

This Instrument prepared by ~~and upon recording~~
~~return to:~~

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Attn: Joseph All, Esq.

Indexing Instructions:

The Southeast and Southwest Quarters of fractional Section 18, Township 1 South, Range 5 West, the Northeast and Northwest Quarters of Section 19, Township 1 South, Range 5 West; and the Southwest Quarter of fractional Section 13, Township 1 South, Range 6 West and the Northeast Quarter of Section 24, Township 1 South, Range 6 West.

Cross Reference: Document recorded at Book 561, Page 155

AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS AND EASEMENTS FOR CROSSROADS DISTRIBUTION CENTER

THIS AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS AND EASEMENTS FOR CROSSROADS DISTRIBUTION CENTER (this "Declaration") is made as of this 4th day of June, 2008, by **INDUSTRIAL DEVELOPMENTS INTERNATIONAL, INC.**, a Delaware corporation ("Developer").

WITNESSETH:

WHEREAS, Developer has heretofore acquired fee simple title to approximately 475.9717 acres of land located in the DeSoto County, Mississippi, and being more particularly described on Exhibit A attached hereto and incorporated herein by reference (together with such Additional Property, as hereinafter defined, or such portion or portions thereof, as may from time to time be submitted by Developer to the covenants and restrictions of this Declaration pursuant to the terms hereof, the "Property");

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WHEREAS, Developer intends to develop on the Property a commercial subdivision to be known as Crossroads Distribution Center (the "Park");

WHEREAS, Developer desires to subject the Property to the protective covenants, conditions, restrictions and reservations set forth hereinafter, which are for the purpose of (a) protecting the value and desirability of the Property as a whole, and each Site (as hereinafter defined) individually and (b) distributing among Developer and any owners of any Site(s) the cost of installing, maintaining and operating certain common facilities located or to be located within the Property, as well as any other common facilities which are not located within the Property, but which, nevertheless, service the Property, if any;

WHEREAS, this Declaration is an amendment and restatement of the Declaration of Protective Covenants, Conditions, Restrictions, Reservations and easements for Crossroads Distribution Center originally executed and delivered by Developer as of May 24th, 2007 and recorded on June 14, 2007 in Book 561, Page 155 in the office of the Clerk of DeSoto County, Mississippi (the "Prior Declaration"); it is intended that this Declaration completely supersede the Prior Declaration, and the Prior Declaration shall no longer be of any force or effect; and

WHEREAS, Developer has deemed it desirable to provide for the creation of a not-for-profit organization which shall be delegated and assigned, subject to the terms and conditions hereof, the power and responsibility for owning, maintaining, preserving and administering the Common Area (as hereinafter defined), if any, and certain portions of the Property for the benefit of other portions of the Park, and performing the functions of Developer hereunder, for collecting and disbursing any assessments and charges of the Association (as hereinafter defined), and for otherwise serving as the representative of Developer and the owners of any portion of the Property.

NOW, THEREFORE, Developer does hereby proclaim, publish and declare that the Property shall be held, conveyed, hypothecated, encumbered, rented, used, occupied and improved subject to this Declaration, the terms of which shall run with the land and shall be binding upon Developer and upon all parties having or acquiring any right, title or interest in or to any part of the Property, and shall inure to the benefit of each owner and Member (as hereinafter defined) thereof.

ARTICLE I CERTAIN DEFINITIONS

The following words or terms, when used in this Declaration, shall have the meanings set forth below:

Additional Property. All those tracts or parcels of land now owned or hereafter acquired by Developer or its successors or assigns which are adjacent or contiguous to the Property now or which are hereafter subjected to this Declaration, the addition of which shall at all times be subject to requirements of Local Governmental Entities (including, without limitation, approvals and re-subdivision requirements of the City).

Association. Crossroads Distribution Center Owners' Association, Inc., a Georgia nonprofit corporation, or such other Georgia nonprofit corporation as may hereafter be formed by Developer in its sole discretion for the purpose of owning, maintaining, preserving and administering the Common Area and for other purposes as set forth hereinafter.

Assessment(s). The Annual Charge described in Section 10.1 and, as the case may be, the Special Assessment Charge and the Specific Assessment Charge described in Section 10.2.

Board. The Board of Directors of the Association, selected as provided in the Bylaws.

Bylaws. The Bylaws of the Association, as amended from time to time.

City. The City of Olive Branch, Mississippi

Common Area. "Common Area" shall include, but not be limited to, the following:

(a) All real property (including, without limitation, the improvements thereon) from time to time designated by Developer or owned by the Association and designated as Common Area by the Association (all subject to requirements of Local Governmental Entities), for the common use and enjoyment of the Members, and their respective guests and invitees, which is not included in the legal description of any of the Sites and which either (i) has not been dedicated to a Local Governmental Entity, or (ii) has been so dedicated under terms and conditions requiring continued maintenance thereof by the Association;

(b) Any other portion of the Property, whether or not included within the boundary lines of any Site, not used or intended for the use as a site or area for improvements to accommodate industrial, commercial or other business enterprises, owned, created, established, acquired, reserved and/or otherwise designated for the common use and enjoyment of the Members and their respective guests and invitees by the Developer or the Association, either in fee, by easement, by license or otherwise, pursuant to any instrument or plat recorded in the Official Records, including, without limitation, areas to accommodate detention basins and piping, sanitary lift stations, buffer areas and buffer improvements, landscape entry features and other or similar areas and improvements located therein;

(c) All street lights located along public road frontages (to the extent that the cost of the same shall not be borne by the Local Governmental Entity or other governmental authority or utility division);

(d) The Road Parcel (hereinafter defined) until the Road Parcel is dedicated to the Local Governmental Entity (provided, if only a portion of the Road Parcel is dedicated, then only the dedicated portion shall be excluded from the definition of Common Area), at which time only those portions or aspects of the Road Parcel which are described in the other clauses of this subsection shall be and remain Common Area;

(e) All signage common to the development of the Property and associated landscaping and utilities; and

(f) All water irrigation systems installed to maintain any portion of the Common Area described in the preceding clauses of this subsection.

County. The county in which the Property is located. If the Property is located in more than one County, "County" shall refer to all counties in which a portion of the Property is located unless the text is specific to the contrary.

Declaration. This Declaration of Protective Covenants, Conditions, Restrictions, Reservations and Easements for Crossroads Distribution Center, as amended from time to time.

Design Review Committee. The Design Review Committee established under Section 8.1 hereof.

Developer. Developer and its successors and shall include any person or entity designated as a successor or assignee by specific assignment of its right and duties under this Declaration pursuant to Section 12.10 hereof.

Deed. Any deed, assignment, lease, or other instrument conveying fee title or a leasehold interest in any part of the Property.

Improvements. "Improvement" or "Improvements" shall mean, with respect to any Site or in the Common Area, any building, structure or construction upon such Site, including by way of illustration, but not limitation, all land preparation or excavation, fill and grading, utilities, pipes, lines, wires and other facilities, landscaping, buildings (whether fully or partially enclosed), garage, parking structures, parking areas, cubing, paving, exterior paint or material or colors, trackage, fences, walls, exterior screening, poles, towers, antenna, aerials, lighting, driveways, wells, ponds, lakes, fountains, signboard, walkways, jogging paths, signs, glazing or reglazing of exterior windows, exterior communications equipment and facilities, and any construction which affects the exterior color or appearance of any building or structure. The term "Improvements" includes both original improvements that may be permanent or temporary, stationary or moveable, or that may be above, on or below ground level.

Local Governmental Entity. The County, the City or any other governmental entity.

Member. Any Person who is a record owner of any Site (including any lessee or sublessee of a Site to whom rights of membership have been assigned under a recorded instrument, as provided in the Bylaws). In the event that fee simple title to a Site is held by multiple Persons, either as the result of creation of a tenancy-in-common or the creation of an estate for years pursuant to which one Person is a ground lessor and the other Person is a ground lessee, such multiple Persons shall, within thirty (30) days after the date of their acquisition of any Site, execute and deliver to the Association a written instrument, including a power-of-attorney, appointing and authorizing one such Person to act on behalf of all owners for that Site. If the multiple Persons owning a Site fail to deliver to the Association such written instrument, then the Association may elect to recognize only a document, consent or instrument executed by all of the multiple Persons owning such Site. A Member may change its designated agent by written notice to the Association, but such change shall be effective only after actual receipt thereof. Attached hereto as Exhibit B and incorporated herein by reference is a "**Notice of Ownership**" which must be filed with the Association upon any transfer or conveyance of any portion of the Property. The Association shall be entitled to rely on the correctness of any Notice of Ownership filed with it, and such notice may be used for all Assessment notices and any other notices to be given by the Association. The failure of a Member to provide the Association with an updated and current Notice of Ownership shall be considered a default under this Declaration and a waiver by said Member of receiving any such notices. If the filed Notice of Ownership is not accurate and the Association undertakes the task of obtaining accurate information, the Association's reasonable and actual costs in obtaining the correct information shall be considered an additional assessment and lien against the applicable Site.

Mortgage. Any mortgage, deed of trust, security deed or other security agreement secured in whole or in part by all or any portion of the Property.

Official Records. The deed records or public records for the County.

Park. Crossroads Distribution Center.

Person. Any individual, corporation, partnership, joint venture, association, trust, limited liability company, unincorporated organization or any other form of entity.

Property. As defined in the first "WHEREAS" clause above.

Road Parcel. Any road located or to be located within the Property for the benefit of the public and/or the benefit of all Members, their guests, employees and invitees, but specifically excluding all private drives located within a Site for the benefit solely of the Member owning (or leasing or subleasing, as the case may be) such Site.

Site. shall mean a tract of land within the Park, the size, boundaries and dimensions of which are established by (i) the legal description of such tract contained in the recorded instrument conveying title from Developer to the first fee owner of such tract subsequent to Developer; or (ii) the legal description of such tract contained in an instrument in writing executed, acknowledged and recorded by Developer, which designates a tract of land as a Site for purposes of this Declaration. If two or more contiguous Sites, as defined above, are acquired by the same owner in fee, such commonly owned contiguous Sites may, at the option of said owner and subject to the approval of Developer, be combined and treated as a single Site for purposes of this Declaration.

State. The state or commonwealth in which the Property is located. If the Property is located in more than one State, "State" shall refer to all States in which a portion of the Property is located unless the text is specific to the contrary.

ARTICLE II PURPOSE AND ADDITIONAL PROPERTY

2.1 Purpose. The Property is hereby made subject to the covenants, conditions, restrictions, reservations and easements contained in this Declaration, all of which shall be deemed to run with the Property and with each and every Site within the Property, and shall burden and bind the Property for the duration hereof or for such duration as may be otherwise expressly stated herein, in order to insure proper use and appropriate development, maintenance and improvements of the Property; to prevent the erection within the Property of improvements constructed of improper or unsuitable materials, quality or methods of construction; to encourage the construction of attractive and harmoniously designed improvements within the Property which provide a high quality, first class business park development; to protect the present and future value of the Property; and to generally promote the welfare and safety of the Members. This Declaration is an amendment and restatement of the Prior Declaration and the Prior Declaration shall no longer be of any force or effect.

