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## DECLARATION OF RESTRICTIONS

This Declaration of Restrictions (***"Declaration"***) is made as of the 5th day of June, 2009 by CBL & ASSOCIATES MANAGEMENT, INC., a Delaware corporation, having an address c/o CBL Center, Suite 500, 2030 Hamilton Place Boulevard, Chattanooga, Tennessee 37421 (***"Declarant"***) for the benefit of BED BATH & BEYOND INC., a New York corporation, having an office at 650 Liberty Avenue, Union, New Jersey 07083 (***"Tenant"***).

WHEREAS, the Declarant is the owner of that certain real property located in the County of DeSoto, State of Mississippi, as more particularly described on Exhibit A annexed hereto (the "***Related Land***").

WHEREAS, Southaven Towne Center II, LLC, a Mississippi limited liability company, having an address c/o CBL Center, Suite 500, 2030 Hamilton Place Boulevard, Chattanooga, Tennessee 37421 (***"Landlord"***) is the owner of certain real property located in the County of DeSoto, State of Mississippi, commonly referred to as the Southaven Towne Center Shopping Center as more particularly described on Exhibit B annexed hereto (the ***"Shopping Center"***).

WHEREAS, Landlord and Tenant, as of the date hereof, have entered into a lease (the ***"Lease"***) demising a portion of the Shopping Center as more particularly described in the Lease (the ***"Premises"***) to Tenant.

WHEREAS, Declarant is under common control with Landlord, and therefore Declarant's parent will derive a direct or indirect financial benefit from the Lease (as used herein, "*control*" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person or entity, whether through the ownership of voting securities or rights, by contract, or otherwise).

WHEREAS, Tenant is not willing to enter into the Lease unless the Related Land is restricted in accordance with this Declaration and the imposition of the terms of this

Declaration on the Related Land is a material inducement to Tenant in connection with the Lease.

WHEREAS, the Declarant is willing to restrict the Related Land as set forth in this Declaration and by executing this Declaration does so restrict it for the benefit of Tenant and its successors and assigns.

DECLARATION

NOW, THEREFORE, in consideration of One Dollar and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties state as follows:

1. All capitalized terms used, but not otherwise defined, herein shall have the meanings ascribed to them in the Lease.

2. The Related Land shall be subject to the restrictions as set forth herein which are declared and agreed to be for the benefit of Tenant and its successors and assigns and which restrictions shall run with the Related Land and be binding upon the successors and assigns of the Declarant, and subject to the terms of leases for premises on the Related Land existing on the date hereof, all tenants, licensees and other occupants and users of the Related Land, and any other party claiming by, through or under the Declarant.

3. For so long as the Lease (as same may be amended, modified, extended or renewed from time to time) shall remain in effect, and subject to the terms of leases for premises on the Related Land existing on the date hereof, the Declarant shall not lease, rent or occupy or permit any portion of the Related Land to be occupied for any of the "Prohibited Uses" (defined in Exhibit C annexed hereto and made a part hereof).

4. For so long as the Lease (as same may be amended, modified, extended or renewed from time to time) shall remain in effect, and subject to the terms of leases existing on the date hereof, the Declarant shall not lease, rent or occupy or permit any other premises in the Related Land to be occupied, whether by a tenant, sublessee, assignee, licensee or other occupant or itself, for the sale, rental or distribution, either singly or in any combination, of items contained in any of the following respective categories of merchandise: (a) linens and domestics; (b) bathroom items, including, without limitation, health and beauty care items (excluding plumbing hardware); (c) housewares (excluding furniture, and major appliances or "white goods"); (d) frames and wall art (provided that a fine art gallery shall not be precluded); (e) window treatments; and/or (f) closet, shelving and storage items (which items, either singly or in any combination, are hereinafter referred to as the ***"Exclusive Items"***). This exclusive is intended to apply to, by way of example, those businesses currently operating under the trade names of Linen Locker, Linen Barn, Home Goods, TJ Maxx and More, Mega-Marshalls and/or other retailers whose business includes the sale of three (3) or more of the items described in categories (a)–(f) above (***"Tenant's Direct Competitors"***). Notwithstanding the foregoing, any tenant or subtenant in the Shopping Center or the Related Land shall have the right to utilize its respective premises for the sale, rental and/or distribution of Exclusive Items within an aggregate area (which shall include an allocable portion of the aisle space adjacent to such sales, rental and/or distribution area) not to exceed the lesser of (x) five percent (5%) of the Floor Area of such tenant's or subtenant's premises, or (y) two thousand (2,000) square feet of

Floor Area within such tenant's or subtenant's premises. [For example only, a tenant occupying premises containing a total of five thousand (5,000) square feet of Floor Area could sell Exclusive Items (either singly or in any combination) so long as the aggregate area within its entire demised premises in which any and all Exclusive Items are sold shall not exceed two hundred fifty (250) square feet.

