declarant to post a maintenance bond or obligation of a similar nature, then all costs and expenses that Declarant incurs in connection with posting the bond (including without limitation, the cost of the bond) shall be deemed to be part of the Common Access Way Expenses.

(iii) Each Owner's share of the Common Access Way Expenses presumptively shall be based on the Building Proportion of; provided that, if Declarant determines in its sole discretion, that allocation of the Common Access Way Expenses on the basis of the



Building Proportion is inequitable or will not fully reimburse Declarant for all Common Access Way Expenses incurred, then Declarant, in its sole discretion, shall calculate each Owner's share of the Common Access Way Expenses based on a formula or other process of allocation which Declarant determines to be more equitable or appropriate, taking into account the proportionate use of the Common Access Ways which Declarant determines to be attributable to each Parcel.

(b) Provision of Parking Areas and Other Access Ways. Each Owner shall

(i) provide its Improved Parcel(s) with paved access ways and paved sidewalks and walkways for adequate access, ingress and egress to and from each building from and to the Common Access Ways, (ii) provide its Improved Parcel(s) with paved parking areas and vehicle loading facilities which serve Tenants of, and Visitors to, the buildings on its Improved Parcel(s), (iii) maintain and repair the parking areas, access ways, sidewalks and walkways on its Improved Parcel(s) so that they are safe for use by, and adequate to serve, all Tenants of, and Visitors to, buildings on that Owner's Improved Parcel(s) and (iv) replace, in whole or in part, the parking areas, access ways, walkways and loading facilities on its Improved Parcel(s) when replacement is necessary to satisfy the obligations of the Owner under this Declaration.

(c) Maintenance of Common Utility Systems.

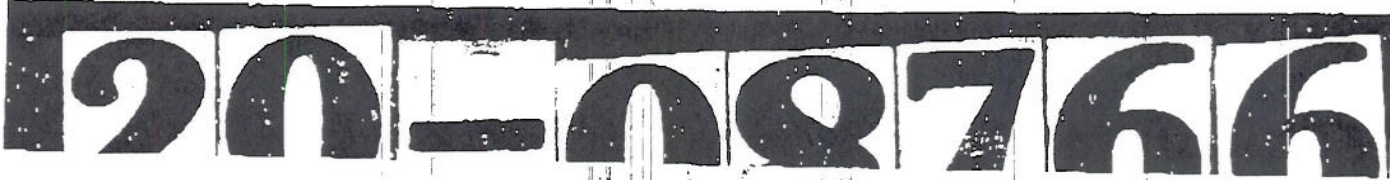
(i) Declarant shall maintain and repair all portions of the Utility Systems that are not (i) entirely located on and exclusively serving one Parcel or (ii) entirely located on and exclusively serving two or more adjacent Parcels which are owned by either one Owner or by two or more affiliated Owners (the "Common Utility Equipment"). Declarant shall replace, in whole or in part, the Common Utility Equipment when Declarant determines, in its sole discretion, that replacement is necessary or appropriate to satisfy the obligation of Declarant to maintain and repair the Common Utility Equipment under this Declaration.

(ii) Each Owner shall pay to Declarant a share of the expenses that Declarant incurs in connection with operating, maintaining, repairing and replacing the Common Utility Equipment (the "Common Utility Expenses"). The Common Utility Expenses shall include all costs and expenses that Declarant incurs in connection with (i) supplying the Project with general water delivery service for irrigation and supplying electrical power service to pumps and other portions of the Drainage System and Irrigation System, (ii) the local water utility levies for fire protection, (iii) all costs and expenses in connection with present or future sewerage capacity and usage thereof, and (iv) any other charges in connection with the installation, maintenance, repair and replacement of fire hydrants in the Project.

(iii) Each Owner's share of the Common Utility Expenses presumptively shall be based on the Building Proportion; provided that, if Declarant determines, in its sole discretion, that allocation of the Common Utility Expenses on the basis of the Building Proportion is inequitable or will not reimburse Declarant for all Common Utility Expenses incurred, then Declarant, in its sole discretion, shall calculate each Owner's share of the Common Utility Expenses based on a formula or other process of allocation which Declarant determines to be more equitable or appropriate, taking into account the proportionate use of the Utilities which Declarant determines to be attributable to each Parcel.