2.2 Option to Submit Additional Property.

(a) Developer hereby reserves unto itself the option, which may, subject to requirements of Local Governmental Entities, be exercised in its sole discretion at any time and from time to time, to submit, or cause to be submitted, the Additional Property, or any portion or portions thereof, to the covenants and restrictions of this Declaration and thereby to cause the Additional Property, or such portion or portions thereof so submitted, to become a part of the Park. This option may, subject to requirements of Local Governmental Entities, be exercised by Developer at any time and from time to

time until such time as Developer's status as a Class B Member terminates as provided herein. In the event Developer elects not to submit or subject the Additional Property, or any portion or portions thereof, to this Declaration, Developer shall not be obligated to impose, or cause to be imposed, any covenants or restrictions on such Additional Property, or any portion or portions thereof.

(b) The Additional Property, or such portion or portions thereof as may be submitted to this Declaration from time to time in the manner prescribed herein, shall be submitted to this Declaration by filing for record by Developer and any such owner of the Additional Property, or such portion or portions thereof as may be submitted to this Declaration, a supplementary declaration of covenants and restrictions with respect to the Additional Property, or the portion or portions thereof, to be submitted to this Declaration, which supplementary declaration shall extend the covenants and restrictions of this Declaration to the Additional Property, or the portion or portions thereof so submitted. Such supplementary declarations may contain such complementary modifications of the covenants and restrictions contained in this Declaration and such other complementary additional provisions as may be necessary to reflect the different character, if any, of the Additional Property. In no event, however, shall such supplementary declarations revoke, modify or add to the covenants and restrictions hereby made applicable to the Property unless specifically set forth therein and otherwise permitted elsewhere in this Declaration. Upon filing such supplementary declaration, the owner or owners of the Additional Property, or such portion or portions thereof affected thereby, shall become members of the Association and such owners, and their successors in title, shall thereby acquire the rights and privileges granted herein to Members of the Association.

ARTICLE III COMMON AREA

3.1 Property Rights in the Common Area. Legal title in and to the Common Area (or if such Common Area is created or exists by virtue of a grant or reservation of easement, then the easement right and the benefit of use in and to such Common Area) shall be vested in the Developer and the benefit, use and enjoyment of the Common Area shall be determined and controlled by the Developer until conveyed to the Association, at which time such determination and control shall vest in the Association. Subject to requirements of Local Governmental Entities (including, without limitation subdivision requirements of the City), Developer shall have the right at any time and from time to time to convey to the Association portions of the property owned by the Developer (either in fee, by easement, by license or otherwise, pursuant to any instrument or plat recorded in the Official Records), which conveyances shall be by quitclaim deed and subject to all matters of record. Each such portion of the Property, upon conveyance by Developer to the Association, shall become Common Area. Developer or the Association shall have the right, at any time, to dedicate or transfer all or any part of the Common Area to any public agency or authority for such purposes (subject to such agency's or authority's willingness to accept such dedication) and subject to such conditions as Developer or the Association, as applicable, may determine to be necessary or appropriate.

3.2 Common Use. Each Member and each Member's agents, invitees, guests or employees shall have the right, in common with all other Members, to use the Common Area including, but not limited to, the Road Parcel, for unobstructed ingress to and egress from any Site owned by such Member.

ARTICLE IV GENERAL COVENANTS AND RESTRICTIONS

4.1 Use.

(a) Each Site and all Improvements thereon shall be used for or in support of industrial, office and warehouse purposes, and any other commercial purposes which are allowed by applicable zoning regulations and approved in advance by the Design Review Committee.

(b) No Site or Improvements thereon shall be used for a "Prohibited Use", which, for purposes hereof, shall mean:

(i) a residential dwelling;

(ii) junk or salvage yards; unscreened outside storage of materials or supplies; trailer carts; labor camps; distillation of bones; dumping, disposal, incineration or reduction of garbage; dead animals or refuse; fat rendering; stockyard or slaughter of animals; smelting of iron, tin, zinc or other ores; refining of petroleum or of its products; cemeteries or mausoleums; jail, penal, detention or correction farms; gasoline service stations; temporary or portable sawmill; community fair; noncommercial club or lodge; privately operated sanitary landfill, sewage or treatment plant; boarding and breeding kennels; temporary religious meetings; construction contractor; funeral home; sanatorium, convalescent, rest or retirement home; adult bookstore or other establishment engaged in the business of selling, exhibiting or delivering pornographic or obscene materials; a so-called "head shop"; game room or arcade; off-track betting parlor; pawn shop; flea market; recycling facility; auditorium; sports or other entertainment viewing facility; dance hall or night club; billiard parlor; or bars and lounges;

(iii) unless approved in advance by the Design Review Committee, commercial or other advertising, or television or other transmission tower;

(iv) any use which, in the ordinary course of business, creates an actionable nuisance to, or trespass against, any adjoining Site, its owners, lessees or sublessees;

(v) any use which would create a substantial likelihood of waste to any Site or Common Area;

(vi) any dangerous or unsafe use such as, for illustration purposes only, the use or storage of explosives; or

(vii) any use which involves the generation, treatment, storage or disposal of Hazardous Substances (as defined below) in violation of Environmental Laws (as defined below), or which poses a substantial risk of release of any Hazardous Substances into the ground, air, surface water, ground water or any other medium.

(c) Without the prior approval of the Design Review Committee, which approval shall not be unreasonably withheld, no previously approved Improvements shall be used for any purpose other than that for which it was originally approved.

4.2 Animals. No birds (including, without limitation, poultry), livestock, animals, insects or fish shall be kept or maintained on any Site without the express written consent of the Design Review Committee.

4.3 Temporary Structures. No temporary building, trailer, garage, or building under construction, or other temporary Improvements shall be occupied or located, for any purpose, on any Site; provided, however, with the prior written consent of the Design Review Committee, which consent shall not be unreasonably withheld, a temporary "construction trailer" shall be allowed on a Site and occupied during a period of construction upon said Site.

4.4 Approvals, Waivers and Variances. It is the intent of this Declaration that the regulation of Sites within the Property as set forth in this Article IV be strictly adhered to by all Members. Notwithstanding that intent, it is recognized that particular circumstances may from time to time and on a case-by-case basis necessitate the waiving or varying of certain of the requirements set out in this Article IV. Therefore, for good cause shown, the Design Review Committee may, in its sole discretion (but subject to requirements of Local Governmental Entities), waive or vary the requirements and standards set forth in this Article IV on a case-by-case basis so long as such waiver or variance does not violate the overall scheme and intent of this Article IV. Any waiver or variance, when granted by the Design Review Committee, shall be final and binding upon all Members. The granting of a waiver or variance to one Member shall not automatically entitle another Member to the same waiver or variance, it being understood that each request for a waiver or variance shall be treated on its own merits. Further, the granting of a waiver or variance to a Member shall not automatically entitle that Member to any subsequent or additional waiver or variance. All approvals, waivers and variances by the Design Review Committee shall be in writing and signed by at least two (2) members of the Design Review Committee and, if requested by the applicant, shall be in recordable form. No approval, waiver or variance in any other form shall be binding on the Design Review Committee or Developer.

4.5 Zoning. No Member shall seek to rezone its Site or seek to modify or amend in any respect the zoning applicable to its Site without the prior written approval of the Design Review Committee. Developer reserves the right to rezone the Property then owned by Developer or have the existing zoning applicable to the Property then owned by the Developer modified or amended without the consent of the other Members but subject to the other terms, conditions and restrictions of this Declaration (provided that Developer has complied with all requirements of the applicable Local Governmental Entities).

4.6 Initial Construction Period and Developer's Right of Reentry. If a Member fails to commence construction of a building on its unimproved Site within one (1) year from the date of the Deed conveying the Site from Developer, then Developer, its successors and assigns, at any time thereafter shall have the continuing right to repurchase the Site by giving the Member written notice of its election to repurchase ("Repurchase Notice"), at a repurchase price equal to the price paid by the Member to Developer when the Site was purchased by the Member from Developer; provided that (i) the Repurchase Notice must be given by Developer within four (4) years after the sale to the Member, and (ii) the Member has not commenced construction of a building on its unimproved Site as of the date of the Repurchase Notice. On the date which is thirty (30) days from and after the date of the Repurchase Notice ("Repurchase Date"), Developer shall pay to the Member the repurchase price in cash and the Member shall reconvey the Site to Developer by delivery of a limited warranty deed duly executed and acknowledged by the Member in recordable form, conveying good and indefeasible fee simple title to the Site to Developer, containing no exceptions to title other than the exceptions contained in the original Deed from Developer; provided, however, if Member has granted any easements that burden the Site, then Developer shall have the right to revoke its Repurchase Notice if Developer determines in its sole and absolute discretion, upon a title and survey review, that said easements are not acceptable to

Developer. In addition, at the Member's expense, the Member shall deliver to Developer an ALTA Form B Owner's Title Insurance Policy in the amount of the repurchase price insuring fee simple, indefeasible title to the Site to Developer, containing no exceptions to title other than those contained in the original title policy delivered from Developer to the Member when the Site was purchased from Developer by the original Member, together with those new easements approved by Developer. Ad valorem taxes and general assessments against the Site for the calendar year in which the repurchase occurs shall be prorated on and as of the Repurchase Date. The Member and Developer covenant and agree to execute and deliver to each other such additional documents as may be reasonably necessary to consummate the reconveyance of the Site to Developer. The right of Developer to repurchase the Site shall be binding upon the original Member and the Member's successors and assigns, and shall be considered a covenant running with the Site. If the Member fails to reconvey the Site to Developer as provided for in this Section, Developer shall have the right to any and all remedies at law or equity, including the right to specifically enforce the conveyance of the Site to Developer and shall be entitled to recover reasonable attorneys' fees and court costs incurred in connection with enforcement of its rights under this Section. Notwithstanding the foregoing, Developer agrees to subordinate the option reserved by it as set forth in this Section 4.6 to the lien and security title of any Mortgage placed on such Site if, and only if (a) the indebtedness secured by such Mortgage does not exceed the purchase price theretofore paid by the Member to Developer for such Site, (b) the promissory note evidencing the indebtedness secured by the Mortgage expressly permits prepayment of the indebtedness evidenced thereby without penalty or notice, and (c) the holder of the Mortgage and the promissory note evidencing the indebtedness secured thereby expressly in writing agrees that, if Developer exercises its option reserved in this Section 4.6, said holder will accept payment by Developer, or its assignee of the option herein contained, of the principal balance and accrued interest evidenced by said promissory note and immediately upon receipt thereof release its lien and security title in and to said Site.

4.7 Completion of Construction and Site Work. Once commenced, all construction of Improvements shall be diligently pursued to completion. Such construction of Improvements may not be left in a partly finished condition any longer than is reasonably necessary. In the event construction of Improvements (other than landscaping, which Developer acknowledges is subject to weather conditions) is commenced upon any Site and is subsequently interrupted for a period exceeding six (6) months, the Member owning said Site shall promptly remove the partially completed Improvements and restore the Site to the condition in which it existed prior to commencement of construction. In the event of violation of the provisions of this Section 4.7, Developer or its agents or employees or the Association shall have the right to go upon any such Site, without liability or trespass therefor and, at the Member's expense, to remove said partially completed improvements and restore the Site to its prior condition; the cost of such work shall be promptly paid by such Member upon receipt of a statement therefor, and, until paid in full, such cost shall be a lien upon the Site involved, enforceable in accordance with the provisions of this Declaration.