5. In the event of a breach of the restrictions set forth in this Declaration, Tenant and its successors and assigns may prosecute any appropriate proceedings at law or in equity. They may, in any such proceeding, obtain injunctive or other equitable relief to enforce this Declaration or restrain violations of this Declaration; recover damages on account of such violation; secure, by way of specific performance or otherwise, the performance of this Declaration; and/or obtain any other remedy provided for at law or in equity.

6. The Declarant represents and warrants to Tenant that it is duly authorized to execute this Declaration and that this Declaration is superior to all mortgages, deeds of trust and other security instruments encumbering or otherwise affecting the Related Land, and no joinder by or consent or approval of any other party is necessary to fully bind the Declarant and the interests in the Related Land held by the Declarant to the terms of this Declaration.

[signature page follows]

IN WITNESS WHEREOF, the undersigned has executed this Declaration as of the date hereinabove provided.

**DECLARANT:**

Witness/Attest:

Stephen L. Goldstein

CBL & ASSOCIATES MANAGEMENT, INC.,
a Delaware corporation

By: _____
Name: Stephen D. Lebovitz
Title: President

SKF
Legal

**ACKNOWLEDGMENT**

STATE OF MASS
): SS.
COUNTY OF Middlesex)

On the 5th day of June in the year 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared Stephen D. Lebovitz personally known on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument, and that such individual made such appearance before the undersigned in the municipality of WAYLAND, Middlesex County, State of MA.

Linda S. Devine
Notary Public
My Commission Expires:

LINDA S. DEVINE
Notary Public
COMMONWEALTH OF MASSACHUSETTS
My Commission Expires
June 25, 2015

(SEAL)

NOTARY PUBLIC LINDA S. DEVINE MASSACHUSETTS

## Exhibit A

## Legal Description of Related Land

Lots 2 and 9 of Southaven Town Center Subdivision in Section 36 Township 1 South, Range 8 West City of Southaven, Desoto County, Mississippi, as shown on the Subdivision Plat entitled "Revision One Lots 1 thru 14 and 16 thru 17, Southaven Town Center, Zone C4". prepared by South States Survey, Inc. dated February 11, 2005, recorded in Plat Book 91, pages 6-7, in the office of the Chancery Court Clerk, Desoto County, Mississippi.

Lot 11B of Southaven Towne Center Subdivision in Section 36, Township 1, South Range 8 West, City of Southaven, Desoto County, Mississippi, as shown upon the Subdivision Plat entitled "Lots 11A and 11B. A Subdivision of Lot 11 of Revision One, Southaven Towne Center, Zone C4" prepared by Southern States Survey, Inc. dated August 31, 2006 and recorded in Plat Book 100, page 52, in the Office of the Chancery Clerk of DeSoto County Mississippi.

## Exhibit B

## Legal Description of Shopping Center

Lots 10, 12,13, 17 of Southaven Towne Center Subdivision in Section 36, Township 1 south, Range 8 West, City of Southaven, DeSoto County, Mississippi, as shown upon the Subdivision Plat entitled "Revision One, Lots 1 through 14 and 16 through 17, Southaven Towne Center, Zoned C4", prepared by Southern State Survey, Inc., dated February 11, 2005, recorded in Plat Book 91, Pages 6 and 7, in the Office of the Chancery County Clerk, DeSoto County, Mississippi.

TOGETHER WITH those purchase rights for the benefit of the owner of Lot 10 as contained in the following documents:

Restrictions Agreement dated May 19, 2005, by and between CBL & Associates Management, Inc., a Delaware corporation, and GMRI, Inc., a Florida corporation, recorded on May 24, 2005, in Book 500, Page 264.

Restrictions Agreement dated May 19, 2005, by and between CBL & Associates Management, Inc., a Delaware corporation, recorded on May 24, 2005, in Book 500, Page 252.

Restrictions Agreement dated May 19, 2005, by and between CBL & Associates Management, Inc., a Delaware corporation, recorded on May 24, 2005 in Book 500, Page 240.