(d) Maintenance by Owners of Utility Systems. Each Owner shall (i) maintain and repair the portions of the Utility Systems that are entirely located on and exclusively serving that

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Owner's Parcel or that are entirely located on and exclusively serving two or more adjacent Parcels which are owned either by that Owner or by that Owner and another affiliated Owner, so that such portions of the Utility Systems provide adequate service to all Tenants of, and Visitors to, all buildings on that Owner's Improved Parcel(s) and (ii) replace, in whole or in part, such portions of the Utility Systems when replacement is necessary to satisfy the obligations of the Owner under this Declaration. Notwithstanding any condition, term or provision to the contrary in this Subsection or Subsection 2(c) of this Article II, to the extent that any Utility Provider or Municipality maintains and repairs the Utility Systems or bears the expense of maintaining and repairing the Utility Systems, no provision of this Declaration shall obligate Declarant or the Owners to maintain and repair the Utility Systems or bear the expense of maintaining or repairing the Utility System.

Confirmed

(e) **Installation of Utility Meters.** Each Owner shall install and maintain in proper working order (or caused to be installed and maintained in proper working order) meters or other similar devices that measure the volume or amount of water, natural gas, electricity or other utility services which is consumed on or from the Owner's Parcel(s). Upon request by Declarant, each Owner shall install and maintain (or cause to be installed and maintained) (i) meters or other similar devices that measure the volumetric outflow from the Owner's Parcel(s) into the sanitary sewer system that serves the Parcel(s) and (ii) devices to measure or reasonably estimate the volumetric amount of surface drainage from the Owner's Parcel into the common portions of the Drainage System. The obligations of the Owners which are set forth in this Subsection and in Subsections 2(c) and 2(d) of this Article II are in addition to each Owner's sole responsibility to (i) obtain all necessary approvals and permits and pay any and all charges and fees for the connection of that Owner's Parcel(s) and the buildings on such Parcel(s) to utility services and/or the Utility Systems and (ii) pay all charges and fees for usage or consumption of any utility services on or from that Owner's Parcel(s) and the buildings on such Parcels.

Confirmed

(f) **Maintenance of Common Drainage and Irrigation Systems.**

(i) Declarant shall maintain and repair all portions of the Drainage System and the Irrigation System that are not (A) entirely located on and exclusively serving one Parcel or (B) entirely located on and exclusively serving two or more adjacent Parcels which are owned either by one Owner or by two or more affiliated Owners (the "Common Portions of the Drainage and Irrigation Systems"). Declarant shall replace, in whole or in part, the Common Portions of the Drainage and Irrigation Systems when Declarant determines, in its sole discretion, that replacement is necessary or appropriate to satisfy the obligation of Declarant to maintain and repair the Common Portions of the Drainage and Irrigation Systems under this Declaration.

(ii) Each Owner shall pay to Declarant a share of the expenses that Declarant incurs in connection with operating, maintaining, repairing, replacing and landscaping the Common Portions of the Drainage and Irrigation Systems (including without limitation, all costs and expenses of landscaping and maintaining the areas immediately surrounding detention ponds and the other Common Portions of the Drainage and Irrigation Systems) (the "Common Drainage and Irrigation Systems Expenses"). The Common Drainage and Irrigation Systems Expenses shall include any and all amounts incurred by Declarant to pay for the use, maintenance, repair and replacement of off-site drainage ponds or ditches, equipment, fixtures and facilities which provide or facilitate surface or storm water drainage from the Project.

(iii) Each Owner's share of the Common Drainage and Irrigation Systems Expenses presumptively shall be based on the Building Proportion; provided that, if Declarant determines in its sole discretion that allocation of the Common Drainage and Irrigation System Expenses on the basis of the Building Proportion is inequitable or will not fully reimburse Declarant for all Common Drainage and Irrigation Systems Expenses, then Declarant, in its sole discretion, shall calculate each Owner's share of the Common Drainage and Irrigation System Expenses based on a formula or other process of allocation which Declarant determines to be more equitable or appropriate, taking into account the proportionate use of the Common Portions of the Drainage and Irrigation Systems which Declarant determines to be allocable to each Parcel.