4.8 Accumulation of Refuse. Without the consent of the Design Review Committee, no articles, goods, bulk materials, incinerators, storage tanks, lumber or metals shall be kept, stored, or allowed to accumulate on any Site, except building materials during the course of construction of any approved Improvements. Moreover, no outside storage of any type shall be allowed on any Site without the prior written consent of the Design Review Committee. No refuse or trash shall be kept, stored, or allowed to accumulate, except if trash or other refuse is to be disposed of by being stored in receptacles pending its being picked up and removed from a Site. Any trash or refuse being held for removal from a Site shall be stored in appropriate containers at a place and in a manner so that the container or receptacles, as nearly as practicable, are not visible from adjacent and surrounding Sites. The Design Review Committee, in its sole

and absolute discretion, may adopt and promulgate reasonable rules and regulations relating to the type and appearance of permitted trash receptacles, the screening thereof by fences or otherwise, and the manner of storage of permitted trash receptacles on the Property, provided that said rules and regulations do not conflict with the terms of this Declaration.

4.9 Site Work. In the event any Member deposits or removes any dirt or fill on or from any Site or the Common Area in accordance with the terms hereof, or cuts or fills any Site or the Common Area or otherwise engages in any excavation work on any Site or the Common Area, that Member shall do so only in accordance with plans previously approved by the Design Review Committee and the Member shall slope the same to grade in accordance with the terms of the plans approved by the Design Review Committee and take such measures as are reasonably necessary to control erosion which would result from the cuts or fills.

4.10 Landscaping.

(a) In the event any Member desires to install landscaping on any portion of such Member's Site(s), or desires to materially alter the landscaping already installed on said Site(s), that Member shall do so only in accordance with landscaping plans previously approved by the Design Review Committee pursuant to the procedures outlined in Article VIII hereof.

(b) On those portions of a Site held for future development, if any, the Member owning (or leasing or subleasing, as the case may be) such Site must install grass or ground cover approved by the Design Review Committee over the entire area.

4.11 Pipes. Except with prior written permission from the Design Review Committee, no water, gas, sewer or drainage pipe shall be installed or maintained on any Site above the surface of the ground, except garden type hoses and movable pipes used for irrigation purposes.

4.12 Aboveground Utilities. Except for above-ground utilities installed along or near the perimeter of the Property approved by the Design Review Committee, no Member shall erect or grant to any Person the right, license or privilege to erect or use, or permit the use of, overhead wires, poles, or overhead facilities of any kind for electrical or telephone service on any Site, without first obtaining the prior written consent of the Design Review Committee. Nothing herein shall be construed to prohibit overhead street lighting or ornamental lawn lighting, where serviced by underground wires or cables. Moreover, all public utilities such as electric power lines, telephone lines, water lines, sewer lines, gas mains, drainage pipes, etc., shall be installed underground within already cleared areas such as road rights-of-way and driveways which serve the Property.

4.13 Connection Points For Utility Service Lines. Each Member agrees to connect utility service lines (including, but not limited to, gas, water, sewer, and electricity) at points designated by the Design Review Committee.

4.14 Parking. Each Member shall use its best efforts to insure that its guests and/or invitees utilize the parking areas provided on the Site of said Member; provided, however, that, subject to the requirements of all Local Governmental Entities, Developer, for so long as it is a Class B Member, and thereafter the Design Review Committee, shall have the right, but not the obligation, to approve and permit a Member to provide offsite parking of automobiles and/or trailers for the benefit of one of such Member's Sites on one or more other Sites owned or leased

by such Member, subject to plans and specifications, and an overall parking plan, approved by Developer or the Design Review Committee, as applicable. No parking will be permitted in any public or private right of way in the Park. Each Member shall provide adequate off-street parking facilities so as to eliminate any need for vehicle parking on public streets adjoining the Property, on public or private streets within the Property, or on any other Site (except in cases where parking on abutting lots is specifically authorized in writing by the Design Review Committee). All such off-street parking shall be in compliance in all respects with all applicable requirements of Local Governmental Entities, including, without limitation, zoning ordinances, as from time to time amended. The location and adequacy of all parking areas shall be approved by the Design Review Committee in connection with its review of submitted site plans, taking into account, without limitation, the intended use of the Site and its suitability for other uses. If a Member or any of its tenants, guests, customers or invitees fail to comply with the requirements of this Section 4.14, the Association will have the unqualified right to enforce all such requirements by any lawful means. Without limiting the foregoing, the Association shall have the right to seek injunctive relief, to restrain and prevent any violation of the provisions of this Section 4.14, and to enforce the prohibition against parking along public or private rights of way in the Park by towing any vehicle which is parked on a public or private right of way in violation of this Section 4.14. Any such towing will be at the expense of the owner of the towed vehicle and at the sole risk of such owner.

4.15 Environmental Matters.

(a) For purposes of this Declaration:

(i) "Contamination" as used herein means the presence of or release of Hazardous Substances (as hereinafter defined) into any environmental media from, upon, within, below, into or on any portion of the Property so as to require remediation, cleanup or investigation under any applicable Environmental Law (as hereinafter defined).

(ii) "Environmental Laws" as used herein means all federal, state, and local laws, regulations, orders, permits, ordinances or other requirements, which exist now or as may exist hereafter, concerning protection of human health, safety and the environment, all as may be amended from time to time including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et seq. ("CERCLA") and the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq. ("RCRA").

(iii) "Hazardous Substances" as used herein means any hazardous or toxic substance, material, chemical, pollutant, contaminant or waste as those terms are defined by any applicable Environmental Laws and any solid wastes, polychlorinated biphenyls, urea formaldehyde, asbestos, radioactive materials, radon, explosives, petroleum products and oil.

(b) Each Member covenants that all its activities, and the activities of such Member or its agents on the Property will be conducted in compliance with Environmental Laws. Each Member, at such Member's sole cost and expense, shall at all times comply with the terms and conditions of all required permits, licenses, approvals, notifications and registrations and with any other applicable Environmental Laws.

(c) No Member shall cause or permit the release of any Hazardous Substances by such Member or such Member's agents into any environmental media such as air, water or land, or into or on the Property in any manner that violates any Environmental Laws. If such release shall occur, such Member shall (i) take all steps reasonably necessary to contain and control such release and any associated Contamination, (ii) clean up or otherwise remedy such release and any associated Contamination to the extent required by, and take any and all other actions required under, applicable Environmental Laws and (iii) notify and keep the Association reasonably informed of such release and response.

(d) Under no circumstances whatsoever, shall any Member cause or permit (i) any activity on the Site which would cause the Site to become subject to regulation as a hazardous waste treatment, storage or disposal facility under RCRA or the regulations promulgated thereunder, (ii) the discharge of Hazardous Substances into the storm sewer system serving the Property or (iii) the installation of any underground storage tank or underground piping on or under the Property, and each (i), (ii) and (iii) shall be deemed a Prohibited Use under Section 4.1(b).

ARTICLE V COVENANTS FOR MAINTENANCE

5.1 Maintenance.

(a) Each Member of a Site, at its sole cost and expense, shall keep such Site, including the Improvements, and including any area between the property line of that Site and any adjacent street curbs in a safe, clean, neat and attractive condition at all times and shall comply with all governmental health, fire and safety statutes, ordinances, regulations or requirements applicable from time to time to the Site and Improvements thereon. Each Member's obligations include, but shall in no way be limited to, the following:

(i) All rubbish, trash and other waste shall be stored in clean and sanitary solid waste receptacles and shall be removed promptly from the Site prior to its accumulation.

(ii) All exterior lighting and mechanical facilities shall be kept in good working order.

(iii) All parking areas shall be striped and all parking areas, driveways and roads shall be kept in good repair and swept to the extent necessary to keep such areas clean and clear of debris.

(iv) All exteriors to any Improvements shall be kept in good repair, including replacements, if necessary, and the exterior of all Improvements shall be repainted as reasonably needed.

(v) All trees, grass, shrubs, flowers and other landscaping shall be maintained in compliance with the requirements of Exhibit C attached hereto and incorporated herein by reference, and any and all irrigation systems and all other facilities utilized in the maintenance of such landscaping within the perimeter of such Site owned (or leased or subleased, as the case may be) by each Member.

The provision of this Section 5.1 shall apply to any landscaping by any Member in any portion of a Site situated in the Common Area which the Member is required to maintain pursuant to the express terms hereof.

(b) If, in the reasonable opinion of the Association, any Member fails to properly maintain and preserve all Sites owned (or leased or subleased, as the case may be) by such Member in accordance with Section 5.1(a) hereof, the Association may give written notice thereof to such Member (the "Violating Member"). The Violating Member shall have fifteen (15) days to cure such violation, or to commence to cure and thereafter diligently pursue said cure to completion if the violation cannot be cured within said fifteen (15) day period. If the Violating Member fails to so cure said violation within the cure period to the reasonable satisfaction of the Association, the Association shall have the right, through its agents and employees, and a non-exclusive easement, to enter upon the Site in question, with or without process of law and without liability or trespass therefor, and repair, maintain, repaint and restore such Site, such improvements or such landscaping thereon, in such a manner as the Association shall deem sufficient, and the cost thereof shall be a binding, personal obligation of the Violating Member secured by a lien against the Site and all improvements located thereon, enforceable in accordance with the applicable provisions of this Declaration.

(c) Nothing contained herein shall be deemed to impose upon any Member the obligation to maintain and repair any of the items which are the obligations of the Association as provided in Article VI below.

ARTICLE VI DUTIES OF ASSOCIATION

6.1 Association Obligations and Use of Funds. The Association shall apply all funds received by it from all sources, including funds received pursuant to the provisions hereof, reasonably for the benefit of the Property. Without limiting its right to utilize such funds in any manner which the Board reasonably determines to be in the best interest and reasonably for the benefit of the Property subject to and in accordance with the provisions of this Declaration, it shall be deemed, for the purposes hereof, to be for the benefit of the Property if funds are expended in connection with the performance of the following obligations, the responsibility for which is hereby assumed by the Association:

- (i) the installation, maintenance, repair, replacement, and operation of all storm sewer systems located within the Common Area;
- (ii) the general maintenance and repair of the Common Area, including, but not limited to, the Road Parcel and all curbs and/or sidewalks connected thereto and all street lights on the Road Parcel;
- (iii) the operation, maintenance, installation, replacement and repair of all water irrigation systems benefiting and/or utilized by the Common Area including, but not limited to, any charges for electricity or water in connection with such irrigation;
- (iv) the maintenance, installation, repair and replacement of all signs, fountains, water features, directories and any other or similar entrance features, and any directional, traffic, or informational signs not relating to any individual Site;

(v) the maintenance, installation, repair, replacement and utility costs for any detention ponds which constitute a part of the Common Area, including, but not limited to, any costs associated with the removal of sedimentation, fallen objects, debris and trash; mowing; outlet cleaning; fountain maintenance; maintenance, installation, replacement and repair of drainage structures; pumping and lighting of these areas;

(vi) the installation, maintenance and replacement of all landscaping on or about the Common Area, including, without limitation all trees, grass, flowers, shrubbery and other landscaping, and the mowing, pruning, and general maintenance thereof; it being expressly provided, however, that this provision shall in no way obligate the Association to maintain landscaping on any individual Site;

(vii) the preparation and delivery of all reports (including the annual accounting report to its Members); notices and other information to Members or other Persons and the retention and payment of and for professional personnel or services, including attorneys, engineers, architects or accountants, which the Board deems necessary or desirable in connection therewith;

(viii) the payment of all expenses for utilities utilized in any way in connection with the Common Area including, but not limited to, water, gas and electricity;

(ix) the conduct of such audits and inspections of the records of the Association as the Association may deem necessary or prudent from time to time;

(x) the payment of all taxes and assessments for or allocated to the Common Area;

(xi) the payment of a management fee to a manager engaged by the Association, and the payment of professional fees engaged by the Association to handle its affairs (e.g. accountants, lawyers etc.);

(xii) the purchase, installation, maintenance and storage of seasonal decorations or other items that enhance the physical appearance of the Property;

(xiii) the establishment of such reserves as the Associate may deem necessary or prudent from time to time, to cover future expenses of the Association; and

(xiv) the payment of premiums for all insurance policies in favor of the Association, including without limitation property insurance covering the Common Area and commercial general liability insurance covering the Property, and any other form of insurance reasonably deemed appropriate by Developer or the Board.

