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JERRY MCINTURE
SKAGI COUNTY AUDITOR

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REQUEST OF _____

**MASTER DECLARATION AND AGREEMENT OF
EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS**

BETWEEN

MG BURLINGTON LIMITED PARTNERSHIP

AND

MG BURLINGTON II LIMITED PARTNERSHIP

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**MASTER DECLARATION AND AGREEMENT OF EASEMENTS,
COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS MASTER DECLARATION AND AGREEMENT OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS (this "Master Declaration") is made as of the 14th day of July, 1989, between MG BURLINGTON LIMITED PARTNERSHIP, a District of Columbia limited partnership, having an office at 1250 24th Street, N.W., Suite 220, Washington, D.C. 20037 ("MG"), and MG BURLINGTON II LIMITED PARTNERSHIP, a District of Columbia limited partnership, also having an address at 1250 24th Street, N.W., Suite 220, Washington, D.C. 20037 ("Burlington"), based upon the following recitals:

A. MG is the owner of that certain parcel of land consisting of approximately 13.79 acres situated in Skagit County, Washington, as shown on the site plan attached as Exhibit A (the "Site Plan"), and as more particularly described in Exhibit B (the "MG Parcel").

B. Burlington is the owner of that certain parcel of land consisting of approximately 7.28 acres situated in Skagit County, Washington as shown on the Site Plan, and as more particularly described in Exhibit C (the "Burlington Parcel").

C. The MG Parcel and the Burlington Parcel are collectively shown on the Site Plan and are hereinafter collectively called the "Total Parcel."

D. MG and Burlington intend to develop and operate their respective Parcels (or cause the same to be developed and operated) generally in conjunction with each other, in order to make an integrated use of the Total Parcel as a manufacturer's outlet type shopping center with customary, incidental uses.

E. MG and Burlington desire to create certain rights, privileges, obligations, duties and easements and to impose certain restrictions and covenants upon their respective Parcels.

NOW, THEREFORE, in consideration of the covenants and conditions herein contained and to be observed and performed by the Parties, the receipt and sufficiency of which consideration are hereby acknowledged, MG and Burlington hereby declare that each of their respective Parcels within the Total Parcel shall be held, conveyed, encumbered, leased, used, occupied, altered, and improved subject to the terms and provisions set forth in this Master Declaration, and the Parties declare, covenant and agree as follows:

ARTICLE I

DEFINITIONS

As used in this Master Declaration, the following terms shall have the following meanings:

Section 1.1 Building Area

"Building Area" means those areas designated as such on the Site Plan.

Section 1.2 Bus Parking Area

"Bus Parking Area" means the portion of the Parking Area designed and intended primarily (but not exclusively) for bus parking. The general location of the Bus Parking Area is designated on the Site Plan.

Section 1.3 Common Area Maintenance Expenses

"Common Area Maintenance Expenses" shall have the meaning set forth in Section 6.3.

Section 1.4 Common Areas

"Common Areas" means the Project Roads (including landscaped medians and right-of-way areas pertaining to the Project Roads), the Parking Area, the Bus Parking Area, the Common Utility Facilities, the Pylon Sign Easement Areas (together with the Pylon Signs and the utility lines servicing the Pylon Signs to be located in and about the Pylon Sign Easement Areas), and all other areas including (without limitation) all buildings and improvements within the Total Parcel (except for the foundation, roof, and the structural portions of such buildings and improvements and except for those interior portions of the buildings and improvements located in the Total Parcel which are specifically designed and intended for occupancy by individual Occupants), whether located within or outside the Total Parcel that may hereafter be specifically designated as Common Areas by MG and Burlington. Included within the definition of Common Areas are those improvements which pertain to the Common Areas, including (without limitation) all sidewalks, curbs, lighting systems and standards, traffic and directional signs, and traffic striping and markings that are installed or located within or about the Common Areas specified above.

Section 1.5 Common Utility Facilities

"Common Utility Facilities" means all storm drainage facilities (including, without limitation, any catch basins and retention ponds), sanitary sewer systems (and any sewage treatment plant which may be connected thereto), natural gas systems, water lines and systems, and any water well or holding tank, fire protection installations, electrical power systems, television cable systems, if any, and telephone systems, which may now or hereafter be situated in, on, under, over, or outside of (but servicing) any portion of

the Total Parcel. All utility lines servicing the Pylon Signs shall be considered Common Utility Facilities.

Section 1.6 Completion Date

"Completion Date" shall mean the date on which each Party shall have substantially completed its buildings and improvements on its Parcel and shall have initially opened its phase of the Shopping Center for business.

Section 1.7 MG

"MG" shall have the meaning set forth in the preamble. The term "MG" also includes any successor Person acquiring the entire fee interest of MG in and to the MG Parcel.

Section 1.8 MG Parcel

"MG Parcel" shall have the meaning set forth in paragraph A of the recitals.

Section 1.9 Master Declaration

"Master Declaration" means this Master Declaration, as the same may be amended and/or supplemented from time to time.

Section 1.10 Maintenance Assessment

"Maintenance Assessment" shall have the meaning set forth in Section 6.4.

Section 1.11 Occupant

"Occupant" means any Person (which may include MG and Burlington) who acquires rights by lease, deed, or other instrument or arrangement in writing to possess, own, use and/or occupy any Parcel or any portion thereof and/or any space in any building located upon a Parcel.

Section 1.12 Parcel

"Parcel" means the MG Parcel or the Burlington Parcel, as the context may require.

Section 1.13 Parking Area

"Parking Area" means any area in the Total Parcel which is now or hereafter set apart or used from time to time for automobile, bus and/or other vehicular traffic and parking, including (without limitation) incidental and interior roadways, driveways, walkways, curbs and landscaping within or specifically servicing the areas used for such parking, together with all improvements and parking structures which at any time are constructed on such areas, but excluding truck ramps, wells and truck loading or delivery areas if any which may happen to be located in the Parking Areas but which are operated by or which are designed to service an individual Occupant.

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Section 1.14 **Party**

"Party" means either MG or Burlington, and "Parties" means both of them. The term "Party" also includes any successor Person acquiring the entire fee interest of MG or Burlington, as the case may be, in and to such Party's Parcel.

Section 1.15 **Person**

"Person" or "Persons" means individuals, partnerships, associations, corporations and any other form of business organization, or one or more of them, as the context may require.

Section 1.16 **Prevailing Person**

"Prevailing Person" shall have the meaning set forth in Section 10.12.

Section 1.17 **Project Roads**

"Project Roads" shall mean those roads designated as such on the Site Plan.

Section 1.18 **Promotional Fund**

"Promotional Fund" shall have the meaning set forth in Section 7.1.

Section 1.19 **Pylon Sign**

"Pylon Sign" shall have the meaning set forth in Section 2.5.

Section 1.20 **Pylon Sign Easement Areas**

"Pylon Sign Easement Areas" shall mean those areas designated as such on the Site Plan.

Section 1.21 **Burlington**

"Burlington" shall have the meaning set forth in the preamble. The term "Burlington" also includes any successor Person acquiring the entire fee interest of Burlington in and to the Burlington Parcel.

Section 1.22 **Burlington Parcel**

"Burlington Parcel" shall have the meaning set forth in paragraph B of the recitals.

Section 1.23 **Shopping Center**

"Shopping Center" shall have the meaning set forth in paragraph D of the recitals.

Section 1.24 **Site Plan**

"Site Plan" shall have the meaning set forth in paragraph A of the recitals.

Section 1.25 **Total Parcel**

"Total Parcel" shall have the meaning set forth in paragraph C of the recitals.

ARTICLE II

EASEMENTS

Section 2.1 **Grant of Project Road Easements**

(a) Each Party grants to the other Party and reserves for itself a non-exclusive easement, for the benefit of each grantee's and grantor's Parcel and all portions thereof,

in, on and over the Project Roads located or to be located on each grantor's and grantee's Parcel for the purpose of vehicular and pedestrian access and circulation and for ingress and egress to, from and between the Parcels within the Total Parcel and each portion thereof and the streets and highways abutting and adjacent to the Total Parcel and for unobstructed vehicular passage and circulation.

(b) The grant of the easements under Subsection 2.1(a) shall include the following rights and be subject to the following restrictions and reservations:

(i) Neither Party shall obstruct or interfere, or permit the obstruction or interference, with the free flow of vehicular traffic over the Project Roads; provided, however, that each Party shall be permitted to obstruct the Project Roads on its Parcel but only to the extent reasonably necessary (x) for repair and maintenance and (y) in the opinion of its counsel, to prevent a dedication of the Project Roads for public use or the acquisition of any prescriptive rights by any Person in the Project Roads.

(ii) Each Party reserves the right with respect to the Project Roads located on its Parcel at any time and from time to time to make minor changes and alterations in, all or any portion of the Project Roads and, therefore, the easements granted under Subsection 2.1(a), without obtaining the consent or approval of the other Party, provided that: (1) any such minor change or alteration thereof shall not unreasonably interfere with or diminish the enjoyment of such easements by the other Party, (2) any such minor change or alteration shall not reduce or unreasonably impair the usefulness or function of the easements, (3) the quality of construction and the width of the Project Road(s) shall not be materially altered, and (4) the Project Roads shall not be relocated without consent of each Party.

(iii) Each Party reserves the right to eject or cause to be ejected from any portion of the Project Roads located on its Parcel any Persons not authorized, empowered or privileged to use the Project Roads.

(c) Each of the easements granted and created under Subsection 2.1(a) shall be effective from and after the date on which the particular portion of the Project Roads to which it pertains is constructed and open for use.

(d) The provisions of this Section 2.1 shall survive the expiration or sooner termination of this Master Declaration and shall continue in perpetuity, unless otherwise agreed to by all of the owners of the Total Parcel.