(g) Maintenance by Owners of Drainage and Irrigation Systems. Each Owner shall (i) provide its Parcel with surface and storm water drainage which adequately channels, directs or drains the surface and storm water on the Parcel into the Common Portions of the Drainage System and (ii) maintain and repair the portions of the Drainage System that are located entirely on and exclusively serving the Owner's Parcel or are located entirely on and exclusively serving two or more adjacent Parcels which are owned either by that Owner or by that Owner and another affiliated Owner. Each Owner also shall (i) provide its Parcel with adequate irrigation to maintain the landscaping on the Parcel in a healthy and attractive state and (ii) maintain and repair the portions of the Irrigation System that are located entirely on and exclusively serving the Owner's Parcel or located entirely on and exclusively serving two or more adjacent Parcels which are owned either by that Owner or by that Owner and another affiliated Owner.

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(h) Maintenance of Signs.

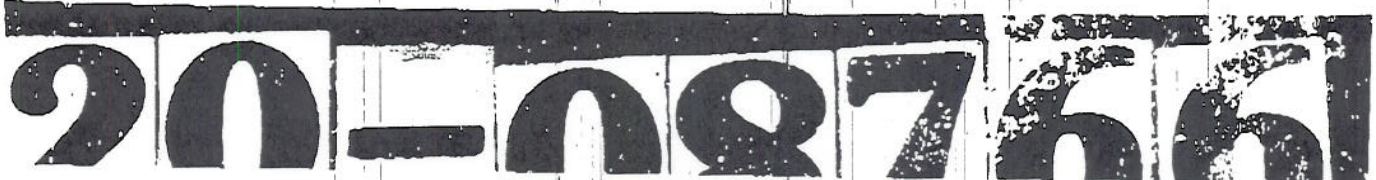
(i) Declarant shall (A) maintain and repair the Sign and (B) replace, in whole or in part, the Sign when Declarant determines, in its sole discretion, that replacement is necessary or appropriate to satisfy Declarant's obligation to maintain and repair the Sign under this Declaration.

(ii) Each Owner shall pay to Declarant a share of the expenses that Declarant incurs in connection with operating, maintaining, repairing, replacing and illuminating the Sign (including without limitation, all costs and expenses of landscaping and maintaining the areas surrounding the Sign) (the "Sign Expenses").

(iii) The share of the Sign Expenses payable by each Owner presumptively shall be based on the proportion of (A) the area of that Owner's panels (or the panels of its Tenant(s)) to (B) the total area of all panels on the Sign (the "Panel Proportion"); provided that, if Declarant determines, in its sole discretion, that allocation of the Sign Expenses on the basis of the Panel Proportion is inequitable or will not fully reimburse Declarant for all Sign Expense, then Declarant, in its sole discretion, shall calculate each Sign User's share of the Sign Expenses based on a formula or other process of allocation which Declarant determines to be more equitable or appropriate.

(i) Additional Capital Improvements.

(i) If Declarant builds, constructs, erects or installs any capital improvement (the "Capital Improvement(s)") in the Project (including without limitation, additional sanitary sewer facilities) which mutually benefits multiple Owners, then each Owner benefitted shall (A) pay to Declarant a share of the building, construction, erection and installation costs for the



portion of the Capital Improvement that does not exclusively serve one Parcel or exclusively serve two or more adjacent Parcels which are owned either by one Owner or by two or more affiliated Owners (the "Common Capital Construction Costs"), (B) pay to Declarant all of the building, construction, erection and installation costs for any Capital Improvement or portion thereof that either exclusively serves an Owner's Parcels or that exclusively serves two or more adjacent Parcels which are owned either by that Owner or by that Owner and another affiliated Owner (the "Individual Capital Construction Costs"), and (C) enter into a supplemental agreement with Declarant and the other Owners which sets forth the obligations of Declarant and the Owners to maintain and repair the Capital Improvement and which provides a method for sharing the expenses incurred by Declarant in connection with maintaining and repairing the Capital Improvement (the "Capital Improvement Agreement").