6.2 Limitation of Obligation. The Association shall in no way be liable for maintenance, landscaping or other expenses whatsoever, with regard to any Site or any easement or Improvements thereon, except to the extent that any portion of such Site is designated as a Common Area.

6.3 Authority of the Association to Contract. The Association shall be entitled to contract, subject to this Section 6.3, with any Person for the performance of the various

undertakings of the Association specified in Section 6.1 hereof, and the performance by such Person shall be deemed to be the performance of the Association required hereunder. In the event, however, that the Association contracts with a Person who is also a Member, or a subsidiary, division, or affiliate of a Member, then the Association shall be entitled to contract with such Person only if the rate charged by such Person is comparable to rates charged by other Persons of similar skill, expertise and experience not so related to a Member.

6.4 Authority of the Association to Borrow Money. The Association shall be entitled to borrow money to perform the obligations set forth in Section 6.1 hereof, or for such other purpose as the Board may reasonably determine, but only after receiving the affirmative vote of a majority of the Member votes; provided, however, if the Class B Member exists, then for purposes of this Section 6.4, the Class B Member's votes shall be calculated as if the Class B Member were a Class A Member (i.e. the Class B Member votes would equal the number of acres owned by the Class B Member (exclusive of any Common Area owned by the Class B Member), rounded to the nearest one-half acre per Section 9.5 below), and the Class B Member's votes would be aggregated with the Class A Members' votes. For example purposes only, if the Class A Members owned a total of 200 acres (10 Class A Members, each owning a 20 acre site), and the Class B Member owned 100.5 acres (exclusive of Common Area), the Class B Member would have 101 votes, and an affirmative vote of the Members would require 151 votes or more. Payments on such obligations shall be made no less than on a quarterly basis and such payments shall be included within the Annual Charge.

6.5 Authority of the Association to make Capital Expenditures. The Association shall be entitled to make capital expenditures for the purposes set forth herein (including, without limitation those specified in Section 6.1 hereof), without regard to whether the expenditures shall directly benefit any particular Member of the Association. The full cost of any such capital expenditure, may, at the option of the Association, be included within any particular year's Annual Charge, or be amortized over the period of the useful life of such expenditures (as reasonably determined by the Association), and included within the Annual Charges assessed throughout such period.

ARTICLE VII GENERAL EASEMENTS

7.1 Drainage.

(a) Developer hereby declares, grants, creates, imposes and reserves perpetual, non-exclusive easements over each Site, for the benefit of every other Site, for drainage of surface water; provided no Member benefited or burdened by such drainage easement may construct any Improvements or alter any existing or future Improvements upon its Site or otherwise divert the flow of water from such Member's Site onto another Site such that the rate of flow of such drainage would materially adversely increase over the rate of flow presently existing as of the date hereof, without the prior consent of the Member owning the affected Site; provided, further however, that following completion of the construction of the initial principal Improvements for such Site in accordance with the approved plans therefor, said drainage easement shall be deemed to be limited to (i) the drainage lines and related facilities installed in, on and under the Site and (ii) that portion of the surface of the Site necessary for surface drainage into said drainage lines and related facilities. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, 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 on the Property. The provisions hereof shall not be construed to impose any obligation upon Developer to create any specific drainways upon the Property.

(b) Except with prior written permission from the Design Review Committee, drainage flow shall not be obstructed nor diverted from drainage sewers, storm sewers and/or utility easements as designated herein or as hereinafter established by plat or otherwise. The areas reserved for storm water detention by plat or otherwise shall serve such purposes for all Sites comprising the Property. In the event that drainage flow shall become obstructed on any Site, which obstruction shall create an emergency situation on an adjacent Site, the Member owning (or leasing or subleasing, as the case may be) such adjacent Site shall have a nonexclusive easement to enter upon the Site which contains such obstruction and clear such obstruction.

7.2 Certain Improvements Excepted. Notwithstanding anything to the contrary set forth herein, Developer, without the approval of the Design Review Committee, may at any time make such cuts and fills upon the Property and undertake such excavation, grading and moving of earth as, in its judgment, may be necessary to improve or maintain the Road Parcel and/or any other streets in or adjacent to the Property and to drain surface waters therefrom; and Developer may assign these rights to the Local Governmental Entity or any division, agency or instrumentality thereof; provided, however, that after plans for the initial principal Improvements upon a Site shall have been approved by the Design Review Committee as provided herein, the rights of Developer under this Section 7.2 shall terminate with respect to all parts of such Site other than any Common Area thereof, except that Developer or the Local Governmental Entity, as the case may be, shall thereafter have the right to maintain the streets and drainage structures in or adjacent to said Site.

7.3 Temporary Easement Over Road Parcel. Developer hereby declares, creates, imposes and reserves for itself and its agents or employees a non-exclusive, temporary easement across the Road Parcel, in common with all Members, for purposes of ingress to and egress from any portion of the Property on which Developer or its agents or employees are engaged in construction. Such easement shall include the movement of any and all construction materials and equipment along the Road Parcel and shall continue until such time as Developer no longer requires such use for construction purposes. Following the completion of the exercise by Developer of the rights reserved to it herein, Developer shall clean up all such materials and equipment and clean up and repair any damage to the Common Area and the Road Parcel caused by Developer.

7.4 Landscape and Access Easements. Developer hereby declares, grants and creates for the benefit of the Association and reserves unto itself, an easement for unrestricted, non-exclusive access over and across any Site for the purposes of maintenance and landscaping of any portion of the Property which the Association and/or Developer is required or permitted to maintain and/or landscape hereunder, which easement in favor of the Association being perpetual, and which easement in favor of Developer remaining in effect until there is no longer a Class B Member.

7.5 Monument and Entrance. Developer or the Association may construct and maintain monument signs stating the name of the Park, Developer and any additional information deemed appropriate by Developer or the Association and/or landscaping immediately surrounding such monument sign(s) on any portion of the Property comprising a portion of the Common Area. Developer hereby declares, grants and creates for the benefit of the Association

and reserves unto itself a perpetual, non-exclusive easement over and across the Sites adjacent to such parcels as may be reasonably necessary for the purposes of construction, maintenance and landscaping of any monument signs on such portions of the Property, and which easement in favor of Developer remaining in effect until there is no longer a Class B Member.

7.6 Ingress, Egress and Maintenance Easements. Developer hereby declares, grants and creates for the benefit of the Association and reserves unto itself, an easement for unrestricted, non-exclusive access over and across any Site for the purposes of maintaining, repairing and restoring any portion of the Common Area and any improvements located therein which the Association and/or Developer is required or permitted to maintain, repair and/or restore hereunder, which easement in favor of the Association being perpetual, and which easement in favor of Developer remaining in effect until there is no longer a Class B Member.

7.7 Utility Easements.

(a) Developer hereby declares, grants and creates for the benefit of the Association and reserves unto itself, for the benefit of the Property, a perpetual, non-exclusive easement and right on, over and under a strip of land (i) fifteen (15) feet in width along the boundary lines of each Site which abuts a street right-of-way, (ii) twenty (20) feet in width along the boundary lines of each Site which does not abut another Site or a street right-of-way, and (iii) ten (10) feet in width along all other boundary lines of each Site. Such easement areas shall be for the purpose of providing access for fire control and for the construction, installation, maintenance, repair and replacement of lines, wires, poles, pipes, and related necessary or appropriate facilities for telephone, gas, sewer, water, electricity, and other public or private utility service, together with a temporary nonexclusive easement over and across such portions of each Site adjacent to the aforesaid easement areas as may be necessary or appropriate for access to said easement area and/or the construction, installation, maintenance, repair and replacement of such utilities; provided that with respect to any such easement area which abuts a street right-of-way, such easement area may also be used for the purposes of the installation and maintenance of landscaping, streetlights and permanent building and Road Parcel identification signage. This reservation of right and easement expressly includes the right to cut and remove any trees, bushes or shrubbery, to excavate, remove, and relocate any soil, to remove and replace driveways, curbing and paved areas and to take any other similar action reasonably necessary for the construction, installation, maintenance, and repair of such utilities or other improvements; provided, however, that the area in which any such action occurs shall be restored to good condition. In the event that two or more adjoining Sites are owned by the same Member, and said Member submits to the Design Review Committee plans for construction of a structure across the property lines common to the Sites owned by said Member which are approved by the Design Review Committee, Developer shall release the easements along said common property line(s) reserved under this Section 7.7.

(b) If it becomes clear that additional utility, drainage or other easements, whether or not contemplated or mentioned in this Declaration, between or across portions of the Property are reasonably necessary and desirable to effectuate the purposes of this Declaration, then, upon request of Developer, or the Association, and provided such proposed additional easements will not unreasonably interfere with the development, use and occupancy of any Site, unreasonably affect access to, or operation of, any Site, or materially increase the operating cost of any such Site, each Member agrees to grant such additional easements across its Site, without charge therefor, subject to such reasonable terms and conditions as shall be agreed upon between Developer or the Association and such Member. Any such new easement or easements shall be

signed by Developer or the Association and all Members of portions of the Property which comprise the land within any such new easement areas and shall be recorded in the Official Records.

7.8 Maintenance and Interference. The Association and/or Developer, as the case may be, hereby agree(s) to use their (its) good faith efforts to minimize interference with Members or their guests, invitees and/or employees in connection with the Association's and/or Developer's use of the easements described in this Article VII.