Section 2.2

Grant of Parking Area and Sidewalk Easements

(a) Each Party grants to the other Party and reserves for itself a non-exclusive easement, for the benefit of each grantor's and grantee's Parcel and all portions thereof,

in, on and over the Parking Area and the sidewalks located or to be located on each grantor's and grantee's Parcel for the purposes of, in the case of the Parking Area, (i) vehicular and pedestrian ingress to and egress from each grantor's and grantee's Parcel, (ii) parking of motor vehicles and (iii) unobstructed vehicular and pedestrian passage and circulation, and, in the case of the sidewalks, (x) pedestrian ingress to and egress from each grantor's and grantee's Parcel and (y) unobstructed pedestrian passage and circulation.

(b) The grant of the easements under Subsection 2.2(a) shall include the following rights and be subject to the following restrictions and reservations:

(i) Each Party reserves the right to eject or cause to be ejected from any portion of the Parking Area and/or the sidewalks located or to be located on its Parcel any Persons not authorized, empowered or privileged to use the Parking Area and/or sidewalks.

(ii) Neither Party shall obstruct or interfere with the free flow of pedestrian passage and circulation over the sidewalks located or to be located on its Parcel and/or vehicular and pedestrian passage and circulation over the Parking Area; provided, however, that each Party shall be permitted to obstruct the sidewalks and/or Parking Area, but only to the extent reasonably necessary (x) for repair, maintenance and traffic regulation and control of the Parking Area and/or sidewalks and (y) in the opinion of its counsel, to prevent a dedication of the Parking Area and/or sidewalks for public use or the acquisition of any prescriptive rights by any Person in the Parking Area and/or sidewalks; provided further, however, before closing off any part of the Parking Area and/or the sidewalks as provided in this clause (ii), the owner of the subject Parcel shall make all reasonable efforts to coordinate such closing with the activities of the other owner of the Total Parcel so that no unreasonable interference occurs with respect to the construction or operation of the Shopping Center.

(iii) Each Party reserves the right at any time and from time to time to make minor changes and alterations in the Parking Area and/or sidewalks located on its Parcel, and, therefore, the easements granted under Subsection 2.2(a), without obtaining the consent or approval of the other Party, provided that: (1) any such minor changes or alterations shall not unreasonably interfere with or diminish the enjoyment of such easements by the other Party's Parcel, (2) the quality of construction, and, in the case of the sidewalks, the width of the sidewalks, shall not be materially altered, (3) access for, in the case of the sidewalks, pedestrian passage and circulation and, in the case of the Parking Area, vehicular and

pedestrian passage and circulation, shall not be unreasonably restricted, and (4) any such minor changes or alterations shall not unreasonably reduce or impair the usefulness or function of any of the easements granted under Subsection 2.2(a), and (5) neither the Parking Area or the sidewalks shall be relocated without consent of each Party.

(c) Neither Party shall, without the consent of the other Party, construct or cause to be constructed any buildings or improvements on its Parcel which would result in a reduction in the number of parking spaces in the Parking Area below six (6) parking spaces per one thousand (1,000) square feet of gross leasable area in the buildings in the Shopping Center, but in no event below the number of spaces required to be maintained in accordance with applicable governmental requirements (including, without limitation, applicable codes and any duly granted variances thereof) for the Total Parcel.

(d) Each of the easements granted under Subsection 2.2(a) shall be effective from and after the date on which the particular portion of the sidewalks and the Parking Area to which they pertain are constructed and open for use. The provisions of this Section 2.2 shall terminate on the date of expiration or sooner termination of this Master Declaration; provided, however, in the event either Party's Parcel is being operated as a Shopping Center at the time this Master Declaration expires or otherwise terminates, then the provisions of this Section 2.2 shall continue for as long as such operation continues.

(e) MG acknowledges and agrees that the Bus Parking Area is part of the Parking Area, and that the easements, rights and restrictions created under this Section 2.2 shall apply with respect to the Bus Parking Area to the same extent as they apply to the other portions of the Parking Area. Notwithstanding the foregoing, MG reserves the right to limit, restrict or prohibit automobile parking in the Bus Parking Area at any time and from time to time, in order to preserve the space availability for buses in the Bus Parking Area.

Section 2.3 **Grant of Common Area Easements**

(a) Each Party grants to the other Party and reserves for itself a non-exclusive easement, for the benefit of each grantee's and grantor's Parcel and all portions thereof, in, on and over the remaining Common Areas of the Total Parcel, which are not otherwise specifically provided for in this Article, for the purposes for which such Common Areas are created and designed.

(b) The grant of the easements under Subsection 2.3(a) shall include the following rights and be subject to the following restrictions and reservations:

(i) Each Party reserves the right to eject or cause to be ejected from any portion of the Common Areas covered by this Section on its Parcel any Persons not authorized, empowered or privileged to use such Common Areas.

(ii) Each Party reserves the right at any time and from time to time to make minor changes or alterations in, and to all or any portion of the Common Areas covered by this Section on its Parcel and, therefore, the easements granted under Subsection 2.3(a), without obtaining the consent or approval of the other Party provided that: (1) any such minor changes or alterations shall not unreasonably interfere with or diminish the enjoyment of such easements by the other Party's Parcel, (2) the quality of construction and design shall not be materially altered, (3) any such minor changes or alterations shall not unreasonably reduce the usefulness or function of any of the easements granted under Subsection 2.3(a), and (4) any such minor changes or alterations shall in no event result in the relocation of the Common Areas covered by this Section without consent of each Party.

(c) Each of the easements granted under Subsection 2.3(a) shall commence on the date on which the Common Areas are constructed and open for use. The provisions of this Section 2.3 shall terminate on the date of expiration or sooner termination of this Master Declaration.

Section 2.4

Grant of Common Utility Facility Easements

(a) Each Party grants to the other Party and reserves for itself a perpetual non-exclusive easement, for the benefit of each grantee's and grantor's Parcel and all portions thereof, to use any and all Common Utility Facilities that may be constructed or installed within the Total Parcel.

(b) In furtherance of the development of the Common Utility Facilities and the use of the same, each Party grants to the other Party and reserves for itself perpetual non-exclusive easements, for the benefit of each Party's Parcel, in, on, over, under and across the surface of each Party's Parcel, for the purpose of constructing, installing, using, maintaining, replacing, repairing, operating, enlarging, relocating and removing Common Utility Facilities. The specific locations of the Common Utility Facilities (and, therefore, the easements for the same granted in this subparagraph (b) shall be determined by consent of both Parties; provided, however, that no Common Utility Facilities shall be located in any Building Area, and the easements created under this subparagraph (b) shall not encroach upon any Building Area. Each Party grants to the other Party and reserves for itself a perpetual, non-exclusive right and easement, for the benefit of each Party's Parcel and all portions thereof, to connect to, tap into and use

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any and all Common Utility Facilities that may be constructed or installed in, on, over, under, across, or adjacent to the Total Parcel, provided that (i) the locations of all connections to such Common Utility Facilities on the other Party's Parcel are approved, in advance, by such other Party, (ii) the Party making the connections promptly and adequately repairs all damages to the Parcel which may be caused by virtue thereof, and (iii) the Party making the connections does not unreasonably interfere with the construction, installation or use of such Common Utility Facilities.

(c) Any proposed location for or relocation of Common Utility Facilities shall be subject to the approval of both Parties.

(d) Each of the easements and rights to construct and install the Common Utility Facilities granted and created under Subsection 2.4(b) shall be effective on the date of this Master Declaration. Each of the easements and rights to tap into and use the Common Utility Facilities granted and created under Subsection 2.4(a) shall be effective on the date on which the subject Common Utility Facilities are constructed or installed and available for use. The provisions of this Section 2.4 shall survive the expiration or sooner termination of this Master Declaration and shall continue in perpetuity, unless otherwise agreed to by all of the owners of the Parcels in the Total Parcel that are using the Common Utility Facilities in question.

(e) All Common Utility Facilities located or to be located on the Total Parcel, other than transformers, fire hydrants, stand pipes, manhole covers, sewage treatment facilities and storm water catch basins and retention ponds, shall be underground unless otherwise required by applicable law or otherwise approved by each Party.

Section 2.5 **Grant of Pylon Sign Easements**

(a) MG grants to Burlington and reserves for itself a non-exclusive easement, for the benefit of the Total Parcel, in, on, over and under the Pylon Sign Easement Areas for the purpose of constructing, installing and maintaining pylon signs ("Pylon Sign"). The grant of the easement under this Subsection 2.5(a) shall include the right of ingress to and egress from the Pylon Sign Easement Areas, as well as the right to construct, install, maintain, repair and replace utility lines serving the Pylon Sign Easement Areas.

(b) Each Pylon Sign shall be used to identify the Shopping Center and (if both Parties so elect) any other Occupants of the Total Parcel. No Occupant of the Total Parcel shall have the right to place a sign on any Pylon Sign unless agreed to by each Party.

(c) Each of the easements granted and created under Subsection 2.5(a) shall be effective on the date of this Master Declaration. The provisions of this Section 2.5 shall terminate on the date of expiration or sooner termination of this Master Declaration;

provided, however, in the event Burlington's Parcel is being operated as a Shopping Center at the time this Master Declaration expires or terminates, then the provisions of this Section 2.5 shall continue for as long as the Shopping Center remains in existence and is operated as a Shopping Center.

Section 2.6 **Grant of Sign Easements**

(a) Each Party grants to the other Party and reserves for itself, for the benefit of the Total Parcel, a non-exclusive easement in, on, over and across their respective Parcels for the purpose of constructing, installing, maintaining and replacing directional signs, traffic control signs and identification signs pertaining to the Shopping Center, and other such similar signs and materials which are designed and intended to promote the orderly traffic flow along the Project Roads, driveways and Parking Areas. The specific content and locations of such signs and other materials shall be determined by mutual consent of both Parties; provided, however, that unless required by good traffic control practices, no such signs or other materials shall be located in such a manner so as to materially interfere with either the use of the Parcel on which such signs or other materials are located, or the visibility of the building located (or to be located) upon such Parcel.