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(ii) Each benefited Owner's share of the Common Capital Construction Costs presumptively shall be based on the Building Proportion; provided that, if Declarant, in its sole discretion, determines that allocation of the Common Capital Construction Costs on the basis of the Building Proportion is inequitable or will not fully reimburse Declarant for all common Capital Construction Costs, then Declarant, in its sole discretion shall calculate each Owner's share of the Common Capital Construction Costs based on a formula or other process of allocation which Declarant determines to be more equitable or appropriate, taking into account the proportionate use of the Capital Improvement(s) which Declarant determines to be attributable to each Parcel.

(iii) Each Owner shall receive prior written notice of Declarant's intent to construct or install a Capital Improvement and the estimated cost and Owner's share thereof. No Owner shall be obligated to pay for a Capital Improvement constructed or installed pursuant to this Subsection if (A) such Owner objects thereto in writing within ten (10) business days after receipt of such notice, and (B) the Owners (excluding Declarant) which own at the time in the aggregate (1) fifty percent (50%) or more of the gross floor space of all completed buildings in the Project (excluding completed buildings that Declarant owns) and (2) fifty percent (50%) or more of the acreage of the Project (excluding Parcels that Declarant owns), object thereto in writing within ten (10) business days after receipt of their respective notices. In any event, neither the Tenants of, or Visitors to a Parcel nor the Owner of a Parcel shall use a Capital Improvement, unless the Owner of the Parcel (A) pays to Declarant its share of the Common Capital Construction Costs and any Individual Capital Construction Costs payable by the Owner pursuant to this Subsection, and (B) enters into the Capital Improvement Agreement.

(j) Non-Compliance with the Owner Covenants. If an Owner fails to comply with any Owner Covenant, then Declarant shall notify the Owner of such failure to comply, and, if the Owner does not comply within a reasonable time, then Declarant may (i) enter in or upon any portion of the Owner's Parcel(s) or the buildings and other Surface Improvements located on the Parcel(s) and cure the non-compliance or (ii) enjoin the non-compliance through an action at law or in equity. Any Owner which fails to comply with any Owner Covenant shall (i) promptly reimburse Declarant for all expenses that Declarant incurs in connection with curing the non-compliance and (ii) be liable to Declarant for all costs that Declarant incurs in connection with enjoining such non-compliance (including without limitation, in either case, attorneys' fees and legal costs). Absent manifest error, determination by Declarant that an Owner has failed to comply with any Owner Covenant shall be conclusive.



(k) Amounts Payable to Declarant.

(i) All amounts payable by an Owner to Declarant pursuant to this Section (the "Contribution Payment(s)") shall be deemed to be delinquent if the full amount thereof is not paid within thirty (30) days after receipt by the Owner of an invoice for the amount payable. All delinquent Contribution Payments (A) shall bear interest at two percent (2%) above the rate of interest which is designated by Bank One Indianapolis, N.A., as its prime rate (as revised or modified from time to time during the period when a Contribution Payment is delinquent) and (B) together with the interest thereon, shall be a lien against the Owner's Parcel (the "Non-Payment Lien"); provided that the Non-Payment Lien shall be subordinate to any prior mortgage of record that is held by a mortgagee which is not an affiliate of the Owner. Notwithstanding any provision of this Section, (A) this Declaration shall not impose any obligation or liability on any mortgagee until the mortgagee's interest in a Parcel ripens into fee simple ownership, and (B) a mortgagee shall be liable for, and obligated to pay, only the Contribution Payments which are allocable to a Parcel after the date on which the mortgagee's interest in the Parcel ripens into fee simple ownership or on which the mortgagee assumes possession of the Parcel, whichever first occurs.

(ii) Declarant may collect any delinquent Contribution Payment and the accrued interest thereon by any action at law or in equity, and, in addition, may foreclose the Non-Payment Lien. Any Owner which fails to pay a Contribution Payment before the payment becomes delinquent shall be liable to Declarant for all costs that Declarant incurs in connection with collecting the Contribution Payment and the accrued interest thereon and with foreclosing the Non-Payment Lien (including without limitation, attorney's fees and legal costs). Until the date on which the Owner pays to Declarant the delinquent Contribution Payment, Declarant, in addition to its other remedies, may withhold from, or deny to, the Owner and all Tenants of, and Visitors to, the Owner's Parcel(s) use of the Common Access Ways, the Utility Systems, the Drainage System, the Irrigation System and the Signs. Upon the request of an Owner or the mortgagee of a Parcel, Declarant shall furnish the Owner or the mortgagee with information regarding any delinquent Contribution Payment, the accrued interest thereon and any Non-Payment Lien on the Parcel.