Declaration of Restrictive Covenants for Outparcel #7, dated March 07, 2005, by and between CBL & Associates Management, Inc., a Delaware corporation, recorded on May 18, 2005, in Book 495, Page 7.

TOGETHER WITH those non-exclusive easements as contained in the following documents:

Operating and Easement Agreement dated December 02, 2004, in Book 488, Page 298, as amended by Amendment and Restated Operating and Easement Agreement, recorded on July 07, 2005, in Book 501, Page 391.

Drainage and Detention Pond Easement Agreement of record in Book 0331, Page 0013.

TOGETHER WITH those real property rights as contained in Sign Easement granted to Southaven Towne Center, LLC, a Mississippi limited liability company, recorded on August 23, 2005 in Book 508, Page 136.

Exhibit C

Prohibited Uses

As used in this Lease, the term "***Prohibited Uses***" shall mean any of the following uses:

A. As to the Shopping Center, any of the following uses:

(1) Any use which emits or results in strong, unusual or offensive odors, fumes, dust or vapors, is a public or private nuisance, emits noise or sounds which are objectionable due to intermittence, beat, frequency, shrillness or loudness, creates a hazardous condition, or is used, in whole or in part, as or for warehousing or the dumping or disposing of garbage or refuse;

(2) Any operation primarily used as a storage facility and any assembling, manufacturing, distilling, refining, smelting, agricultural, or mining operation;

(3) Any "second hand" store, "surplus" store;

(4) Any mobile home park, trailer court, labor camp, junkyard, or stockyard (except that this provision shall not prohibit the temporary use of construction trailers during periods of construction, reconstruction, or maintenance);

(5) Any dumping, disposing, incineration, or reduction of garbage (exclusive of trash compactors or trash containers located near the rear of any building);

(6) Any fire sale, bankruptcy sale (unless pursuant to a court order), auction house operation, fictitious going-out-of-business sale, lost-our-lease sale or similarly advertised event;

(7) Any central laundry, dry cleaning plant, or laundromat (except that a dry cleaner that performs all dry cleaning outside the Shopping Center shall be permitted, so long as its on-site premises are located more than 150 feet away from the Premises);

(8) Any automobile, truck, trailer, boat, or recreational vehicle sales, leasing, display or body shop repair operation;

(9) Any bowling alley or skating rink;

(10) Any live performance theater, auditorium, meeting hall, sporting event, or other entertainment use;

(11) Any living quarters, sleeping apartments, or lodging rooms;

(12) Any veterinary hospital or animal raising or boarding facilities (except to the extent permitted below);

(13) Any mortuary or funeral home;

(14) Any "Pornographic Use", which shall include, without limitation: (x) a store displaying for sale or exhibition books, magazines or other publications containing any combination of photographs, drawings or sketches of a sexual nature, which are not primarily

scientific or educational [provided, however, that the sale of books, magazines and other publications by a national bookstore of the type normally located in first-class shopping centers in the State in which the Shopping Center is located (such as, for example, Borders and Barnes & Noble, as said stores currently operate) shall not be deemed a "pornographic use" hereunder]; or (y) a store offering for exhibition, sale or rental video cassettes or other medium capable of projecting, transmitting or reproducing, independently or in conjunction with another device, machine or equipment, an image or series of images, the content of which has been rated or advertised generally as NC-17 or "X" or unrated by the Motion Picture Rating Association, or any successor thereto [provided, however, that the sale or rental of such videos by a national video store of the type normally located in first-class shopping centers in the State in which the Shopping Center is located (such as, for example, Blockbuster or West Coast Video, as said stores currently operate) shall not be deemed a "pornographic use" hereunder]; or massage parlor [except for therapeutic massages given in connection with the operation of a day spa or health club which may otherwise be permitted under this Exhibit M];

(15) Any so-called "head shop", or other establishment primarily selling or exhibiting drug-related paraphernalia;

(16) Any bar, tavern, or other establishment selling alcoholic beverages for on- or off-premises consumption [except incidental sales in connection with a permitted restaurant where the sale of alcoholic beverages does not exceed 40% of the gross revenue of the restaurant];

(17) Any catering or banquet hall;

(18) Any flea market, amusement or video arcade, pool or billiard hall, night club, discotheque, or dance hall;