(b) Each of the easements granted and created under Subsection 2.6(a) shall be effective on the date of this Master Declaration. The provisions of this Section 2.6 shall terminate on the date of expiration or sooner termination of this Master Declaration; provided, however, in the event either Party's Parcel is being operated as a Shopping Center at the time this Master Declaration expires or terminates, then the provisions of this Section 2.6 shall continue for as long as the Shopping Center remains in existence and is operated as a Shopping Center.

Section 2.7 **Grant of Driveway Easements**

(a) MG (with respect to the its Parcel) and Burlington (with respect to its Parcel) each grants, creates, declares and reserves a non-exclusive, perpetual easement for ingress and egress on, over and across all roadways and driveways located upon its Parcel, and at entrances and exits now or hereafter located on each such Parcel, so as to permit the free flow of pedestrian and vehicular traffic to and from each Parcel, and any Project Roads adjacent thereto (as the case may be). The easements created under this Subsection 2.7(a) shall be for the benefit of the Total Parcel.

(b) The easements granted and created under this Section 2.7 shall be effective on the date on which the roadways, driveways, entrances and exits are constructed and available for use. The provisions of this Section 2.7 shall terminate on the date of expiration or sooner termination of this Master Declaration; provided, however, in the

event either Party's Parcel is being operated as a Shopping Center at the time this Master Declaration expires or terminates, then the provisions of this Section 2.7 shall continue for as long as the Shopping Center remains in existence and is operated as a Shopping Center.

Section 2.8

Grant of Construction Easements; Footings and Foundations

(a) Each Party grants to the other Party and reserves for itself a non-exclusive easement in, on, over and under each Parcel, for purposes of constructing and installing the Common Utility Facilities, and performing any other work that the Parties may agree to. The easements granted under this Subsection 2.8(a) shall include the right of ingress to and egress from each Parcel within the Total Parcel, as well as the right to place and store any and all tools and equipment necessary for the performance of the work contemplated in this Subsection 2.8(a) on or about each such Party's Parcel. The easements granted hereunder shall be for the benefit of MG and Burlington and their respective independent contractors, employees, agents, licensees, and any and all other persons or entities performing or assisting in the performance of the work contemplated under this Subsection 2.8(a). Each of the easements granted and created under this Subsection 2.8(a) shall be effective on the date of this Master Declaration and shall continue during the entire period of time that the Party(ies) receiving the easements have the right to perform the work contemplated under this Subsection 2.8(a).

(b) Each Party grants, to the other Party and reserves for itself, a non-exclusive easement, to the extent needed in accordance with good construction practices, for the benefit of each Parcel, in, on, over and under the Total Parcel, for:

(i) The construction, maintenance, use, repair and replacement of "Common Footings," "Common Foundations" and/or "Common Walls" if the Parties agree to the use of what is commonly known in the construction trade as "Common Footings," "Common Foundations" and/or "Common Walls" for their respective improvements. As a condition to the use of "Common Footings," "Common Foundations" and/or "Common Walls," the Parties agreeing to the use of the same shall also agree that if all or any part of their respective improvements are destroyed and are not restored, then the Party whose improvements are destroyed shall leave in place any foundations, footings and walls (or any portions thereof) which were not destroyed if such foundations, footings or walls were being used as Common Footings, Common Foundations or Common Walls;

(ii) The weather-tight attachment of building improvements constructed on one Parcel to and on the building improvements on another Parcel, provided the manner of attachment shall be designed in accordance with generally accepted

construction and engineering practices in the manner customary for improvements of such type and so as not to impose any load on the building improvements to which the same are to be attached, except as may be approved by the owner of the building or improvements that are subject to the attachment contemplated under this subparagraph (ii);

(iii) The installation, use, maintenance, repair, replacement and removal of building footings and foundations for the purposes of supporting building improvements of each Parcel, which footings and foundations encroach upon any other portion of the other Party's Parcel; and

(iv) The installation, use, maintenance, repair, replacement and removal of any permitted improvements such as signs, entrances, marquees, canopies, lights and lighting devices, fire doors, awnings, alarm bells, wing walls, support and other columns, pilasters, roof flashings, eaves, roof and building overhangs and other overhangs encroaching upon the other Party's Parcel.

The location and extent of all easements granted under this Subsection 2.8(b) shall be subject to the prior approval of each Party. The plans and specifications showing the improvements specified in this Subsection 2.8(b), together with the specific request by the grantee of the subject easement for approval of the location and extent of the encroachment on the portion of the Parcel of the grantor of the subject easement, shall be submitted to the grantor. Approval of the easement by the grantor shall constitute (A) designation by the grantor of the portions of its Parcel to be used for such easements and (B) agreement by the grantee to use only those portions of the grantor's Parcel so designated. Each of the easements granted and created under this Subsection 2.8(b) shall be effective on the date of this Master Declaration and shall remain in existence so long as the building of the grantee (or any restoration or replacement thereof made during the term of this Master Declaration) remains in existence.

Section 2.9

Abandonment of Easements

Any of the perpetual easements granted in this Article II may be terminated after the expiration or termination of this Master Declaration by non-use for a continuous period of three (3) consecutive years. If the then record owner of the fee of the Parcel burdened with such easement alleges such non-use, it shall give written notice of such fact by United States registered or certified mail, return receipt requested, mailed to the then record owner of the fee of the Parcel benefited by such easement stating its belief that such easement has been abandoned. If any record owner of the fee interest in any of the benefited Parcel disputes the abandonment of such easement, it shall serve notice of such dispute by certified or registered mail upon the fee owner of the burdened

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Parcel within thirty (30) days of the receipt of notice of non-use. Such notice of dispute shall (i) identify the name and address of the Person giving the notice and the legal description of the benefited Parcel and (ii) state the use of the easement which has been made within such three (3) year period which forms the basis of the claim of non-abandonment. If any record owner of the fee of any benefited Parcel shall not serve such notice of dispute upon the fee owner of the burdened Parcel within said thirty (30) day period, then with respect to such benefited Parcel, said easement shall conclusively be deemed abandoned and terminated, which presumption shall be binding upon all Persons having or acquiring an interest in the burdened Parcel or the subject benefited Parcel, and all such Persons shall execute all appropriate documents evidencing and confirming the same, upon request therefor. In the event that the record fee owner of any benefited Parcel shall serve such notice of dispute upon the fee owner of the burdened Parcel within said thirty (30) day period, such dispute may be resolved by the owner of the fee of the burdened Parcel bringing an appropriate judicial action to have the easement with respect to such benefited Parcel declared abandoned.

Section 2.10 **No Implied Dedication of Easement Areas**

(a) Nothing contained in this Article II including, without limitation, the grant of any or all easements under this Article II, shall be deemed to constitute a dedication of any Parcel, or any portion or portions thereof, to any governmental body or agency or to the general public, it being the intention of the Parties that this Master Declaration shall be strictly limited to and for the purposes set forth in this Master Declaration. The owner of any portion of the Total Parcel may, however, extend the benefit of the easements granted under this Article II to each of its Occupants, but such grant shall be subject to the provisions of this Master Declaration.

(b) In no event shall either Party dedicate and/or convey to any governmental entity, or to any public utility company providing utility service to the Total Parcel, all or any portion of any Common Utility Facilities or Project Roads or driveways that may be located on its Parcel without the prior written consent of the other Party.

Section 2.11 **Right to Grant Private Easements and Easements to Utility Companies**

Nothing contained in this Master Declaration shall limit the right of either Party to grant non-exclusive easements over such Party's Parcel to any governmental unit, public body and/or utility company or to any Occupant of any portion of its Parcel or of any other land situated inside or outside the Total Parcel for the use of the Project Roads and/or for the construction, installation, operation, maintenance, repair, relocation, modification, extension or alteration of Common Utility Facilities, so long as all utility lines are installed underground (except as provided in Subsection 2.4(e)) and so long as no

such easements unreasonably and adversely affect, limit, or interfere with any of the Project Roads or Common Utility Facilities and/or the use and operation thereof or with the use of any portion of the Total Parcel for its intended purposes.

Section 2.12 **General Principles**

(a) All rights, privileges and easements granted under this Article II or elsewhere in this Master Declaration are non-exclusive and in common with the grantor (and its heirs, representatives, successors and assigns and all persons claiming by or through the grantor) and, unless provided otherwise, are irrevocable and for the benefit of the Parties and their respective heirs, representatives, successors, assigns, officers, partners, employees, agents, tenants, Occupants, licensees, invitees, customers, and others claiming by or through them as the holders of interests in and to their respective Parcels.

(b) All easements granted under this Master Declaration shall exist by virtue of this Master Declaration, without the necessity of confirmation by any other document. Upon the termination of any easement (in whole or in part) or its release in respect of all or any part of any Parcel, such easement shall be deemed to have been terminated or released without the necessity of confirmation by any other document; provided, however, that upon the request of owner of the Parcel in which the terminated or released easement had been located, each Party shall sign and acknowledge a document memorializing the existence (including without limitation, the location and any conditions) or the termination or release (in whole or in part), as the case may be, of any easement, if the form and substance of the document is reasonably acceptable to each such Party.

(c) All easements granted under this Article II or elsewhere in this Master Declaration are superior to all leases, sales, conveyances, transfers, assignments, contracts, mortgages and other liens, encumbrances and documents in any way affecting any portion of the Total Parcel, and any Person foreclosing any such mortgage, lien or encumbrance and any Persons acquiring title or an interest in any portion of the Total Parcel as a result thereof shall acquire and hold the title to such portion subject to such easements.