Section 3. Architectural Compatibility. No Owner shall build, construct, erect or install a building, structure, sign, other Surface Improvement or any other improvement (collectively referred to herein as the "Improvement(s)") on its Parcel or alter any of the existing Improvements on its Parcel (including without limitation, reducing the number of parking spaces on the Parcel) until all of the following conditions are satisfied:

- (a) All governmental approvals have been guaranteed.
- (b) All improvements shall be constructed with at least 90% of the exterior brick.
- (c) No structure shall exceed 2 floors in height.
- (d) No permanent improvements shall be constructed with a flat roof.
- (e) The Owner submits to Declarant all plans, designs and specifications for the proposed Improvement or the proposed alteration of an existing Improvement (including without limitation, a site plan of the proposed Improvement or the proposed alteration of an existing Improvement) (the "Construction Plans");

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(f) The Owner submits to Declarant samples of any construction and finishing materials, or the finish exterior colors thereof, that Declarant may request (the "Construction Materials");

(g) Declarant determines to its satisfaction that the Improvements (as shown in the Construction Plans) appear to comply with, and will not cause a violation of, (A) any and all applicable zoning ordinances, building codes and other state and local regulations, (B) any and all reasonable rules, regulations and directions which Declarant may promulgate from time to time concerning construction, erection, installation and alteration of Improvements and (C) the setbacks and signage standards set forth on the plat;

(h) Declarant further determines that the Improvements and the Construction Materials are of a quality, appearance and nature that are compatible with Declarant's plans for the Project and any existing Improvements in and on the Project and the Adjacent Real Estate; and

(i) Declarant approves the Construction Plans in writing.

Determinations by Declarant pursuant to this Section shall be made reasonably, and approvals of Declarant required by this Section shall not be withheld unreasonably. Notwithstanding the foregoing, Declarant shall have no liability for determinations made under this Section 3. Neither the Owner nor anyone else may rely on any such determination other than for the purpose of compliance with this Declaration.

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Section 4. Existing Improvements. On the date hereof, certain improvements currently exist upon certain portions of the Real Estate ("Current Improvements"). For purposes of architectural compatibility, such Current Improvements are deemed approved in all respects. The areas of all Utility Easements and Drainage and Irrigation Easements shall not include that part of the Real Estate which is under, over or above a Current Improvement or the foundation thereof or over or above any permanent parking areas constructed in connection therewith; and the Access and Parking Easements shall not include that part of the Real Estate which is under, over or above a Current Improvement or the foundation thereof.

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Section 5. No Site Line Obstructions.

(a) No fence, wall, hedge, tree or shrub planting which obstructs sight lines with elevations between two and one-half feet (2½') and eight feet (8') above the street shall be placed or permitted on any corner lot within the triangular area formed by the street right-of-way lines and a line connecting points forty feet (40') from the intersection of said street right-of-way lines [forty feet (40') for minor streets and seventy-five feet (75') for arterial streets], or in the case of a rounded property corner, from the intersection of the street right-of-way lines extended.

(b) The same line limitations shall apply to any lot within ten feet (10') of the intersection of a street right-of-way line with the edge of the driveway pavement or alley line. No driveway shall be located within seventy feet (70') of the intersection of two (2) street right-of-way lines. No drainage structures shall be located within driveway limits.

Section 6. Sump Pump Drains.



- (a) No sump pump drains or other drains shall outlet onto the street.

Section 7. Drainage Swale.