ARTICLE VIII DESIGN REVIEW COMMITTEE

8.1 Design Review Committee. A design review committee (the "Design Review Committee") is hereby established for the purposes set forth in this Declaration and shall be composed of three (3) or more individuals designated from time to time by Developer, so long as it is the Class B Member, and thereafter by the Board. The Design Review Committee shall be a committee of the Board and shall be formed pursuant to the terms hereof and the provisions of the Bylaws. The affirmative vote of a majority of the membership of the Design Review Committee shall be required in order to take any action required of the Design Review Committee pursuant to this Declaration. Subject to requirements of Local Governmental Entities, the decision of a majority of the members of the Design Review Committee with respect to any matter before it shall be deemed conclusive and binding on the Association and the party(ies) bringing the matter before the Design Review Committee. The Design Review Committee, in its sole and absolute discretion, but at all times subject to requirements of Local Governmental Entities, may adopt and promulgate reasonable rules and regulations relating to the matters brought before it for approval pursuant to the terms hereof. Said rules and regulations, upon their adoption, shall automatically apply to any matter brought before the Design Review Committee for review after the date of adoption of said rules and regulations, provided that said rules and regulations do not conflict with the terms of this Declaration or requirements of Local Governmental Entities.

8.2 Function of the Design Review Committee. Subject to requirements of Local Governmental Entities, the Design Review Committee shall have the sole authority and responsibility to approve and regulate the design and construction of all Improvements within the Property so as to assure compliance with the intent and purpose of this Declaration.

8.3 Approval Required.

(a) No Improvements shall be constructed, erected, placed upon, moved to or permitted to remain on any Site, nor shall any existing Improvements upon any Site be altered in any way that materially changes the exterior appearance thereof, unless plans and specifications therefor shall have been submitted to and approved in writing by the Design Review Committee. The plans and specifications to be submitted shall be subject to approval by applicable Governmental Entities and shall include, without limitation:

- (i) a site plan that shows the property lines, right-of-way lines, boundary lines of easements, building footprint, building set backs, and proposed landscaping;
- (ii) construction plans and specifications;

- (iii) drawings showing all elevations for Improvements, including front, side and rear elevations;
- (iv) detailed identification of exterior materials and colors;
- (v) details of any signage;
- (vi) a landscaping plan, including a complete underground irrigation system, for the Site; and
- (vii) a statement setting forth the use for which the proposed Improvement is to be constructed.

(b) No sign or other advertising device of any nature shall be placed upon the Property except as provided herein. The Design Review Committee, in its sole and absolute discretion, may adopt and promulgate reasonable rules and regulations relating to the usage or standardization of signs throughout the Property, which, upon their adoption, shall automatically apply to all Sites, provided that said rules and regulations do not conflict with the terms of this Declaration. Unless modified or otherwise altered by the rules and regulations of the Design Review Committee, signs and other advertising devices may be erected and maintained upon any portion of the Property if approved, or deemed to be approved under Article VIII, by the Design Review Committee, as to color, location, nature, number, size and other characteristics of such signs or devices.

(c) The Design Review Committee shall approve or disapprove any requests within thirty (30) days after receipt of said written request. If the Design Review Committee fails to respond to a request within said thirty (30) day period, the requesting Member may give written notice thereof to the Design Review Committee (a "Second Notice"), and if the Design Review Committee fails to respond within ten (10) days after receipt of a Second Notice, the Design Review Committee shall be deemed to have approved said request. In any case where the Design Review Committee shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any such case the Design Review Committee shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal can be prepared and submitted for approval.

(d) The Design Review Committee may disapprove plans and specifications for any reasonable cause, including, but not limited to, the following:

- (i) the style of the Improvement to be located upon the Site is not consistent with other Improvements on the Property;
- (ii) the size of the Improvement, including square footage and elevation, is not consistent with other Improvements on the Property;
- (iii) the materials to be used in such construction, and their harmony with existing Improvements once incorporated into the proposed Improvement;
- (iv) the availability of parking upon and access to the Improvements;

- (v) the proposed signage, lighting and landscaping upon the Site; and
- (vi) the purpose for which the proposed Improvements were to be constructed.

(e) The Design Review Committee shall have the right, without liability to any Member, and is hereby granted an irrevocable license to enter on such Member's Site during construction of any Improvements by such Member to determine if such construction complies with this Declaration.

(f) In addition to any other remedy provided for in this Declaration, Developer or the Association may bring suit to enjoin the commencement or construction of any Improvements for which the Design Review Committee has not previously approved plans and specifications and may also bring suit to enjoin the continuance of construction of such Improvements that are not being constructed substantially in accordance with plans and specifications.

8.4 Certification of Design Review Committee. Upon written request by a Member, the Design Review Committee shall, within thirty (30) days, issue and furnish to such Member a written certification stating, as the case may be, that (i) any Improvements upon any Site has been (or has not been, as the case may be) approved pursuant to this Article VIII, and (ii) the Design Review Committee has no knowledge of any violation of any regulations or rules of the Design Review Committee or this Declaration or, if there is a violation, an explanation of such violation. The Design Review Committee may make a reasonable charge for the issuance of such certificates which must be paid at the time the request for such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive with regard to any matter therein stated as between the Design Review Committee and any bona fide purchaser or lessee of, or lender on, the Site in question.

ARTICLE IX MEMBERSHIP AND VOTING RIGHTS

9.1 General. Every owner of a Site shall, by virtue of such ownership, be a Member of the Association. Membership shall be appurtenant to, and may not be separated from, the ownership of any Site. Notwithstanding the foregoing, any Member may (a) assign the membership rights of such Member in the Association to any lessee of the Site owned by such Member under a lease with an original term of at least fifteen (15) years, and (b) collaterally assign the membership rights of such Member in the Association to any lender with a security interest in the Site; provided, however, that (i) each such assignment shall be evidenced by an appropriate written instrument recorded in the Official Records, (ii) a copy of each such assignment shall be filed with the Association, and (iii) each such assignment shall be void upon the expiration or earlier termination of the lease or the security interest, as applicable. Such rights may be further assigned in the same manner to a sublessee or assignee of such entire Site holding under a duly recorded sublease (or short form memorandum thereof) or assignment.

9.2 Membership Voting. Except as expressly set forth herein to the contrary, each Member, regardless of class, shall have the right to vote on all matters to be decided by the membership.. Whenever reference is made in this Declaration to approval by a certain percentage of votes, without stipulating Class A or Class B voting as a separate group, such requirement shall be interpreted to mean the percentage of total votes (Class A and Class B)

eligible to be cast on the matter counted in the aggregate. The Board shall be elected as provided in the Bylaws.

9.3 Classes of Membership.

(a) Class A Members shall include all Persons owning one or more Sites other than those Persons who are Class B Members. The Class B Member cannot be a Class A Member so long as it is the Class B Member.

(b) Class B Member shall mean the Developer, its successors from time to time in interest (but not successors in title to any Site) and its assigns; provided that no successor in title of Developer to any portion of the Property and no assignee of Developer may become the "Developer" under this Declaration unless such successor or assignee is expressly designated as such in a document signed by Developer which is recorded in the Official Records. The Class B Member shall become a Class A Member at such time, and for so long as, it owns any Site, or portion thereof, and its Class B Member status terminates as hereinafter provided. The Class B membership shall terminate, and the then Class B Member owning any Site, or portion thereof, shall become a Class A Member with respect to such Site(s), only at such time as (i) the Class B Member so designates in a writing delivered to the Association, or (ii) the Class B Member no longer owns any portion of the Property that is, or could be, an undeveloped Site.

9.4 Voting Rights: Class B Member. The Class B Member shall have twice the number of votes which are, from time to time, cumulatively held by all Class A Members; provided, however, that the Class B Member, in certain special instances expressly described in this Declaration, shall have the number of votes it would otherwise hold if it were a Class A Member (i.e. based on acreage then held by the Class B Member as described in Section 9.5 below). Upon the termination and/or conversion of the Class B Member into a Class A Member, as provided in Section 9.3 above, said Member shall be entitled to vote as Class A Members in the manner specified in Section 9.5 below.

9.5 Voting Rights: Class A Members. Each Class A Member shall have one (1) vote for each acre (rounded to the nearest half acre) of the Property owned by such Member, exclusive of any Common Area that may be located on a Member's Site. When more than one Person holds a fee ownership interest in a single Site, all such Persons shall be Members, provided that such jointly owned Sites shall be entitled to only those votes that the owner of the Site would be entitled to were such owner an individual Person. In the event of joint ownership of a Site, the votes for such Site shall be exercised as a unit as the owners thereof shall determine, or, if no determination shall be made, as the owner designated in a written instrument to act on behalf of all of the owners for that Site shall specify in writing to the Association. In no event shall the Association be required to make any determination with respect to the casting of votes by joint owners. Failure of such joint owners to either (i) designate in writing which owner of the Site will act on behalf of all of the owners of such Site, or (ii) cast their vote(s) as a unit as provided in this Section 9.5, with respect to any matter before the membership of the Association shall be deemed an abstention as to such matters.

ARTICLE X
ASSESSMENTS

10.1 Annual Assessment/Capital Reserve Budget and Contribution.

(a) The Association shall determine the amount of each calendar year's annual assessment based on the financial needs for maintenance, operation, repair and replacement of Improvements to the Common Areas for that calendar year and the Association's determination shall be final and binding on all Members. The annual assessments shall be assessed, collected and administered by the Association and shall be used for the purposes set forth herein, including, but not limited to, the installation, maintenance, operation, repair and replacement of Improvements to the Common Areas, and the cost of water, lighting, cleaning, insurance, utility bills, labor, equipment, materials, management and the Association's actual and reasonable administrative costs. After calculating the annual assessment, the Association shall assess against each Site a charge (the "Annual Charge") based on a uniform rate of assessment determined by dividing the acreage (to the nearest half acre) of each Site by a number which represents the total acreage of the Property (excluding, however, for purposes of this calculation, all portions of the Property, including each Site, which constitute Common Area, and the Property so reduced is the "Net Acreage"), and expressing the quotient so determined as a percentage (the "Assessment Percentage"). From and after the date hereof, the Net Acreage is subject to change as a result of increases or decreases in the area of the Common Area occurring as and when the Property, including each Site, is developed and/or as a result of the submission to this Declaration of all or any portion of the Additional Property. The Annual Charge for each Site shall be computed by multiplying the Assessment Percentage so determined for the Site by the annual assessment. Each Site shall be charged with, and subject to a lien for, the amount of the Annual Charge assessed against said Site.

(b) The Board may annually prepare a capital reserve budget, which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board may set the required capital reserve contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital reserve budget, with respect both to amount and timing by equal annual assessments over the period of the budget. The annual capital reserve contribution required, if any, shall be fixed by the Board and included within the annual assessment as provided in subsection 10.1(a) above.

(c) As soon as may be practical in each year, the Association shall send a written bill to each Member stating (i) the Board's estimate with respect to the annual assessment, and (ii) the amount of the Annual Charge assessed against each such Member's Site stated in terms of the total sum due and owing as the Annual Charge. If a Member fails to pay the Annual Charge within thirty (30) days following the Member's receipt of the bill, payment of the Annual Charge shall be deemed delinquent and shall bear interest at a rate equal to the lesser of (A) the maximum rate of interest legally permissible as of the date of the Association's notice of the Annual Charge or (B) three (3) percentage points in excess of the then prevailing "prime rate" of interest as announced from time to time in *The Wall Street Journal* (in the section entitled "Money Rates") or some other responsible periodical of recognized authority as determined by the Board.