(19) Any training or education facility, including but not limited to: beauty schools, barber colleges, reading rooms, places of instruction or other operations catering primarily to students or trainees rather than to customers; provided, however, this prohibition shall not be applicable to on-site employee training by an Occupant incidental to the conduct of its business at the Shopping Center, or to a small educational enhancement center not exceeding 4,000 square feet of Floor Area catering to students such as SCORE, and Kumon Sylvan Learning Center, provided that such center is more than 300 feet away from the Premises;

(20) Any gambling facility or operation, including but not limited to: off-track or sports betting parlor; table games such as black-jack or poker; slot machines; video poker/black-jack/keno machines or similar devices; or bingo hall. Notwithstanding the foregoing, this prohibition shall not apply to governmental sponsored gambling activities, or charitable gambling activities, so long as such governmental and/or charitable activities are incidental to the business operation being conducted by the Occupant;

(21) Any unlawful use;

(22) Any pawn shop, check-cashing store, gun shop, or tattoo parlor;

(23) Any church or other place of religious worship;

(24) Any car wash, automobile repair shop, or any business servicing motor vehicles in any respect, including, without limitation, any quick lube oil change service, tire center or gasoline or service station or facility

(25) Any carnival, amusement park or circus;

(26) Any medical clinics or medical offices [except that Landlord may lease to medical and dental offices as are typically found in first class lifestyle shopping centers and that such medical and dental offices do not exceed 5,000 square feet of floor area in the aggregate in the Shopping Center as long as such operation is located at least 300' from the Premises];

(27) Any supermarket, except that (i) an upscale, boutique-type food store of the type normally operated in the Memphis, Tennessee metropolitan area (such as, by way of example, Zagara's, Whole Foods, Fresh Fields, or Wild Oats), provided, that such store shall not occupy more than 27,000 square feet of Floor Area, and shall be located at least 200 feet away from the Premises (except that an upscale, boutique-type food store shall be permitted to be located within the Premises), or (i) a supermarket not exceeding fifty thousand (50,000) square feet of Floor Area of the type typically found in first class lifestyle shopping centers in the Memphis, Tennessee metropolitan area, provided that such store shall be located at least 350 square feet away from the Premises, shall be permitted;

(28) Any office use, other than: (x) office space used in connection with and ancillary to a permitted retail use hereunder; and (y) retail offices providing services commonly found in similar first-class shopping centers in the Memphis, Tennessee metropolitan area (for example, financial services, real estate brokerage, insurance agency, banking, travel agency), provided that such uses are located at least 300 feet away from the Premises, and not more than ten thousand (10,000) square feet of Floor Area in the Shopping Center, in the aggregate, shall be devoted to such uses;

(29) hotel/motel;

(30) daycare center;

(31) veterinary office, except as may be incidental to a permitted full-line pet and pet supply store operating in at least 12,500 square feet of Floor Area and located at least 100 feet away from the Premises (except that a full-line pet and pet supply store shall be permitted to be located within the Premises); such occupant shall use reasonable efforts to prevent its customers from allowing their pets to urinate or defecate in the Common Areas and will promptly remove any "dog dirt" from in front of the Premises; no pet or pet supply store shall be located within 100 feet of the Premises;

(1) children's entertainment or activity facility (such as "Discovery Zone", or "Chuck E. Cheese's") [except that such a use shall be permitted as long as such facility is located more than 350' from the Premises];

(2) karate center;

(3) movie theater;

(4) restaurant serving meals for on- or off-premises consumption [except that restaurants of the of the type typically found in first class lifestyle shopping centers in the Memphis, Tennessee metropolitan area shall be permitted as long as such operation is located at least 250' from the Premises];

(5) beauty parlor or nail salon [except that such operation shall be permitted as long as such operation is located at least 100' from the Premises];

(6) health spa, exercise facility or similar type business (except that a Curves or similar business shall be permitted, so long as its premises are no more than 6,000 square feet and located more than 200 feet away from the Premises); or

(38) a store primarily selling merchandise which is classed as "odd lot," "close out," "clearance," "discontinued," "cancellation," "second," "factory reject," "sample," "floor model," "demonstrator," "obsolescent," "over stock," "distressed," "bankruptcy," "fire sale" or "damaged", such as, for example, "Grossman's Bargain Outlet", "Contractor's Warehouse", "Big Lots", "Liquidation World", or "Odd Job"; the retailer commonly known as "Christmas Tree Shops" shall be deemed not to violate the foregoing restriction.

B. As to Related Land, any of the uses listed in Items 1, 2, 4, 5, 14, 15, 21, 22, and 25 above.

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