(a) Drainage swales (ditches) along dedicated roadways and within the right-of-way, or on dedicated drainage easements, are not to be altered, dug out, filled in, tiled or otherwise changed without the written permission of the Hancock County Drainage Board (Commissioners). Property owners must maintain these swales as sodded grassways, or other non-eroding surfaces. Water from roofs or parking areas must be contained on the property long enough so that said drainage swales or ditches will not be damaged by such water. Driveways may be constructed over these swales or ditches only when appropriate sized culverts are installed as set out in Section 4-9-20 of the Cumberland Subdivision Control Ordinance.

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(b) Any property owner altering, changing, or damaging these drainage swales or ditches will be held responsible for such action and will be given ten (10) days notice by registered mail to repair said damage, after which time, if no action is taken, the Town of Cumberland will cause said repairs to be accomplished, and the bill for such repairs will be sent to the affected property owner for immediate payment.

Article III

General Provisions

Section 1. Owners Association.

(a) At any time, Declarant may organize an owners association (the "Owners Association"), and, at any time after the date on which the Development Period terminates, the Owners which own in the aggregate sixty-seven percent (67%) or more of the aggregate gross floor space of all completed buildings in the Project (the "Gross Floor Space") may elect to form the Owners Association. Within one year after the date on which the Owners elect to form the Owners Association, Declarant shall organize the Owners Association so that, to the extent practicable, it (A) receives Contribution Payments and pays common expenses on a tax-exempt basis and (B) provides its members with limited liability for its actions, debts and obligations. Each Owner shall be a member of the Owners Association, and one-half (1/2) of the voting power shall be allocated on the basis of the Acreage Proportion and the other one-half (1/2) of the voting power shall be allocated on the basis of the Building Proportion. The Owners Association shall be governed by a board of directors which consists of at least three persons who are elected annually and who shall have complete responsibility for governing the Owners Association and satisfying the obligations and duties of the Owners Association (the "Board of Directors").

(b) On the date that the Owners Association is organized (the "Succession Date"), the Owners Association shall succeed to all of the obligations, duties, rights and powers vested in Declarant by this Declaration (except Declarant's obligations, duties, rights and powers as an Owner); provided that neither the Owners Association nor the Board of Directors shall execute or record any additional instruments binding the Owners or Parties in Interest and defining or specifying the location of any easement(s), unless the Board of Directors first obtains the written



consent of all Owners of the Parcels that are burdened by the easement. On the Succession Date, (A) Declarant shall be discharged from all further obligations and duties under this Declaration (except Declarant's obligations and duties as an Owner), (B) the Owners Association shall assume, succeed to, and be responsible for, the payment of all outstanding debts and obligations which were incurred by Declarant in connection with the obligations, duties, rights and powers vested in Declarant by this Declaration (the "Debts"), and (C) the Owners Association shall assume, succeed to, and be responsible for, the performance of all contracts entered into by and between Declarant and any other party in connection with the obligations, duties, rights and powers vested in Declarant by this Declaration (the "Contracts").

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(c) Until the Succession Date, the Owners Association shall not have or be deemed to have (A) any obligations, duties, rights or powers under this Declaration or (B) any actual or implied authority to act for or on behalf of Declarant or any Owner. In no event shall Declarant be responsible or liable for any action taken by the Owners Association before the Succession Date. On the Succession Date and thereafter, the Owners Association shall indemnify and hold harmless Declarant and its agents and employees from and against all actions, claims, liabilities and expenses (including attorneys' fees and legal costs) arising from the Debts and the Contracts, and, by accepting membership in the Owners Association, the Owners shall be deemed to waive all claims and actions of the Owners or the Owners Association against Declarant arising from the Debts or the Contracts.

(d) References in this Declaration to "Successor" shall include the Owners Association or any other party (A) which assumes all of the obligations and duties of Declarant under this Declaration (except the obligations and duties of Declarant as an Owner) and (B) to which Declarant assigns or delegates, in whole or in part, the interest of Declarant in any or all easements created by this Declaration or the rights and powers vested in Declarant by this Declaration.

Section 2. Severability and Governing Law. The invalidity or unenforceability of any covenant, condition, term or provision in this Declaration shall not affect the validity and enforceability of any other covenant, condition, term or provision in this Declaration. The covenants, conditions, terms and provisions of this Declaration shall be governed by, and construed in accordance with, the laws of the State of Indiana. All references in this Declaration to "Owner(s)" shall be deemed to include reference to Declarant, unless and until Declarant conveys all of its ownership interest in and to all of the Parcels and except when a reference to "Owner(s)" expressly excludes Declarant.