10.2 Special Assessment/Specific Assessment.

(a) (i) Special Assessment. In the event the annual assessment is inadequate, for any reason, the Board may, at any time, levy a further, reasonable and fair assessment (the "Special Assessment") against the Sites to cure such inadequacy. After calculating the Special Assessment, the Association shall assess against each Site a charge (the "Special Assessment Charge") by multiplying each Site's Assessment Percentage (as determined pursuant to Section

10.1 above) times the Special Assessment; provided, however, that if the aggregate Special Assessment levied in any one (1) fiscal year exceeds the greater of (i) Five Thousand and No/100 Dollars (\$5,000.00) per Site, increased annually by five percent (5.0%) beginning on January 1 next following the date hereof, and every January 1 thereafter or (2) ten percent (10%) of the expense budget in effect for that fiscal year, then the Association must obtain the affirmative vote of a majority of the Member votes for the assessment of any Special Assessment, the amount of any such Special Assessment and the use of any funds derived therefrom, if the proposed use thereof is not one of the uses authorized in Article VI; provided, however, if the Class B Member exists, then for purposes of this Section 10.1 the Class B Member's votes shall be calculated as if the Class B Member were a Class A Member (i.e. the Class B Member votes would equal the number of acres owned by the Class B Member (exclusive of Common Area), rounded to the nearest one-half acre per Section 9.5 herein), and the Class B Member's votes would be aggregated with the Class A Members' votes. For example purposes only, if the Class A Members owned a total of 200 acres exclusive of Common Area (10 Class A Members, each owning a 20 acre site), and the Class B Member owned 100.5 acres, exclusive of Common Area, the Class B Member would have 101 votes, and an affirmative vote of the Members would require 151 votes or more.

(ii) Specific Assessment. Notwithstanding anything to the contrary contained herein, the Board shall also have the power to specifically assess pursuant to this subsection as, in its reasonable discretion, it shall reasonably deem appropriate (a "Specific Assessment"). Failure of the Board to exercise its authority under this subsection shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to exercise its authority under this subsection in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this subsection. The Board may specifically assess Sites for the following expenses, except for expenses incurred for maintenance and repair items that are the maintenance responsibility of the Association as provided herein:

(1) Expenses of the Association that benefit less than all of the Sites may be specifically assessed equitably among all of the Sites which are benefited according to the benefit received.

(2) Expenses of the Association that benefit all Sites, but which do not provide an equal benefit to all Sites, may be specifically assessed equitably among all Sites according to the benefit received.

A Specific Assessment Charge shall be calculated in the same manner as a Special Assessment Charge in subsection 10.2(a)(i) above, subject to appropriate adjustments based on the number and size of Sites that are affected.

(b) The Board shall send a written statement to each Member stating (i) the amount of the Special Assessment/Specific Assessment and the reasons therefor, and (ii) the amount of the Special Assessment Charge/Specific Assessment Charge assessed against each such Member's Site stated in terms of the total sum due and owing as the Special Assessment Charge/Specific Assessment Charge. If the Member fails to pay the Special Assessment Charge/Specific Assessment Charge applicable to such Member's Site(s) within thirty (30) days following the Member's receipt of the statement, payment of the Special Assessment Charge/Specific Assessment Charge shall be deemed delinquent and shall bear interest at a rate equal to the lesser of (A) the maximum rate of interest legally permissible as of the date of the

Board's notice of the Special Assessment Charge/Specific Assessment Charge or (B) three (3) percentage points in excess of the then prevailing "prime rate" of interest as announced from time to time in *The Wall Street Journal* (in the section entitled "Money Rates") or some other responsible periodical of recognized authority as determined by the Board.

(c) In the event any Member violates Section 4.1(b)(vii) of this Declaration regarding use of Hazardous Substances, the Board shall have the right to assess an environmental assessment (the "Environmental Assessment") against such Site for any and all expense, loss, and liability suffered by the Association (except to the extent that such expenses, losses, and liabilities arise out of the Association's own negligence or willful act), by reason of the storage, generation, release, handling, treatment, transportation, disposal, or arrangement for transportation or disposal, of any Hazardous Substances (whether accidental, intentional, or negligent) by the Member or Member's agents or any other violation of Section 4.1(b)(vii). Such expenses, losses and liabilities shall include, without limitation, (i) any and all expenses that the Association may incur to comply with any Environmental Laws; (ii) any and all costs that the Association may incur in studying or remedying any Contamination at or arising from such Member's Lot; (iii) any and all costs that the Association may incur in studying, removing, disposing or otherwise addressing any Hazardous Substances; (iv) any and all fines, penalties or other sanctions assessed upon the Association; and (v) any and all legal and professional fees and costs incurred by the Association in connection with the foregoing. The Board shall send a written statement to such Member stating (i) the amount of the Environmental Assessment and the reasons therefor, and (ii) the amount of the Environmental Assessment assessed against such Member's Lot stated in terms of the total sum due and owing as the Environmental Assessment, and (iii) that unless the Member shall pay the Environmental Assessment within thirty (30) days following the Member's receipt of the statement, payment of the Environmental Assessment shall be deemed delinquent and shall bear interest at a rate equal to the lesser of (A) the maximum rate of interest legally permissible as of the date of the Board's notice of the Environmental Assessment or (B) three (3) percentage points in excess of the then prevailing "prime rate" of interest as announced from time to time in *The Wall Street Journal* (in the section entitled "Money Rates") or some other responsible periodical of recognized authority as determined by the Board.

10.3 Effect of Nonpayment of Assessments: Remedies of the Association.

(a) If any Member shall fail to pay, or cause to be paid, all of the Assessments within thirty (30) days following receipt of the respective statements referred to herein, the Association shall give written notice thereof to such Member. In the event the Member shall fail to pay any delinquent Assessments within ten (10) days following receipt of the aforementioned written notice (thereby becoming a "Delinquent Member"), in addition to the right to sue the Delinquent Member for a personal judgment or take a deed in lieu of foreclosure, the Association shall have the right to foreclose (as described below) or otherwise enforce the lien hereinafter imposed to the same extent, and subject to the same procedure, as in the case of Mortgages under applicable State law. The amount due by such Delinquent Member shall include the amount of all Assessments and the aforesaid interest thereon, plus the costs of proceedings initiated by the Association to enforce the terms and conditions of this Section 10.3 including, without limitation, reasonable attorneys' fees and expenses. The Association may be a purchaser at such sale and charge the same as a common expense. The Association may own, lease, encumber, exchange, sell or convey the Site.

(b) In the case of the original assignment or any subsequent reassignment of membership rights to a lessee or any sublessee or assignee of a lessee, notices hereunder shall be given to the original owner and to any such assignee of which the Association has been notified in writing. No such original assignment or subsequent reassignment shall relieve the assignor of any liability hereunder.

(c) No Member may waive or otherwise escape liability for any Assessment provided for herein by non-use of the Common Area or by abandonment or non-use of the Member's Site(s).

(d) A Delinquent Member shall not be permitted to participate or vote in any Association meeting.

(e) Payment of the Annual Charge, any Special Assessment Charge or any Specific Assessment Charge by a Member shall not prejudice, and shall not be deemed a waiver of, any right of such Member, at law or in equity, to contest the amount of such Annual Charge, Special Assessment Charge or Specific Assessment Charge.

10.4 Certification of Payment. Upon written demand by a Member, the Association shall, within fifteen (15) days after receipt of such demand, issue and furnish to such Member a written certification stating, as the case may be, that: (i) all Assessments (including interest and costs, if any) have been paid with respect to any specified Site(s) as of the date of the certification or, if all Assessments have not been paid, setting forth the amount of any such Assessments (including interest and costs, if any) due and payable as of the date of certification; (ii) to the Association's knowledge, the Member is not in default hereunder or, if there is a default, an explanation of it; and (iii) other information reasonably requested by the Member which is readily obtainable by the Association. The Association may assess a reasonable charge for the issuance of the certificates, which amount must be paid at the time that the request for the certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive with regard to any matter therein stated as between the Association and any bona fide purchaser or lessee of, or lender on, the Site in question.

10.5 Savings Clause. All agreements between Member and the Association, whether now existing or hereafter arising and whether written or oral, are hereby limited so that in no instance, whether by reason of demand or acceleration of the maturity hereof or otherwise, shall the interest contracted for, charged, received, paid or agreed to be paid to any Member exceed the maximum amount permissible under applicable law. If, from any circumstance whatsoever, interest would otherwise be payable to the Association in excess of the maximum lawful amount, the interest payable to the Member shall be reduced to the maximum amount permitted under applicable law; and if from any circumstance the Member shall ever receive anything of value deemed interest by applicable law in excess of the maximum lawful amount, an amount equal to any excessive interest shall be applied to the reduction of the principal hereof and not to the payment of interest, or if such excess interest exceeds the unpaid balance of the principal hereof, such excess shall be refunded to the Member. All interest paid or agreed to be paid to the Association shall, to the extent permitted by applicable law, be amortized, prorated, or allocated, so that the interest hereon shall not exceed the maximum amount permitted by applicable law.

10.6 Obligations of the Association with Respect to Funds. The Association shall not be obligated to spend during any one calendar year all sums collected by it pursuant to the terms hereof during such calendar year; and, absent a vote of the majority of the Member votes to the

contrary, the Association may carry forward as surplus any balances remaining on account with, or under the control of, the Association and use any surpluses so retained to reduce the amount of the Annual Charge in any succeeding year, establish or add to a reserve for the purpose of offsetting large expenses in the future, or for such other uses(s) as are permitted by the terms hereof. Within sixty (60) days after the end of each calendar year, the Association shall provide to all Members an annual accounting of the funds collected and expended by the Association and the balances remaining on account with or under the control of the Association.

ARTICLE XI IMPOSITION OF CHARGE AND LIEN UPON PROPERTY

11.1 Creation of Lien for Assessments. Each Site, including rents and insurance proceeds received by the Member and relating to the Member's Site, shall be subject to a continuing lien for any and all Assessments levied by the Association against such Site in accordance with the provisions of this Declaration from the date of such levy until paid. The Assessments, together with interest thereon, and the costs of collection thereof (including reasonable attorneys' fees and expenses) as herein provided, shall be a charge against, and a continuing lien upon, any Site against which each such Assessment or charge is made until paid. The lien may be enforced in accordance with the rights of the Association as set forth in Section 10.3 above.

11.2 Personal Obligation of Members. Each Member, by acceptance of a Deed or other conveyance of any Site, whether or not it shall be so expressed in any such Deed or other conveyance, and so long as such Member is the record owner of any such Site, shall be deemed to covenant and agree to pay to the Association all Assessments as provided in Article X hereof. In addition to the lien created pursuant to Section 11.1, each such Assessment, together with interest thereon and costs of collection thereof (including reasonable attorneys' fees and expenses), shall be the personal obligation of the Person owning the Site at the time of the Assessment.