(d) Except as otherwise provided in this Article II, whenever any easement created under this Article II applies to the use of a facility in the Total Parcel which has not been constructed or installed as of the date of this Master Declaration, the easement created for the use of the same shall not be effective until the particular facility to which the easement pertains is constructed or installed, and open for use. Moreover, the exact location of the subject easement shall be confined to, and defined by, the location of the facility to which it pertains after construction or installation of such facility.

(e) Nothing contained in this Master Declaration shall obligate MG or Burlington to construct or install all or any portion of the Common Utility Facilities, the Pylon Signs, the Project Roads, the Parking Area, and/or any other improvements described in this Article II, and the granting of the easements pursuant to this Article II shall not be construed so as to create any such obligation on the part of MG and/or Burlington.

(f) Notwithstanding the fact that MG and Burlington are, in certain circumstances, both the grantor and the grantee of some of the easements created under this Article II, it is the intent of the Parties that there be no merger of their respective interests with respect to such easements, it being understood and agreed that the easements created under this Article II are for the benefit of and appurtenant to the land within the applicable portions of each Party's Parcel, and not for the benefit of any particular Person (except as may otherwise be specifically provided in this Master Declaration).

ARTICLE III

DEVELOPMENT OF TOTAL PARCEL

Section 3.1 Development Guidelines

It is the intent of the Parties that all improvements and buildings to be constructed in the Total Parcel be designed to blend harmoniously and attractively with each other so as to provide the appearance of a unified, integrated Shopping Center.

Section 3.2 General Design Standards

The Site Plan sets forth the Parties' present intentions with regard to the design, configuration and massing of improvements on the Total Parcel. No changes shall be made to such Site Plan without consent of each Party.

Section 3.3 Approval of Plans

(a) From and after the date of full execution of this Master Declaration, no building, structure, enclosure, Parking Area or facility, road, utility line, exterior lighting, landscaping, fence, wall, or other improvement of any kind shall be constructed, installed or placed upon any portion of the Total Parcel (or, once constructed, altered, added to or reconstructed) unless and until all plans and specifications for the same are submitted to and approved in writing by each Party.

(b) The provisions of this Section 3.3 shall apply not only to all initial construction and development within the Total Parcel, but also in connection with any alteration, addition, restoration or reconstruction of buildings or improvements which are now or may hereafter be constructed or installed within the Total Parcel.

(c) From and after the date of full execution of this Master Declaration, no Party shall (i) submit to any governmental authority any site plans, design plans or other

plans relating to its Parcel and/or any buildings or other improvements to be constructed on its Parcel, nor (ii) commence or perform any construction, alteration, addition, restoration or reconstruction work on its Parcel, unless and until each Party has reviewed and approved the plans and specifications for the same pursuant to this Section 3.3. In addition, from and after the date of full execution of this Master Declaration, no Party shall apply to any governmental authority for a rezoning or a zoning variance or waiver with respect to such Party's Parcel unless and until each Party approves (in writing) the proposed zoning classification, variance or waiver.

Section 3.4 **Signs**

(a) No outdoor sign or interior storefront window sign visible from the exterior of any building or structure upon any Parcel shall be erected, painted, inscribed, installed or affixed on or in any building, structure, addition or improvement on any Parcel, unless and until the plans and specifications for the same showing the nature, kind, shape, height, materials, color and location thereof are submitted to and approved in writing by each Party.

(b) Temporary signs may be erected on any Parcel by (i) a Party offering for sale or lease buildings or floor area on such Parcel, or (ii) builders, lenders and architects involved in the construction and design of buildings on such Parcel.

ARTICLE IV

CONSTRUCTION OF BUILDINGS AND IMPROVEMENTS

Section 4.1 **Construction**

Each Party shall perform its construction of any buildings and improvements upon its Parcel in accordance with the plans and specifications agreed upon among the Parties.

Section 4.2 **Protection of Total Parcel**

Each Party shall perform its construction so as not to unreasonably impair, disrupt or interfere with the construction, use, occupancy or enjoyment of the Total Parcel or any part thereof. Each Party shall be responsible for repairing any damage to any portion of the Total Parcel that may result from or be attributable to its construction on its Parcel.

ARTICLE V

USE OF TOTAL PARCEL

Section 5.1 **General Restrictions**

No Party shall use or permit the use of its Parcel for any use or operation which is, in the reasonable opinion of MG or Burlington, substantially inconsistent with and/or materially detrimental to the operation of the Total Parcel as a manufacturers outlet shopping center with the customary incidental uses.

Section 5.2

Use of Parking Area

(a) No Party shall use or permit the use of any portion of the Parking Area located or to be located on its Parcel for any purposes (including, without limitation, the running of tent sales, carnivals, circuses or for outdoor sales of merchandise) other than pedestrian movement and the parking, circulation and passage of motor vehicles without the prior consent of the other Party. Except as otherwise provided in this Master Declaration, no Party shall install, place, keep, permit or maintain any fence, barricade or any other obstruction in, on, across or upon any portion of the Parking Area, except for (i) barricades and obstructions that are necessary or desirable for the orderly control of traffic flow, (ii) minor comfort or convenience facilities (e.g., mailboxes, benches, and public telephones), (iii) light poles and other items pertaining to the lighting system, (iv) approved signs, and (v) such other items that both Parties may approve, provided that the same do not unreasonably interfere with the use of the Parking Area for its intended purposes.

(b) No charge of any type shall be made to or collected from any Occupants (and/or their tenants, licenses, invitees, employees, contractors and customers) for the right to park vehicles in the Parking Area, except reimbursement for such maintenance costs as may be provided for in any Lease or other agreement with any Occupant (including, without limitation, the obligation to contribute to Common Area Maintenance Expenses as provided in Article VI).

(c) The Parties may, from time to time, by mutual consent designate certain sections within the Parking Area for non-exclusive automobile parking use by Occupants of the Total Parcel and their employees, agents, contractors, licensees and concessionaires.

Section 5.3

Rules and Regulations

MG and Burlington may, from time to time, adopt reasonable rules and regulations pertaining to the use of all Common Areas by Occupants. Enforcement of the rules and regulations adopted hereunder shall be conducted against the Occupants in a reasonable and nondiscriminatory manner.

Section 5.4

Use of Common Utility Facilities

Each Party shall use the Common Utility Facilities in the Total Parcel only for the purposes for which they were constructed. No Party shall dispose of any pollutants, contaminants, toxic wastes, hazardous substances or any other similar substances or materials in the Common Utility Facilities, or elsewhere in or about the Total Parcel.

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ARTICLE VI
MAINTENANCE AND REPAIR

Section 6.1 **Maintenance of Parcels**

(a) Except for any Common Areas located on its Parcel, each Party shall, without cost or expense to any other Party keep and maintain, or cause to be kept and maintained, its Parcel in a good and safe state of repair and in a clean and orderly condition. Each Party's obligation to maintain and operate its Parcel shall include, without limitation, the following (but only to the extent that the following do not pertain to Common Areas located on such Party's Parcel):

(i) **Repairs.** Protecting the surfaces of its building from weathering, deterioration, aging, and graffiti or other defacement and repairing and maintaining the foundation, roof and the structural portions of its buildings.

(ii) **Obstructions.** Keeping its Parcel free from obstructions not permitted under this Master Declaration.

(iii) **Governmental Requirements.** Complying with all applicable requirements of governmental agencies pertaining to its Parcel including, without limitation, the making of any alterations or additions required to be made to, or safety appliances and devices required to be maintained in or about, its Parcel under any laws, ordinances, rules, regulations or orders now or hereafter adopted, enacted or made and applicable to its Parcel.

(b) For the purposes of the following sentence, a failure shall be deemed to be corrected "within a reasonable period of time" after notice if such failure is corrected within thirty (30) days after such notice, or, if such failure is such that it cannot be corrected [with proper diligence] within such thirty (30) day period, the Party commences correction of such failure within such thirty (30) day period and diligently prosecutes the same to completion.) The failure by either Party to perform its duties and obligations under Subsection 6.1(a) within a reasonable period of time shall constitute a default by such Party under this Master Declaration.

Section 6.2 **Maintenance of Common Areas**

(a) Until the earlier of the expiration or sooner termination of this Master Declaration, MG and Burlington shall keep and maintain the Common Areas located on such Party's Parcel in a good and safe state of repair and in a clean and orderly condition. The obligation to maintain and operate the Common Areas shall, without limitation, include the following:

(i) **Paved Areas.** Maintaining, insuring, sweeping, removing snow and ice from (to the extent reasonably practicable), repairing and resurfacing of all

paved surfaces, roads, curbs, sidewalks, driveways, Project Roads, the Parking Area and the Bus Parking Area.

(ii) Signs. Maintaining, cleaning, repairing and insuring the Pylon Signs.

(iii) Obstructions. Keeping the Common Areas free from obstructions not permitted under this Master Declaration.

(iv) Common Utility Facilities. Maintaining, operating, cleaning, repairing and insuring the Common Utility Facilities.

(v) Lighting. Operating, repairing, cleaning and replacing when necessary the lighting facilities that are constructed or installed for the purposes of lighting the Project Roads, the Parking Area, the Bus Parking Area and including all lighting necessary or appropriate for security and exterior lights attached to the Shopping Center.

(vi) Signals and Markers. Placing, repairing, replacing and repainting any appropriate directional signs, markers and lines in the Common Areas.

(vii) Debris and Refuse. Removing of all papers, debris, filth and refuse from the Common Areas to the extent reasonably necessary to keep the Common Areas in a clean and orderly condition.

(viii) Landscaped Areas. Cleaning and maintaining all landscaped areas (including, without limitation, landscaped medians), repairing automatic sprinkler systems (if any) in the Common Areas, weeding, pruning, fertilizing or replacing shrubs or other landscaping as necessary.

