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Dan Galt

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

Kensington Corporation, a Nebraska corporation, hereinafter called "Declarant", is the owner in fee simple of certain real estate [as defined in NEB. REV. STAT. § 76-201 (Reissue 1996)], located in Lancaster County, State of Nebraska, as more specifically described on Exhibit "A", which is attached hereto and incorporated herein by this reference (the "Properties").

For purposes of enhancing and protecting the value, attractiveness and desirability of the lots or tracts constituting the subdivision as final platted, Declarant hereby declares that all of the real estate [as defined in NEB. REV. STAT. § 76-201 (Reissue 1996)] described above and each part thereof shall be held, sold and conveyed only subject to the following easements, covenants, conditions and restrictions which shall constitute covenants running with the land and shall be binding upon all parties having any interest, title or right in the Properties or any part thereof, their heirs, successors, personal representatives and assigns, and shall inure to the benefit of each owner thereof.

DEFINITIONS

"Assessment Units" shall mean those units assigned to each lot based upon the building area of each lot as set out in the use permit or after the issuance of an occupancy permit as to each building.

"Association" shall mean and refer to Kensington Park Association, its successors and assigns.

"Common Area" shall mean all real estate [as defined in NEB. REV. STAT. § 76-201 (Reissue 1996)] owned by the Association for the common use and enjoyment of the owners including all outlots and improvements constructed thereon, and appurtenances benefiting the Properties.

"Declarant" shall mean Kensington Corporation, a Nebraska corporation, and any successor in interest.

"Lot" shall mean any separately numbered plot of land shown on the site plan for Amended Use Permit No. 64, as that use permit is amended from time to time.

"Maintenance" shall mean the exercise of reasonable care to keep buildings, signs, streets, roads, parking lots, driveways, landscaping, erosion control, entrances, drainage structures, storm sewers, utilities, underground sprinkler systems, lighting, sidewalks, trails, and other related improvements and fixtures in the Common Area in a condition comparable to their original condition, normal wear and tear excepted. Maintenance of landscaping shall further mean the exercise of generally accepted garden management practices necessary to promote a healthy, weed free environment for optimum plant growth.

"Maps": Attached to these Covenants, Conditions and Restrictions, marked Exhibit "B", the same being incorporated herein by this reference, is a map generally identifying the Properties. The Map is intended as an aid for the reader and shall not be deemed to alter, extend or modify the terms of these Covenants, Conditions and Restrictions.

"Member" shall mean every person or entity who holds membership in the Association.

*Wolfe
Snowden
(248) 087
Suite 830
Crown (08)*

"Mortgage" shall mean a conventional mortgage or deed of trust.

"Mortgagee" shall mean a holder of a conventional mortgage or a beneficiary under or holder of a deed of trust.

"Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is part of the Properties, and shall include contract sellers, but shall not include those holding title merely as security for performance of an obligation.

"Subdivision" shall mean the subdivided real estate [as defined in NEB. REV. STAT. § 76-201 (Reissue 1996)] hereinbefore described and such additions thereto as may be brought within the jurisdiction of the Association as hereinafter provided.

"Use Permit" shall refer to City of Lincoln, Nebraska Use Permit No. 64 as the same may be amended, modified or altered with respect to the Properties.

COVENANTS, CONDITIONS AND RESTRICTIONS

1. USE: No Lot within the Properties shall be used other than as designated under the Use Permit. All buildings and improvements within the Properties shall be constructed in conformity with the applicable zoning and building codes of the city of Lincoln, Nebraska.