11.3 Rights of Mortgagees. Where a bona fide Mortgage holder obtains title to a Site pursuant to judicial or nonjudicial foreclosure of the Mortgage, or deed in lieu of foreclosure, it shall not be liable for the share of Assessments chargeable to such Site that became due prior to such acquisition of title. Such unpaid share of Assessments shall be deemed to be expenses of the Association collectible from Members, including such Mortgage holder, its successors and assigns. Additionally, such Mortgage holder shall be responsible for all charges accruing subsequent to the passage of title, including, but not limited to, all charges for the month in which title passed, and for such period of Mortgage holder's ownership. This provision shall not relieve a Member whose Site has been subjected to a Mortgage from the personal obligation to pay all Assessments and charges falling due during the time when the Member is or was the owner of such Site.

ARTICLE XII GENERAL

12.1 Indemnity for Damages. Each and every Member and future Member, by its acceptance of a Deed or contract for any Site, agrees to be liable for, and to indemnify Developer and the Association against, any damage caused by such Member, or the contractor, agent, or employees of such Member, 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 Developer or the Association, or for which Developer or the Association has responsibility, at the time of such damage.

12.2 Severability. Every one of the provisions of this Declaration is hereby declared to be independent of, and severable from the rest of the provisions and of and from every combination of the provisions. Invalidation by any court of any provision in this Declaration shall in no way affect any of the other provisions which shall remain in full force and effect.

12.3 Amendments; Variances.

(a) Amendments to this Declaration shall be valid only if (i) approved in writing by the City and (ii) approved by written vote by two-thirds of the votes of the Members; provided, however, if the Class B Member exists, then for purposes of this Section 12.3, the Class B Member's votes shall be calculated as if the Class B Member were a Class A Member (i.e. the Class B Member votes would equal the number of acres owned by the Class B Member (exclusive of any Common Area owned by the Class B Member), rounded to the nearest one-half acre per Section 9.5 above), and the Class B Member's votes would be aggregated with the Class A Members' votes. For example purposes only, if the Class A Members owned a total of 200 acres (10 Class A Members, each owning a 20 acre site), and the Class B Member owned 100.5 acres (exclusive of Common Area), the Class B Member would have 101 votes, and an affirmative vote of the Members would require 201 votes or more. Such amendments shall be effective as to all portions of the Property. Any amendment shall be effective immediately upon the filing thereof in the Official Records, or in such other place of recording as may be appropriate at the time of the execution of such instrument, regardless of whether actual notice thereof has been given to any person or entity having an interest in the Property or any portion thereof. The Developer or Association, as applicable, shall retain meeting minutes and records evidencing the fact that the requisite number of votes was cast by the Members to effect any such amendment. Every purchaser or grantee of any interest in any property now or hereafter made subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that this Declaration may be amended as provided in this Section.

(b) Notwithstanding the provisions of this Section 12.3, during such time as the Developer still owns at least one undeveloped Site, no amendment shall be made to the Declaration without the written agreement of Developer if such amendment would impose a greater restriction on the use or development by Developer of the Site or Sites owed by the Developer.

12.4 Captions. The captions preceding the various sections and subsections, if any, 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 Declaration. 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.

12.5 Effect of Violation on Mortgage Lien. No violation of this Declaration shall defeat or render invalid the lien or security title of any Mortgage made in good faith and for value upon any portion of the Property; provided, however, that any lender in actual possession, or any purchaser acquiring title to any portion of the Property by deed in lieu of foreclosure, or at foreclosure, shall be bound by and subject to this Declaration as fully as any other owner of any portion of the Property.

12.6 No Reverter. No provision of this Declaration is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

12.7 Duration. This Declaration shall run with and bind the Property, shall inure to the benefit of and shall be enforceable by Developer, the Association, the Design Review Committee, any Member, and the owner of any Site included in the Property, their respective legal representatives, heirs, successors and assigns until the date which is twenty (20) years following the date on which this Declaration is initially recorded in the Official Records, after which time said Declaration shall be automatically extended for successive periods of ten (10) years each, unless the term of this Declaration is amended or modified in accordance with Section 12.3 hereof. Notwithstanding the foregoing, all easements created in this Declaration shall be perpetual to the fullest extent of the law, unless otherwise specifically stated herein.

12.8 Enforcement. In the event of a violation or breach of any terms or conditions of this Declaration by Developer, the Association, or any Member (or employee, agent, or lessee of any Member), then the Association, Developer (so long as it is a Member of the Association) their successors and assigns, or any Member, 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 this Declaration, 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 initiate an available remedy set forth herein shall be held to be a waiver by that party or an estoppel of that party or of any other party to assert any right available to such party upon the recurrence or continuation of said violation or the occurrence of a different violation. Notwithstanding the foregoing, the Association shall not be obligated to take any action if the Board reasonably determines that the Association's position is not strong enough to justify taking such action; that the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or that it is not in the Association's interests, based upon hardship, expense, or other reasonable criteria to pursue enforcement action. Such a decision shall not be construed as a waiver of the right of the Association to enforce such provision at a later time under other circumstances or estop the Association from enforcing any other covenant, restriction, or rule. A breach by a member of this Declaration would cause irreparable and continuing injury to the other Members and, in the event of such breach, monetary damages may be insufficient to compensate such other Members for their injuries. Accordingly, in the event of any breach or threatened breach of this Declaration by a Member, each affected member shall have the right (without the necessity of posting bond) to injunctive relief or to the issuance of an order to compel performance to enforce the provisions set forth herein; provided, however, such right shall be cumulative of any other rights and remedies under this Declaration, at law or equity.

12.9 No Waiver. The failure of any party entitled to enforce any of the terms or conditions herein contained shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such a violation or breach occurring prior or subsequent thereto.

12.10 Assignability.

(a) Developer may assign all of its rights and obligations hereunder to any Person to which Developer simultaneously conveys its interest in all or substantially all of the Property owned by Developer as of the date of such assignment and conveyance. By the acceptance of such conveyance, the grantee thereof shall be conclusively deemed to have accepted such

assignment and to have assumed and agreed to perform and be bound by the obligations of Developer hereunder, and shall thereafter have the same rights and be subject to the same obligations as are given to and assumed by Developer herein. Upon such assignment, Developer shall be released from all obligations hereunder which shall arise thereafter, but not from obligations arising prior to such assignment.

(b) Developer may at any time assign any or all of its rights and obligations and duties hereunder to the Association, and the Association shall accept such assignment and be deemed to have assumed and agreed to perform and be bound by the obligations of Developer hereunder and shall thereafter have such rights and be subject to such obligations as are so assigned by Developer. Upon such assignment, Developer shall be released from all obligations hereunder which shall arise thereafter, but not from obligations arising prior to such assignment unless specifically released therefrom by the Association.

(c) At such time as there shall no longer be a Class B membership in the Association, Developer shall be deemed to have assigned all of its rights and obligations hereunder to the Association, and the Association shall be deemed to have accepted such assignment and to have assumed and agreed to perform and be bound by the obligations of Developer hereunder. Upon such assignment, Developer shall be released from all obligations hereunder which shall arise thereafter, but not from obligations arising prior to such assignment.

(d) Upon an assignment of Developer's rights and obligations hereunder to the Association, all references herein to Developer shall be deemed to refer to the Association.

12.11 Notices. All notices, approvals or other communications required or permitted to be given under this Declaration shall be in writing and shall be considered as properly given or made: (i) on the third (3rd) day after being mailed from within the United States by certified mail, return receipt requested, postage prepaid and addressed to the person to whom it is intended at the address of said person as set forth below, whether actually received or not; or (ii) the next business day if sent by nationally recognized overnight delivery service or (iii) when actually received by the person to whom it is intended if given in any other manner. The mailing address for a Member shall be the most recent address of said Member designated in writing to Developer, or if not so designated, as shown on the tax rolls of the taxing jurisdiction in which the Site is located. The initial mailing address for Developer shall be c/o IDI, 3424 Peachtree Road, Atlanta, Georgia 30326, Attention: Mr. G. Bryan Blasingame (Crossroads Distribution Center). Developer may change its address by filing a written instrument in the recording office where this Declaration is filed stating its new address. In the event a Member transfers or conveys any portion of such Member's Site, the Member shall give to the Association, in writing, prior to the effective date of such conveyance, the name and mailing address of the purchaser of the Site and such other information as the Board may reasonably require. Upon request, each Member shall be obligated to furnish to the Association the name and mailing address of the holder of any Mortgage encumbering such Member's Site. The Association shall be entitled to rely on the correctness of any notice delivered in accordance with this Section 12.11, and such notice may be used for all Assessment notices and any other notices to be given by the Association. The failure of a Member to provide the Association with updated notices pursuant to this Section 12.11 shall be considered a default under this Declaration and a waiver by said Member of receiving any such notices. If the filed notice is not accurate and the Association undertakes the task of obtaining accurate information, the Association's reasonable and actual costs in obtaining the correct information shall be considered an additional assessment and a lien against the applicable Site.

12.12 Additional Rights of Developer. Until such time as the Association is formed, Developer shall have all of the rights and obligations of the Association specified herein.

12.13 Time is of the Essence. Time is of the essence for each and every provision of this Declaration.

[signatures on following pages]

IN WITNESS WHEREOF, Developer has executed this Declaration on this the day and year first above written.

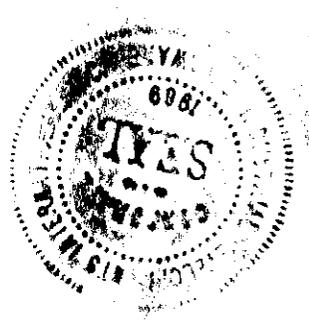
DEVELOPER:

**INDUSTRIAL DEVELOPMENTS
INTERNATIONAL, INC.**, a Delaware
corporation

By: *David R. Birdwell*
Name: **David R. Birdwell**
Title: **Secretary**

Attest: *G. Bryan Blasingame*
Name: **G. Bryan Blasingame**
Title: **Assistant Secretary**

[CORPORATE SEAL]



STATE OF GEORGIA

COUNTY OF Fulton

Personally appeared before me, the undersigned authority in and for State aforesaid, the within named David R. Birdwell who acknowledged that as Secretary for and on behalf of and by authority of INDUSTRIAL DEVELOPMENTS INTERNATIONAL, INC., a Delaware corporation, he/she signed the above and foregoing instrument and delivered said instrument on the day and year therein mentioned, after first being duly authorize to so do.

Given under my hand and seal of office this 4 day of June, 2008.

Mona Hand
Notary Public:
My Commission Expires:
Mona Hand
Notary Public, Gwinnett County, Georgia
My Commission Expires Feb. 8, 2009

[NOTARIAL SEAL]



CONSENT

The undersigned, MHC B (USA) LEASING & FINANCE CORPORATION, Tenant under that certain Ground Lease respecting a portion of the Property, dated as of May 25, 2007, recorded in Book 120, Page 406 of the DeSoto County, Mississippi Clerk's office (the "Lease") does hereby consent to, and subordinate the Lease to, the Declaration to which this Consent is attached. Except for the consent herein contained, nothing contained herein shall in anyway impair, alter or diminish any of the terms and conditions of the Lease.

MHC B (USA) LEASING & FINANCE CORPORATION

By: A Tate
Name: **Seiji Tate**
Title: **Vice President**

STATE OF New York
COUNTY OF New York

Personally appeared before me, the undersigned authority in and for State aforesaid, the within named Seiji Tate who acknowledged that as Vice President for and on behalf of and by authority of MHC B (USA) LEASING & FINANCE CORPORATION, he/she signed the above and foregoing instrument and delivered said instrument on the day and year therein mentioned, after first being duly authorize to so do.