(ix) Sidewalks. Sweeping, maintaining, repairing and repaving the sidewalks located on the Total Parcel.

(x) Utility Lines. Maintaining, operating, cleaning and repairing the utility lines located on the Total Parcel.

(xi) Restroom Facilities. Maintaining, operating, cleaning and repairing the restroom facilities (if any) located within the Common Areas.

(b) Each Party grants to the other Party and reserves for itself an easement to enter upon the grantor's Parcel for the purpose of maintaining and operating the Common Areas as provided in Subsection 6.2(a). The easements created under this Subsection 6.2(b) shall include reasonable rights of ingress and egress to the Common Areas located on each Parcel.

(c) MG and Burlington shall, contract with a third Person or Persons mutually agreeable to the Parties to provide for the performance of all or any part of the duties and obligations under Subsection 6.2(a) (herein any such person referred to as the "Manager"). MG and Burlington hereby acknowledge and agree that as of the date of

execution of this Agreement, Glen Investors, Inc., the managing general partner of both MG and Burlington, shall act as "Manager".

Section 6.3 **Common Area Maintenance Expenses**

Manager shall be responsible for paying (or causing to be paid), directly to the Persons entitled to such payment, all costs and expenses incurred in connection with the operation, maintenance, repair and replacement of the Common Areas as required under Section 6.2 including, without limitation, (i) electricity, water, sewer and other utility charges (including surcharges) of whatever nature; (ii) the premiums for liability insurance coverage; (iii) management fees and/or personnel costs, including, but not limited to, salaries, wages, employment taxes, fringe benefits and other direct and indirect costs of engineers, superintendents, watchmen, porters and any other personnel; (iv) all maintenance and repair costs and expenses with respect to the Common Areas; (v) all other costs and expenses of any kind and nature relative to operating, equipping, policing and protecting, insuring, replacing, repairing, maintaining, managing and lighting for the Common Areas, including, without limitation, the cost of (1) obtaining and procuring any traffic signals, signs, or other materials and/or equipment which are designed and intended to improve the efficiency of traffic flow within the Total Parcel, (vi) all costs with respect to equipment used in connection with the performance of the foregoing and the depreciation of such equipment; (vii) personal property taxes on equipment and systems in, pertaining to, or used in maintaining and operating the common areas and outdoor areas; and (viii) collection and removal of trash from all outdoor areas in the Shopping Center; (all of which are collectively referred to as "Common Area Maintenance Expenses").

Section 6.4 **Maintenance Assessment**

(a) MG and Burlington acknowledge and agree that it is the intent of the Parties that from and after the Completion Date each Party shall contribute towards the Common Area Maintenance Expenses for the Total Parcel incurred in connection with the performance of the obligations under Section 6.2. Each Party shall pay to Manager an annual maintenance assessment (the "Maintenance Assessment") in payment of its share of the Common Area Maintenance Expenses. The Maintenance Assessment shall be fixed, established and collected in accordance with the provisions of this Section 6.4. Each Party may make whatever arrangements it deems necessary or desirable in order to obtain reimbursement of Common Area Maintenance Expenses from the Occupants of its Parcel.

(b) The Maintenance Assessment shall be due and payable in monthly installments, upon the first day of each month, commencing upon the first day of the first month following the Completion Date.

(c) The annual Maintenance Assessment to be charged against each Party for each year shall be equal to such Party's proportionate share of all of the Common Area Maintenance Expenses incurred in such year. Each Party's proportionate share shall be a fraction, the numerator of which shall be the gross leasable area of all improvements located upon such Party's Parcel (measured from the exterior walls of the improvements constructed thereon), and the denominator of which shall be the total of the gross leasable area of all improvements (measured from the exterior walls thereof) in the Total Parcel. For each year, Manager shall advise each Party, during or after the subject year, of the total amount of the Common Area Maintenance Expenses incurred in such year, together with the proportionate share thereof (and the Maintenance Assessment for such year) attributable to each such Party. Any amount due Manager or any amount due a Party pursuant to such adjustment shall be paid to Manager or credited to such Party's account, as the case may be, at the time that the next monthly installment of such Party's Maintenance Assessment is due and payable to Manager.

(d) For purposes of determining the Maintenance Assessments the Manager shall, promptly following the Completion Date, calculate the gross leasable area of all improvements in the Total Parcel (measured as provided above). If any subsequent construction results in an increase in the gross leasable area of the improvements in the Total Parcel, the Manager shall recalculate the gross leasable area. For purposes of calculating each Party's Maintenance Assessment, for the year in which such obligation to pay commences, the Manager will prorate as necessary the Common Area Maintenance Expenses for the Shopping Center on the basis of the number of days remaining in the applicable year.

(e) The Maintenance Assessment, together with interest thereon (at the rate specified in Subsection 10.2(f)) and costs of collection thereof (including reasonable attorneys' fees), shall be charges and continuing liens upon each Parcel in the Total Parcel to which the Maintenance Assessment applies, binding upon the owner thereof and all successors in title thereto. The lien of the Maintenance Assessment provided for herein shall be subordinate to the lien of any first mortgage or deed of trust upon each such Parcel. Sale or transfer of any such Parcel shall not affect the Maintenance Assessment lien; provided, however, that after the period of redemption has expired after the sale or transfer of any such Parcel pursuant to a foreclosure of any first deed of trust or mortgage by any bank, savings and loan association, insurance company or

other institutional lender, the lien of the Maintenance Assessment shall be extinguished as to payments which became due prior to such foreclosure sale.

(f) Manager, its successors or assigns, shall have the right, at its sole option, to waive or reduce, temporarily or permanently, the Maintenance Assessment provided for herein for any Party. This shall not affect the right of Manager, or its successors or assigns, to levy the full amount of the Maintenance Assessment against any Owner of the same Parcel.

Section 6.5

Restoration and Reconstruction

(a) In the event of any fire or other casualty which damages or destroys all or any part of any buildings or improvements located on any Parcel within the Total Parcel, then the Parcel owner shall (i) promptly remove any debris resulting from such fire or other casualty, and (ii) as soon as may reasonably be possible after such fire or other casualty, either commence reconstruction or restoration of its buildings or improvements, or raze the same. Once a Party commences such reconstruction, restoration, or razing work, such Party shall proceed diligently and continuously until the same is completed. Any Party reconstructing or restoring its buildings or improvements after a fire or casualty, as provided above, shall comply with all of the requirements set forth in this Master Declaration with respect to construction, alteration and reconstruction of buildings and improvements within the Total Parcel.

(b) In the event that a Party does not elect to restore all or any portion of its buildings or improvements which are damaged or destroyed by fire or other casualty, such Party shall promptly thereafter raze the portions which are not restored or reconstructed, remove all debris and take all other action (including landscaping) required by good construction practice so that the area which had been occupied by the razed buildings or improvements will be in a safe and attractive condition and will pave the area in which the razed buildings or improvements were located and convert the same to Parking Area, which area shall then be subject to all of the easements pertaining to the Parking Area as provided in this Master Declaration. The foregoing shall not be deemed to prevent such Party from subsequently constructing a building or other improvements within the area so converted to Parking Area (provided that all of the terms and provisions of this Master Declaration are complied with in connection with such construction), in which event such area, to the extent it is rebuilt upon, shall cease being Parking Area for all purposes of this Master Declaration (including, but not limited to, being subject to the Parking Area easements created under this Master Declaration) as of the date on which construction is commenced with respect to such new building or improvements. Nothing contained in this Master Declaration shall permit a Party which

elects to raze its building (as provided in this Section 6.5) to do so in a manner which interferes with or affects the structural integrity of any other Party's buildings or improvements, or in a manner which interferes with another Party's use of the easement areas created under Article II of this Master Declaration.

(c) In the event of any damage to or destruction of the buildings and improvements located on the Total Parcel, any Party reconstructing or restoring its buildings and improvements shall have the right to locate a construction staging area on its Parcel. The specific location of such construction staging area, as well as the screening and other safety features that may be required in connection with such construction staging area, shall be subject to the approval of each Party.

ARTICLE VII

PROMOTIONAL FUND

Section 7.1

Establishment and Administration of Fund

(a) The Parties acknowledge the desirability of establishing and maintaining a single promotional fund for the Total Parcel. Accordingly, the Parties designate Manager to establish and administer a promotional fund (the "Promotional Fund") for the Total Parcel, which shall be used for advertising and promoting the Shopping Center and for providing a program of events that serve to enhance and promote the Total Parcel and/or the Shopping Center. The Promotional Fund shall only exist so long as Occupants are required to contribute to the Promotional Fund. Manager shall have complete control and discretion with respect to all aspects of maintaining and administering the Promotional Fund, provided however that Manager will not be authorized to expend sums in excess of receipts from occupants, without the prior consent of each Party. The cost of administering the Promotional Fund shall be charged to the Promotional Fund.

(b) Any and all sums collected by a Party (from the Occupants of its Parcel) for the Promotional Fund shall be transferred to Manager for deposit into the Promotional Fund, within a reasonable period of time after it receives the same. Nothing contained in this Section 7.1 shall be deemed to obligate either of the Parties to make any contributions to the Promotional Fund, except with respect to those funds that may have been collected from the Occupants of its Parcel for such purposes.

ARTICLE VIII

REAL ESTATE TAXES

Section 8.1

Payment of Taxes

Prior to the Completion Date each Party shall be obligated to pay only those Taxes attributable to its Parcel, provided however that each Party shall pay or cause the same to be paid directly before delinquency. Commencing upon the first day of the first

month following the Completion Date each Party shall be obligated to contribute toward the Taxes (as said term is herein defined) levied or assessed from and after such date against the Total Parcel, with each Party being obligated to pay its "proportionate share" (as said term is defined in Subsection 6.4(c)) of the total of such Taxes. From and after the Completion Date, Manager shall pay or cause such Taxes to be paid directly before delinquency. Taxes shall be defined to mean all real estate taxes and other special taxes and assessments which may be levied or assessed against a Parcel and the improvements on the same (including, without limitation, any tax or assessment attributable to any easement or interest created by this Master Declaration) including, without limitation, any and all real estate taxes and other special taxes and assessments levied or assessed against any Common Areas, and any and all costs and expenses incurred pursuant to Sections 8.2 and 8.3. Notwithstanding anything herein to the contrary, in the event a Party shall elect to pay any initial betterment assessments applicable to its Parcel in installments (as permitted in Section 8.2), such Party shall remain solely obligated for payment of such installments as the same become due.