Section 3. Waiver of Obligations and Duties. From time to time and at any time, the Owners which own in the aggregate (i) fifty percent (50%) or more of the aggregate acreage of the Project and (ii) fifty percent (50%) or more of the Gross Floor Space (the "Majority Owners") may waive, in whole or in part, any obligation or duty of Declarant under this Declaration.

Section 4. Amendments and Supplements.

(1) Declarant hereby reserves the right, from time to time and at any time during the Development Period, to modify, supplement or amend this Declaration, without the consent of any Owner or Party in interest; provided that Declarant records the modification in the Office of the Recorder of Hancock County and the modification is for any one or more of the following purposes:



(i) To clarify one or more covenants, conditions, terms or provisions in the Declaration, without materially changing the substance thereof;

(ii) To clarify, further define or limit any easement, or otherwise exercise any rights reserved in Article I, Section 5, of this Declaration; or

(iii) To change the substance of one or more covenants, conditions, terms or provisions of this Declaration; provided that such change shall not materially increase the obligation(s) of any Owner under any covenant, condition, term or provision without such Owner's consent, unless such change is necessary to comply with applicable laws, statutes, ordinances, rules, regulations, orders and standards of any Municipality.

(f) Nothing contained in this Section shall be deemed to limit or restrict any rights reserved to Declarant elsewhere in this Declaration. Upon request from time to time, each Owner shall execute and deliver any further instruments or documents supplementing or confirming amendments to this Declaration, or which may reasonably be required by any financial institution as mortgagee of (or as a condition precedent to making any mortgage loan secured by) any Parcel

IN WITNESS WHEREOF, Declarant has executed this Declaration of Covenants and Easements, as of the date first written above, for filing of record in the Office of the Recorder of Hancock County, Indiana.

DECLARANT:

CAG Realty, LLC

[Handwritten Signature]

By: Caryn A. Guba, President

Caryn A. Guba
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[Handwritten Signature]

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STATE OF INDIANA)
) SS:
COUNTY OF HANCOCK)

Before me, a Notary Public in and for the State of Indiana, personally appeared Caryn A. Guba, President of CAG Realty LLC, who is authorized to execute this Declaration, and who, having been first duly sworn, acknowledged the execution of the foregoing instrument.

Witness my hand and Notarial Seal this 14th day of July, 2008

Debbie J. Harper
County of Residence
Debbie J. Harper

My Commission Expires:
6/16/2008

This instrument was prepared by Jeffrey W. Scripture, Attorney at Law, Harrison & Moberly, 135 N. Pennsylvania Street, Suite 2100, Indianapolis, Indiana, 46204.

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EXHIBIT A

LEGAL DESCRIPTION

Block "B" in Glen Oaks Village, Section One, an addition to the Town of Cumberland, Indiana, as per plat thereof recorded September 29, 1989 as Instrument #89-5933 in the Office of the Recorder of Hancock County, Indiana.

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**EXHIBIT B
TO DECLARATION OF COVENANTS AND EASEMENTS**

I. Prohibited Uses of the Real Estate

No owner shall use any portion of the Real Estate for the following purposes:

1. Single family dwellings;
2. Multiple family dwellings;
3. Automobile sales, service, repair;
4. Hotels and motels;
5. Commercial recreation;
6. Public utility structure;
7. Churches;
8. Schools, public and parochial;
9. Private clubs;
10. Drive-in businesses;
11. Planned unit business developments - section 314;
12. Firestations.
13. Warehouse Storage Facilities;
14. Contractor's Storage;
15. Laundry and Dry Cleaning;
16. Welding and Sheet Metal Shop;
17. Convenience Stores;
18. Carry Out Liquor Stores.

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II. Lighting

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No owner shall utilize street lighting unless the street lighting is compatible with the street lighting in use at the time of the installation at the entrance to Glen Oaks Village Subdivision.

Nothing contained herein shall be construed to prohibit the use of reasonably necessary security lights for any structure erected on the Real Estate.