Given under my hand and seal of office this 13 day of June, 2008.

Louise Jackson
LOUISE JACKSON
Notary Public, State of New York
No. 01JA6014825
My Commission Expires July 6, 2011

[NOTARIAL SEAL]

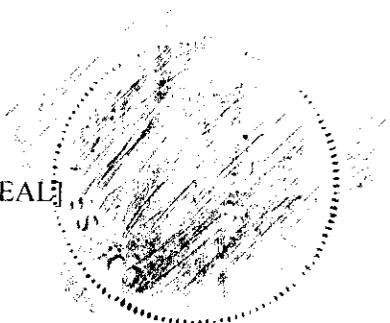


EXHIBIT A**LEGAL DESCRIPTION OF PROPERTY**

BEGINNING AT THE NORTHEAST CORNER OF SECTION 19, TOWNSHIP 1 SOUTH, RANGE 5 WEST, DESOTO COUNTY, MISSISSIPPI: THENCE SOUTH 00°35'02" EAST (S 00°28'52.8" W – C) A DISTANCE OF 2656.23 FEET (2656.36' – C) TO AN 1" IRON PIPE FOUND; THENCE SOUTH 89°36'40" WEST (N 89°19'27.6" W – C) A DISTANCE OF 5402.31 FEET (5399.95' – C) TO A PK NAIL SET, PASSING A CHISEL MARK FOUND ON-LINE AT 5401.44 FEET; THENCE NORTH 00°47'20" WEST A DISTANCE OF 1038.28 FEET TO A R.O.W. MARKER FOUND, PASSING A R.O.W. MARKER FOUND ON-LINE AT 4.05 FEET; THENCE NORTH 00°49'49" WEST A DISTANCE OF 1499.10 FEET TO A R.O.W. MARKER FOUND; THENCE NORTH 00°52'08" WEST A DISTANCE OF 950.17 FEET TO A R.O.W. MARKER FOUND; THENCE SOUTH 87°51'59" EAST A DISTANCE OF 35.47 FEET TO A R.O.W. MARKER FOUND; THENCE NORTH 01°33'34" WEST A DISTANCE OF 52.08 FEET TO A R.O.W. MARKER FOUND; THENCE SOUTH 89°22'07" WEST A DISTANCE OF 35.10 FEET TO A R.O.W. MARKER FOUND; THENCE NORTH 00°22'23" WEST A DISTANCE OF 72.54 FEET TO A R.O.W. MARKER FOUND; THENCE NORTH 43°38'17" EAST A DISTANCE OF 79.36 FEET TO A R.O.W. MARKER FOUND; THENCE NORTH 00°05'45" WEST A DISTANCE OF 80.57 FEET TO A R.O.W. MARKER FOUND; THENCE SOUTH 89°05'21" WEST A DISTANCE OF 155.05 FEET TO A R.O.W. MARKER FOUND; THENCE NORTH 01°48'46" WEST A DISTANCE OF 10.13 FEET TO A R.O.W. MARKER FOUND; THENCE NORTH 89°50'24" WEST A DISTANCE OF 19.72 FEET TO A R.O.W. MARKER FOUND; THENCE SOUTH 00°16'05" EAST A DISTANCE OF 10.44 FEET TO A R.O.W. MARKER FOUND; THENCE SOUTH 89°10'33" WEST A DISTANCE OF 323.85 FEET TO A R.O.W. MARKER FOUND; THENCE NORTH 02°24'46" WEST A DISTANCE OF 9.88 FEET TO A R.O.W. MARKER FOUND; THENCE SOUTH 89°51'09" WEST A DISTANCE OF 24.66 FEET TO A R.O.W. MARKER FOUND; THENCE SOUTH 01°48'15" EAST A DISTANCE OF 10.23 FEET TO A R.O.W. MARKER FOUND; THENCE SOUTH 89°19'14" WEST A DISTANCE OF 825.91 FEET TO A R.O.W. MARKER FOUND; THENCE SOUTH 89°06'53" WEST A DISTANCE OF 622.64 FEET TO AN ½" IRON PIN FOUND; THENCE NORTH 08°10'33" EAST A DISTANCE OF 63.48 FEET TO A CONCRETE MONUMENT FOUND; THENCE NORTH 89°16'09" EAST (S 89°41'00.0" E – C) A DISTANCE OF 1905.31 FEET (1904.30' – C) TO A CONCRETE MONUMENT FOUND; THENCE NORTH 89°31'35" EAST (S 89°24'38.2" E – C) A DISTANCE OF 5418.04 FEET TO A PK NAIL SET, PASSING AN ½" IRON PIN SET AT 2635.85 FEET; THENCE SOUTH 00°36'48" EAST (S 00°28'52.8" W – C) A DISTANCE OF 1160.10 FEET (1160.39' – C) TO THE POINT OF BEGINNING, PASSING AN ½" IRON PIN FOUND AT 1159.95 FEET, CONTAINING 475.9717 ACRES OR 20733325.01 SQUARE FEET MORE OR LESS.

Indexing Instructions:

The Southeast and Southwest Quarters of fractional Section 18, Township 1 South, Range 5 West, the Northeast and Northwest Quarters of Section 19, Township 1 South, Range 5 West; and the Southwest Quarter of fractional Section 13, Township 1 South, Range 6 West and the Northeast Quarter of Section 24, Township 1 South, Range 6 West.

This Declaration is an amendment and restatement of the Declaration of Protective Covenants, Conditions, Restrictions, Reservations and easements for Crossroads Distribution Center originally executed and delivered by Developer as of May 24th, 2007 and recorded on June 14, 2007 in Book 561, Page 155 in the office of the Clerk of DeSoto County, Mississippi (the "Prior Declaration"); it is intended that this Declaration completely supersede the Prior Declaration, and the Prior Declaration shall no longer be of any force or effect.

EXHIBIT B

NOTICE OF OWNERSHIP

To: [Crossroads Distribution Center Owners' Association/Industrial Developments International, Inc.]
[3424 Peachtree Road, Atlanta, Georgia 30326, Attention: Mr. G. Bryan Blasingame]

Re: [Property Address], in Crossroads Distribution Center

Notice is hereby given that the property on the attached deed has been sold to _____ . Please direct all future correspondence, communications and invoices to:

Attn: _____
Telephone: _____
Telecopy: _____

Sincerely,

EXHIBIT CLANDSCAPE MAINTENANCE SPECIFICATIONSLawn Areas

Mow and trim weekly during the peak growing season and on an "as needed" basis during spring, fall, and drought conditions to insure a neat and healthy turf appearance. Recommended mowing height is to be 1-1/2". Clippings left on turf dense enough to cause yellowing of the grass are to be removed. All hard surfaces will be blown clean after each service. Any unusually large amounts of clippings that are not easily blown are to be swept up and removed.

All lawn areas are to have all trash removed prior to mowing.

All areas inaccessible with mowers are to be trimmed to the same height as the turf. The contractor is to be especially careful so as to not damage trees, shrubs, siding, paint finishes, downspouts, marketing signage, etc.

All concrete sidewalks, walkways, curbs, driveways, parking lots, and planting beds are to be edged twice a month during the growing season.

Fertilize all warm season turf three (3) times per year using a rate of one (1) lb. of actual nitrogen per 1,000 sq. ft. at each application.

Fertilize all cool season grass areas with one fertilizer application during the spring growing season (March). Apply three (3) lbs. Ammonium Nitrate or nine (9) lbs. 12-6-6 per 1,000 sq. ft. or one of the high nitrogen lawn fertilizers with at least 50% slow release nitrogen.

Apply lime if recommended by a soil test to all lawn areas during the fall. Submit test results and recommendations to the Developer. Do not exceed fifty (50) lbs. of agricultural ground limestone per 1,000 sq. ft. in a six-month period.

Apply one spring pre-emergent herbicide application and one summer post-emergent herbicide application to provide weed control in all warm season turf areas.

All turf areas are to be inspected for insects and diseases on a regular basis and the appropriate control applied.

Plant Beds and Shrubs

Shrubs will be pruned heavily in the spring and as needed during the growing season. The type of shrub and its bloom date will determine when it is to be pruned. All shrubs will be selectively pruned and not sheared unless approved by the Developer.

All Liriope plantings are to be cut back prior to the initiation of new growth in the spring.

Shrubs will be fertilized twice yearly, March and June, with Lesco 14-14-14 fertilizer, plus Minors at a rate of two (2) lbs. per sq. ft., or approved substitute.

All plant beds are to receive one pre-emergent herbicide application in the spring. Hand weeding and/or chemical control is to be provided twice a month during the peak growing season and on as needed basis during the dormant season.

Shrubs are to be inspected on a regular basis for disease and insect infestation and the appropriate pesticide applied to provide control.

Shrub beds adjacent to turf areas are to be edged as needed with a shovel to a depth of 2"-3". Bed edges adjacent to sidewalks and curbs are to be edged so that the top of the mulch will be below the top of the adjacent walk or curb. Edges are to be neat and uniform in appearance.

Trees

Trees will be pruned during the year as needed to control waterspouts, dead and damaged branches, and unwanted or uncharacteristic growth.

Trees will be fertilized once a year to promote healthy and vigorous growth.

Trees will be inspected on a regular basis for insects and disease and the appropriate pesticide is to be applied to provide control. One application of a dormant oil spray will be required during the winter.

All tree staking is to be removed once the trees are adequately established.

All Crepe Myrtle trees are to be pruned back to a height of approximately six (6) feet – seven (7) feet to the main trunks. Trees are to be pruned prior to the initiation of new growth in the spring.

Leaf and Trash Removal

All fallen leaves are to be removed from turf and plant beds once a month during the months of October and December, and twice a month during November. All trash, debris, etc., from landscape maintenance activities is to be removed on a daily basis. All other trash is to be removed from all landscaped areas on a weekly basis.

Watering and Irrigation System Maintenance

The Member is responsible for having an irrigation system and for assuring the necessary water is distributed to all landscaping in irrigated areas. In addition, the Member is to monitor and adjust the operation of the time clocks and sprinkler heads to insure that water is being evenly and properly distributed. If non-irrigated areas are in need of water, the Member is to inform the Developer so that measures can be taken to have these areas watered.

The Member is responsible for spring start-up, winter shutdown, and backflow tests.

The Member is also responsible for monitoring the main and lateral lines in the event of any breakages or significant leaks. If a significant leak should occur, the contractor is responsible for immediately shutting the system down and notifying the Developer.

Written estimates for parts and labor for repairing the system, when it is not due to contractor negligence, are to be submitted to the Developer for approval.

Mulch

All shrub, flower, and ground cover beds, and tree rings are to be mulched twice a year (Fall, mid-Spring). Use only partially decomposed hardwood mulch that is not easily displaced by wind or water movement. Depth of mulch is to be 2". Spraying of mulch with coloring agents will not be allowed.

Fire Ant Treatment

Member is to notify the appropriate state agency of the location of any fire ant nests so they may apply the appropriate control. If the state agency does not respond in a timely manner, Member shall notify the Developer so the appropriate controls can be approved and applied.