Manager will advise each Party, during or after the subject year, of the total amount of Taxes levied or assessed in such year, together with the proportionate share thereof attributable to each Party. Any amount due to Manager shall be paid to Manager not later than fifteen (15) days prior to the due date for payment thereof, provided, however, that any and all sums collected by a Party (from any Occupant of its Parcel) for Taxes shall be transferred to Manager promptly following receipt thereof.

For purposes of calculating each Party's proportionate share of Taxes for the year in which such obligation, as described in the second sentence of this Section 8.1, first commences, the Manager will prorate as necessary those Taxes levied or assessed against the Total Parcel on the basis of the number of days remaining in the applicable year.

Section 8.2 **Election to Pay in Installments**

If, by law, any tax and/or assessment may be paid in installments at the option of the taxpayer, the Manager or Party responsible for paying the tax or assessment may exercise the option to pay the same in installments as they may become due from time to time.

Section 8.3 **Contest of Taxes**

Manager may contest (or allow to be contested), in good faith at the cost and expense of the Parties, by appropriate proceedings diligently prosecuted, any real estate tax or other special tax or assessment levied upon the Total Parcel. Any such contested tax or assessment shall be paid, however, prior to the time when the affected Parcel, or any portion thereof, can be subjected to sale under any applicable law pursuant to a

proceeding which may result in impairment of the rights created under this Master Declaration or terminate any provision of this Master Declaration as applied to any Parcel.

Section 8.4 **Failure to Pay Taxes**

If any Party fails to comply with this Article, then Manager may (at its option) pay the taxes and/or assessments in question, in which event Manager shall be entitled to prompt reimbursement from the defaulting Party for the sums so expended. Upon payment of any such taxes and/or assessments, Manager shall have a lien on the Parcel of the defaulting Party as security for such reimbursement. Any such lien shall be subordinate to the same encumbrances that are prior to the lien of the Maintenance Assessment (pursuant to Subsection 6.4(e)).

ARTICLE IX

TERM; AMENDMENT

Section 9.1 **Term of Master Declaration**

This Master Declaration and the obligations set forth under this Master Declaration shall remain binding from the date of execution hereof and continuing for a period of fifty (50) years hereafter. After the expiration of such fifty (50) year period, this Master Declaration shall automatically continue for periods of ten (10) years each unless one Party shall give notice of cancellation of this Master Declaration to the other Party at any time on or before the last day preceding the last two (2) years of the initial term or any automatic extension term. Notwithstanding the termination of this Master Declaration as provided above, the easements and rights relating to such easements granted pursuant to this Master Declaration which are in perpetuity or which otherwise survive the termination of this Master Declaration shall not terminate upon the termination of this Master Declaration.

Section 9.2 **Amendment of Master Declaration**

This Master Declaration may only be amended and/or supplemented by a writing signed by each Party.

ARTICLE X

MISCELLANEOUS

Section 10.1 **Excuses For Non-Performance**

Notwithstanding anything to the contrary contained in this Master Declaration, each Party shall be excused from performing any obligation under this Master Declaration, and any delay in the performance of any obligation under this Master Declaration shall be excused, if and so long as the performance of the obligation is prevented, delayed or otherwise hindered by fire, earthquake, floods, explosion, actions

of the elements, war, riots, mob violence, inability to procure or a general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, actions of labor unions, condemnation, court orders, laws, regulations or orders of governmental or military authorities, actions (or lack of actions) by governmental authorities, or any other cause, whether similar or dissimilar to the foregoing, not within the control of such Party.

Section 10.2 **Default**

(a) Each Party serving a notice of default or any other notice of an event or act which if taken or not taken, may become a default (any of the foregoing hereinafter referred to as a "notice of default") under this Master Declaration shall send, by registered United States mail, postage prepaid, a copy of such notice to any holder of a mortgage on the Parcel of the Party so served, provided such holder shall have sent the Person serving the notice of default a notice informing it of the existence of such mortgage and the name of the person or officer and the address to which copies of such notices of default are to be sent. Failure to send such notice shall not make void the notice of default sent to the defaulting Party. Such holder shall be permitted to cure any such default within the time limits permitted the defaulting Person under this Master Declaration; provided, however, if such holder does not, within such time periods, cure such defaults, the notifying Person shall have the right to proceed to enforce the terms and the conditions of this Master Declaration. In the case of an emergency, the notice to such holders shall not be required but shall be given as may be reasonably practicable under the circumstances.

(b) Each Party shall have the right to prosecute any proceedings at law or in equity against any Person violating or attempting to violate or defaulting upon any of the provisions contained in this Master Declaration, in order to prevent the violating or defaulting Person from violating or attempting to violate or defaulting upon the provisions of this Master Declaration, and/or to recover damages for any such violation or default. The remedies available under this Subsection 10.2(b) shall include, without limitation, ex parte applications for temporary restraining orders, preliminary injunctions and permanent injunctions enjoining any such violation or attempted violation or default, and actions for specific performance of this Master Declaration.

(c) A waiver of any default must be in writing and no such waiver shall be implied from any omission by either Party to take any action in respect of such default. No waiver of any default shall affect any other default or cover any period of time other than the default and period of time specified in such waiver. One or more written waivers of any default in the performance of any provision of this Master Declaration

shall not be deemed to be a waiver of any subsequent default in the performance of the same provision or any other term or provision contained in this Master Declaration. The consent or approval by either Party to or of any action or request by any Person requiring consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar acts or requests. Unless provided to the contrary in this Master Declaration, the rights and remedies given to the Parties by this Master Declaration shall be deemed to be cumulative and no one of such rights and remedies shall be exclusive of any of the others, or of any other right or remedy at law or in equity which either Party might otherwise have by virtue of a default under this Master Declaration, and the exercise of one such right or remedy by either Party shall not impair such Party's standing to exercise any other right or remedy.

(d) If either Party (the "defaulting Party") shall fail to perform any covenant, term or condition of this Master Declaration upon its part to be performed, and if as a consequence of such default the other Party shall recover a money judgment against the defaulting Party, such judgment shall be satisfied only out of the proceeds of sale received upon execution of such judgment and levied thereon against the right, title and interest of the defaulting Party in its Parcel and out of rents or other income from such Parcel receivable by the defaulting Party, or out of the consideration received by the defaulting Party from the sale or other disposition of all or any part of the defaulting Party's right, title and interest in its Parcel, subject, nevertheless, to the rights of any mortgagee of the defaulting Party (which has a mortgage or leasehold lien on the defaulting Party's Parcel or any portion thereof), and neither the defaulting Party nor any of the partners comprising the limited partnership which is the defaulting Party herein shall be liable for any deficiency. The foregoing limitation of liability shall be noted in any judgment secured against the defaulting Party and in the judgment index.

(e) Notwithstanding anything contained in this Master Declaration to the contrary, a Party shall not be deemed to be in default of its obligations under this Master Declaration unless such Party fails to perform any covenant, term or condition upon its part to be performed, and such failure continues for more than a reasonable period of time following the date on which such Party receives notice of such failure from the other Party. For the purposes of the foregoing sentence, a failure shall be deemed to be corrected "within a reasonable period of time" after notice if such failure is corrected within thirty (30) days after such notice, or, if such failure is such that it cannot be corrected within such thirty (30) day period, the Party commences correction of such failure within such thirty (30) day period and diligently prosecutes the same to completion. In the case of an emergency, the thirty (30) day period shall be reduced to that period of time which may be reasonable under all of the attendant circumstances.

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(f) In the event that any Party fails to make any payments due another Party pursuant to this Master Declaration on a timely basis, then the amount due shall bear interest from the date due until the date paid at the lesser of (i) that rate of interest that is three percent (3%) above the then-current published prime or corporate base rate charged by The Chase Manhattan Bank, N.A., or (ii) the highest rate permitted by law.

(g) No default under this Master Declaration shall entitle either Party to terminate, cancel or otherwise rescind this Master Declaration; provided, however, this limitation shall not affect any other rights or remedies that may be available to any Party by reason of any default under this Master Declaration.

Section 10.3 Notices

All notices, consents or other instruments or communications provided for under this Master Declaration shall be in writing, signed by the Party giving the same, with a copy to Manager and shall be deemed properly given and received when (i) actually delivered and received, if personally delivered, or (ii) three (3) business days after mailed, if sent by registered or certified mail, postage prepaid, return receipt requested, or (iii) one (1) business day after being sent by overnight delivery service. The addresses of the Parties for the purposes of this Section 10.3 shall be as set forth in the first paragraph of this Master Declaration; provided, however, that each Party shall have the right to designate other or additional addresses and/or addressees for the delivery of notices, by giving notice thereof similarly given.

Section 10.4 Declaration for Exclusive Benefit of Occupants

The provisions of this Master Declaration are for the exclusive benefit of the Parties and, except as otherwise provided in this Master Declaration, not for the benefit of any other Person. Except as otherwise provided in this Master Declaration, this Master Declaration shall not be deemed to have conferred any rights, express or implied, upon any third person. Nothing in this Master Declaration shall be construed to create any rights in or for the benefit of any space lessee of any part of the Total Parcel (except with respect to the rights to use certain easement areas, as provided in Article II).

Section 10.5 Table of Contents and Captions - Exhibits

The table of contents and captions of this Master Declaration are inserted only as a matter of convenience and for reference. They do not define, limit or describe the scope or intent of this Master Declaration, and they shall not affect the interpretation of this Master Declaration. All Exhibits which are mentioned in this Master Declaration are made a part hereof. Notwithstanding anything contained in this Master Declaration to the contrary, the depiction of the Shopping Center on the Site Plan attached as Exhibit A

is approximate, and the Parties shall have the right, at any time and from time to time, with the consent of each Party, to enlarge or contract the Shopping Center, to construct, remove, relocate or reconfigure any and all buildings and improvements on the Total Parcel, and to otherwise change or modify the Shopping Center in any manner whatsoever.

Section 10.6 **Covenants Run With the Land**

(a) The covenants, easements, agreements, promises and duties as set forth in this Master Declaration shall be construed as covenants and not as conditions and, to the fullest extent legally possible, all such covenants shall run with and be enforceable against both the covenantor and the land or constitute equitable servitudes as between the Parcel of the respective covenantor, as the servient tenement, and the Parcel of the respective covenantee, as the dominant tenement. Except as otherwise provided in this Master Declaration, each covenant to do or refrain from doing some act on each Parcel under this Master Declaration (i) is a burden upon such Parcel (or the portion thereof which is affected) and is for the benefit of the other Parcel, (ii) runs with each Parcel and (iii) shall be binding upon each Party and each successive owner during its ownership of each Parcel or any portion thereof, and each Person having any interest therein derived in any manner through any owner of any Parcel or any portion thereof, and shall benefit each Party and its Parcel.

(b) Notwithstanding anything contained in this Section 10.6 or elsewhere in this Master Declaration to the contrary, all of the rights and benefits specifically granted to and reserved by MG and/or Burlington under this Master Declaration, and all of the obligations and burdens imposed upon MG and/or Burlington under this Master Declaration, are personal to MG and Burlington (as the case may be), binding upon and inuring to the benefit of MG and Burlington (as the case may be), and their respective successors in title to their respective entire fee simple interests in their respective Parcels.

Section 10.7 **Successors**

Subject to the provisions of Section 10.6, this Master Declaration shall be binding upon and shall inure to the benefit of the respective successors and assigns of the Parties.

Section 10.8 **Governing Laws**

This Master Declaration shall be governed by, and enforced in accordance with the laws of the State of Wisconsin.

Section 10.9

No Partnership, Joint Venture or Principal-Agent Relationship

Neither anything contained in this Master Declaration nor any acts of the Parties performed pursuant to this Master Declaration shall be deemed or construed to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association among the Parties to this Master Declaration.

Section 10.10

Performance of Obligations

The performance of all or any part of a Party's obligations under this Master Declaration by the other Party, or by any other Person or Persons performing such obligations pursuant to an agreement with MG and/or Burlington, shall satisfy such Party's obligations under this Master Declaration to the extent of such performance.

Section 10.11

Not A Public Dedication

Nothing contained in this Master Declaration shall be deemed to be a gift or dedication of all or any portion of the Total Parcel, to the general public, for the general public or for any public use or purpose whatsoever, it being the intention and understanding of the Parties that this Master Declaration be strictly limited to and for the purposes expressed in this Master Declaration for the development, maintenance and operation of a private manufacturers outlet type shopping center development on private property solely for the benefit of the Parties and those Persons referred to in this Master Declaration. Pursuant to the provisions of this Section 10.11, either Party shall have the right to prevent or prohibit the use of its Parcel, or any portion thereof, including the Common Areas and buildings and improvements located thereon, by any Person, for any purpose detrimental to the operation of a private manufacturers outlet type shopping center as contemplated by Section 5.1 of this Master Declaration.

Section 10.12

Litigation Expenses

(a) If either Party shall bring an action or proceeding (including, without limitation, any cross-complaint, counterclaim or third party claim) against the other Party by reason of the breach or alleged violation of any covenant, term or obligation of this Master Declaration, or for the enforcement of any provision of this Master Declaration, or otherwise arising out of this Master Declaration, the prevailing Person in such action or proceeding shall be entitled to its costs and expenses of suit including, without limitation, reasonable attorneys' fees and disbursements, which shall be payable whether or not such action is prosecuted to judgment. "Prevailing Person" within the meaning of this Section 10.12 shall include, without limitation, a Person who dismisses an action for recovery under this Master Declaration in exchange for payment of the sums allegedly due, performance of covenants allegedly breached or consideration substantially equal to the relief sought in the action.

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(b) If either Party is required to initiate or defend any action or proceeding with a third party (including, without limitation, any cross-complaint, counterclaim or third party claim) because of the other Party's breach of or failure to enforce this Master Declaration, or otherwise arising out of this Master Declaration, and such Person is the prevailing party in such action or proceeding, then such Person shall be entitled to reasonable attorneys' fees and disbursements from such other Party or Occupant.

(c) Attorneys' fees under this Section 10.12 shall include, without limitation, attorneys' fees on any appeal and, in addition, a Person entitled to attorneys' fees shall be entitled to all other reasonable costs and expenses incurred in connection with such action.

Section 10.13 **Severability**

Invalidation of any of the provisions contained in this Master Declaration, or of the application thereof to any Person, by judgment or court order, shall in no way affect any of the other provisions of this Master Declaration or the application thereof to any other Person or circumstance and the remainder of this Master Declaration shall remain in effect.

Section 10.14 **Entire Agreement**

This Master Declaration and the Exhibits to this Master Declaration contain all the representations and the entire agreement between the Parties with respect to the subject matter of this Master Declaration. Any prior correspondence, memoranda or agreements are superseded in total by this Master Declaration and the Exhibits to this Master Declaration. The provisions of this Master Declaration and the Exhibits to this Master Declaration shall be construed as a whole according to their common meaning and not strictly for or against any Party.

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IN WITNESS WHEREOF, each Party has duly executed this Master Declaration as
of the day and year first above written.

MG BURLINGTON LIMITED PARTNER-
SHIP, a District of Columbia limited
partnership

By: Glen Investors, Inc. a Delaware
corporation

By: Alan Glen

Its: President

MG BURLINGTON II LIMITED PARTNER-
SHIP, a District of Columbia limited
partnership

By: Glen Investors, Inc., a Delaware
corporation

By: Alan Glen

Its: President

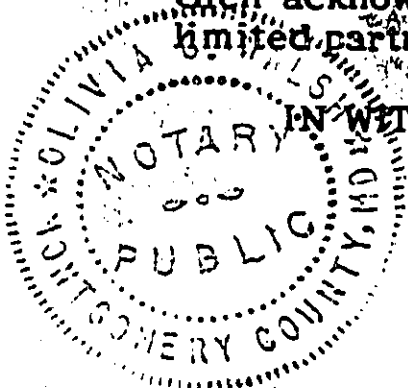
ACKNOWLEDGMENTS

State of Maryland
DISTRICT OF COLUMBIA
County of Montgomery

)ss.

On this 12 day of July, 1989, before me personally appeared Alan Glen, to me personally known, who, being by me duly sworn, did say that he is the President of Glen Investors, Inc., a Delaware corporation, a corporate general partner of MG BURLINGTON LIMITED PARTNERSHIP, a District of Columbia limited partnership, the entity named in and which executed the within instrument; and said Alan Glen acknowledged before me the said instrument to be the free act and deed of said limited partnership.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.



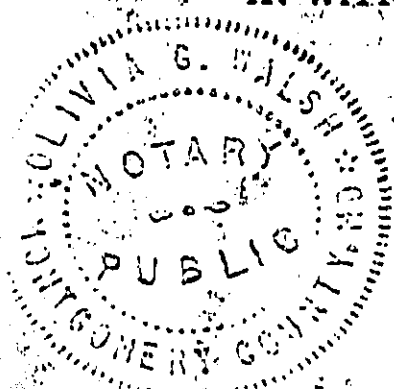
Olivia G. Walsh
Notary Public, Montgomery County,
My Commission Expires: 7/1/90

State of Maryland
DISTRICT OF COLUMBIA
County of Montgomery

)ss.

On this 12 day of July, 1989, before me personally appeared Alan Glen, to me personally known, who, being by me duly sworn, did say that he is the President of Glen Investors, Inc., a Delaware corporation, a corporate general partner of MG BURLINGTON II LIMITED PARTNERSHIP, a District of Columbia limited partnership, the entity named in and which executed the within instrument; and said Alan Glen acknowledged before me the said instrument to be the free act and deed of said limited partnership.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.



Olivia G. Walsh
Notary Public, Montgomery County,
My Commission Expires: 7/1/90

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Drafted by, and when
recorded return to:

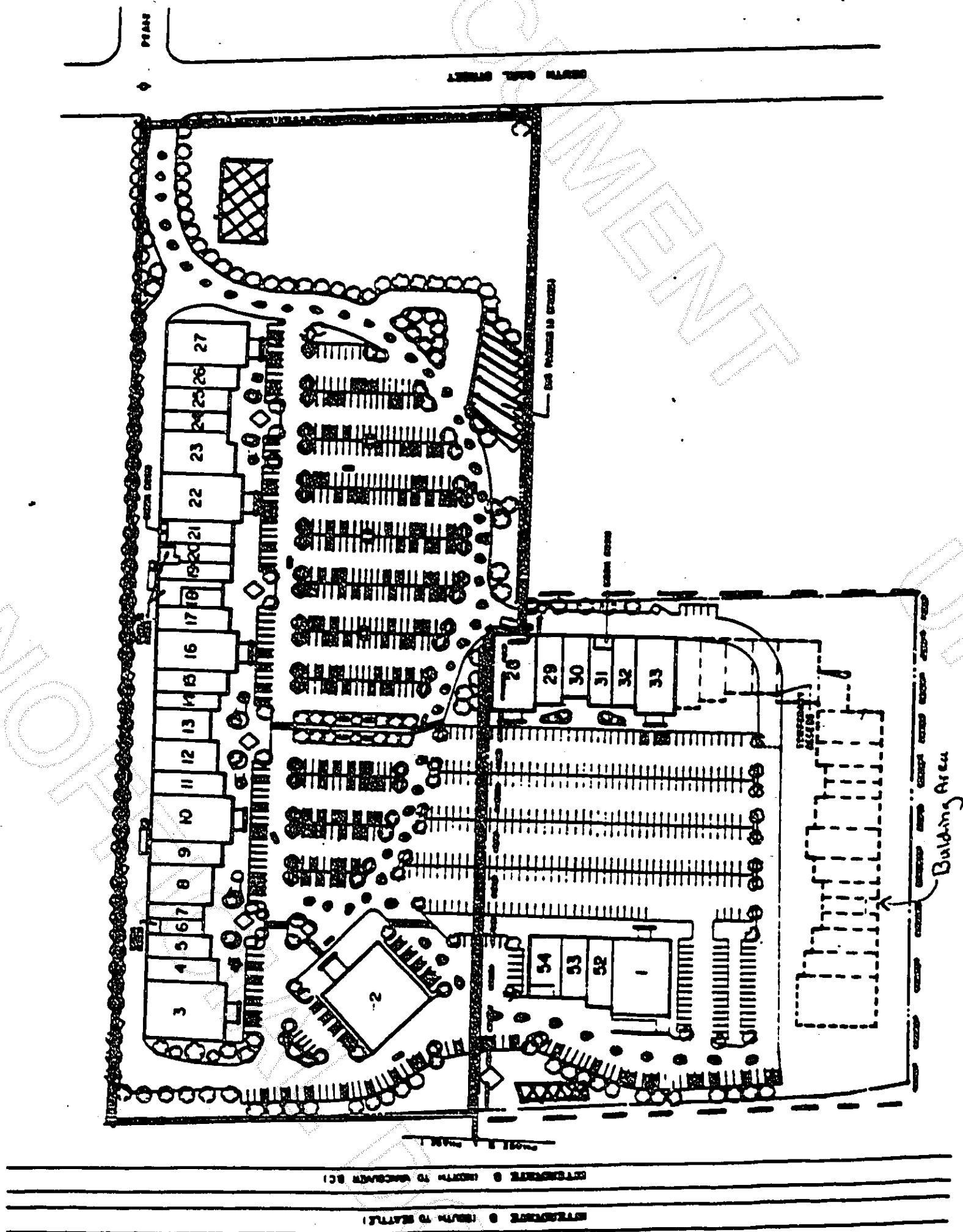
Ernest J. Weiner, Esq.
Maureen C. Abbott, Esq.
Miro Miro & Weiner, P.C.
500 North Woodward Ave.
Suite 200
P.O. Box 908
Bloomfield Hills MI 48303-0908

mca403/07109#1

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The land referred to in this description is situated in the State of Washington, County of Skagit, and is described as follows:

The North 1/2 of the Northeast 1/4 of the Northeast 1/4 of the Northeast 1/4 and the North 1/2 of the South 1/2 of the Northeast 1/4 of the Northeast 1/4 of the Northeast 1/4, all in Section 7, Township 34 North, Range 4 East, W.M., EXCEPT the East 40 feet thereof.

TOGETHER with that portion of the Northwest Quarter of the Northeast Quarter of the Northeast Quarter of Section 7, Township 34 North, Range 4 East, W.M., lying Northerly of the following described line:

Commencing at the Southwest corner of the Northeast Quarter of the Northeast Quarter of Section 7, Township 34 North, Range 4 East, W.M.; thence South 88°45'12" East, along the South line of said subdivision, a distance of 658.74 feet to the Southeast corner of the Southwest Quarter of the Northeast Quarter of the Northeast Quarter of said Section 7; thence North 1°23'42" West, along the East line of said Southwest Quarter of the Northeast Quarter of the Northeast Quarter, a distance of 643.48 feet to the Northeast corner of said Southwest Quarter of the Northeast Quarter of the Northeast Quarter; thence continuing North 1°23'42" West along the East line of the Northwest Quarter of said Northeast Quarter of the Northeast Quarter a distance of 160.87 feet to the TRUE POINT OF BEGINNING; thence North 88°14'08" West, parallel with the North line of said Northeast Quarter of the Northeast Quarter a distance of 41.00 feet; thence North 1°45'52" East, 29.00 feet; thence North 88°14'08" West, parallel with said North line, a distance of 510.00 feet; thence South 22°15'00" West, a distance of 155.24 feet; thence South 87°19'13" West, a distance of 30.28 feet to the intersection with the Easterly margin of Primary State Highway No. 1 as condemned in Skagit County Superior Court Case Nos. 23156 and 25580 as conveyed by deed recorded August 14, 1972 as Auditor's File No. 772505, said intersection also being the terminus point of said line.

EXCEPT that portion of said premises lying within the boundaries of said Primary State Highway No. 1.

Area = 600,958.64 Square Feet = 13.79 Acres

The land referred to in this description is situated in the State of Washington, County of Skagit, and is described as follows:

The Northwest 1/4 of the Northeast 1/4 of the Northeast 1/4 and the North 1/2 of the Southwest 1/4 of the Northeast 1/4 of the Northeast 1/4 of Section 7, Township 34 North, Range 4 East, W.M., EXCEPT that portion of said premises lying within the boundaries of Primary State Highway No. 1 as condemned in Skagit County Superior Court Cause Nos. 23156 and 25580 as conveyed by deed recorded August 14, 1972 as Auditor's File No. 772505, AND EXCEPT that portion lying Northerly of the following described line:

Commencing at the Southwest corner of the Northeast Quarter of the Northeast Quarter of Section 7, Township 34 North, Range 4 East, W.M.; thence South $88^{\circ}45'12''$ East, along the South line of said subdivision, a distance of 658.74 feet to the Southeast corner of the Southwest Quarter of the Northeast Quarter of the Northeast Quarter of said Section 7; thence North $1^{\circ}23'42''$ West, along the East line of said Southwest Quarter of the Northeast Quarter of the Northeast Quarter, a distance of 643.48 feet to the Northeast corner of said Southwest Quarter of the Northeast Quarter of the Northeast Quarter; thence continuing North $1^{\circ}23'42''$ West along the East line of the Northwest Quarter of said Northeast Quarter of the Northeast Quarter a distance of 160.87 feet to the TRUE POINT OF BEGINNING; thence North $88^{\circ}14'08''$ West, parallel with the North line of said Northeast Quarter of the Northeast Quarter a distance of 41.00 feet; thence North $1^{\circ}45'52''$ East, 29.00 feet; thence North $88^{\circ}14'08''$ West, parallel with said North line, a distance of 510.00 feet; thence South $22^{\circ}15'00''$ West, a distance of 155.24 feet; thence South $87^{\circ}19'13''$ West, a distance of 30.28 feet to the intersection with the Easterly margin of Primary State Highway No. 1 as condemned in Skagit County Superior Court Case Nos. 23156 and 25580 as conveyed by deed recorded August 14, 1972 as Auditor's File No. 772505, said intersection also being the terminus point of said line.

Area = 217,171.56 Square Feet = 7.28 Acres

TOGETHER WITH a non-exclusive easement for ingress, egress and utilities, over, under and across a 36.00 foot strip of land lying 18.00 feet each side of the following described centerline.

Commencing at the Northeast corner of Section 7, Township 34 North, Range 4 East, W.M.; thence South $1^{\circ}34'38''$ East, along the East line of said Section 7, a distance of 13.73 feet; thence South $86^{\circ}59'04''$ West, 40.01 feet to the TRUE POINT OF BEGINNING; thence continuing South $86^{\circ}59'04''$ West, 56.99 feet to the beginning of a curve to the left having a radius of 170.00 feet; thence Southwesterly along said curve through a central angle of $66^{\circ}32'00''$ an arc distance of 197.41 feet; thence South $20^{\circ}27'04''$ West, 124.00 feet to the beginning of a curve to the right, having a radius of 273.00 feet; thence Southwesterly along said curve through a central angle of $71^{\circ}07'06''$ an arc distance of 338.86 feet; thence North $88^{\circ}25'50''$ West, 150.00 feet to the terminus point of said centerline.

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EXHIBIT "C"

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JUL 10 1989

CONSENT OF MORTGAGEE

The undersigned, in its capacity as mortgagee on the Total Parcel, hereby approves the foregoing Master Declaration and Agreement of Easements, Covenants, Conditions and Restrictions ("Master Declaration") and hereby subordinates its lien created by that certain Mortgage from ML Burlington limited Partnership to the undersigned dated December 22, 1988 and recorded December 23, 1988 in Volume 788 Page 425 among the land records of Skagit Co., Washington thereof.

PERPETUAL SAVINGS BANK, F.S.B.

By: [Signature]

Its: Assistant Vice President

Commonwealth)
of) ss.
Virginia)
County of Fairfax

Before me, a Notary Public in and for the jurisdiction aforesaid, personally appeared this date Ralph B. Falcone, personally well known (or satisfactorily proven) to me to be the person whose name is subscribed to the foregoing and annexed Instrument bearing date as of July 14, 1989, who, being by me first duly sworn, did depose and state that he is the Assistant Vice President of Perpetual Savings Bank, F.S.B., a Federally chartered savings bank, which entity has consented to the foregoing and annexed Instrument, and that he, being duly authorized to do so, executed said Instrument on behalf of said entity and acknowledged the same as its free act and deed for the uses and purposes therein contained.

WITNESS my hand and official seal this 14th day of July, 19 89

[Signature]
Notary Public

My Commission Expires: November 24, 1989

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07/10/89