2. APPROVAL OF PLANS: Plans for any building or other temporary or permanent exterior improvement, including advertising devices, lighting, fences, exterior remodeling, reconstruction or additions shall be submitted to the Declarant and shall show the design, size and exterior material for the roof, building or improvement and the plot plan and landscape plan for the Lot. One set of the approved plans ("Plans") shall be left on permanent file with the Declarant. Construction of the building or improvement shall not be commenced unless written approval of the Plans have been secured from the Declarant. Written approval or disapproval of the Plans shall be given by the Declarant within thirty (30) days after the receipt thereof. The Declarant shall have the exclusive right to disapprove the Plans, if in the Declarant's opinion, the Plans do not conform to the general standard of development in the Properties. Upon disapproval, a written statement of the grounds for disapproval shall be provided. The rights and duties of the Declarant under this paragraph, except as to Lots of which the Declarant is the title holder, may be assigned to the Association after buildings have been placed or constructed upon three-fourths of the Lots within the Properties.

3. PLAN APPROVAL STANDARDS - DESIGN COVENANTS: The minimum standards to be applied in the review of Plans for all buildings and improvements constructed, remodeled or reconstructed within the Properties are established in certain Design Covenants adopted by the Declarant. These Design Covenants are on file with the Declarant and shall be available for review by all Owners, Members, mortgagees, and prospective Owners. Declarant reserves the right on behalf of itself, its successors and assigns, and the Association, to revise and amend the Design Covenants subject to the written approval of the holders of two-thirds of the cumulative total of voting rights established without regard to class of membership; provided, however, that any future design covenants or amendments thereto shall not require any modification or remodeling of plans previously approved by the Declarant or the Association. Temporary construction office/trailers and temporary equipment storage structures shall not be subject to the Design Covenants. The Declarant reserves the right to locate a permanent maintenance structure within the Properties which may not strictly conform to the Design Covenants.

4. COMPLETION OF CONSTRUCTION: Any building or other improvement placed or constructed upon any Lot within the Properties shall be completed within two (2) years after the commencement of construction. In the event a building permit has not been issued by the city of Lincoln and construction has not been commenced within three (3) years if the Lot has less than 15,000 square feet of

buildable area, or within four (4) years if the Lot has 15,000 square feet or more of buildable area, from the date title to the Lot is transferred by the Declarant, the Declarant, its successors or assigns, shall have the option to repurchase the Lot for the amount paid to the Declarant for the Lot. Declarant shall exercise the option by sending written notice to the then title holder of the Lot within one hundred eighty (180) days of the expiration of the above time frame or this option shall be considered waived by the Declarant as to the subject Lot.

5. EROSION CONTROL: During construction on any Lot in the Properties, the Owner shall control soil erosion in accordance with city of Lincoln, Nebraska requirements including but not limited to the use of an erosion control mat, straw bales and fencing. Upon failure to do so, the Association may enter upon the Lot and contract for the services necessary to control erosion and bring the Lot into compliance with this section and assess the actual costs plus a ten percent (10%) administrative charge against the Lot. When shown of record, such assessments shall be a lien upon the Properties and shall bear interest at the rate established by the Association for unpaid assessments.

6. GRADING: The Declarant shall have the exclusive right to establish grades and slopes of all Lots within the Properties and to fix the grade at which any building or other improvement shall be placed or constructed upon any Lot, in conformity with the general plan for the development of the Properties.

7. LANDSCAPING: A landscape plan shall be submitted to Declarant as a requirement of the "Approval of Plans" paragraph hereof. The plan must meet or exceed the landscape requirements of the city of Lincoln, Nebraska. The landscaping requirement shall be extensive and shall be commensurate with the area of the lot and the size of any building to be constructed. No landscaping will be installed or preparatory work undertaken until the Declarant has approved the landscaping plan in writing, including all appropriate phasing. The owner of each lot submitting a landscaping plan hereby consents to allow Declarant to submit said plans to the Declarant's landscaping contractor of its choice to submit a bid to the owner of the lot for the landscaping contemplated under the landscaping plan.

Within six (6) months after the completion of construction on any lot within the Properties, the owner of each lot shall install and continually maintain any landscaping required under the terms of these Covenants, Conditions and Restrictions, the Use Permit, or the plans for the lot.

Upon failure to comply with this requirement, the Declarant may contract for the services reasonably necessary to bring the lot into compliance and assess the actual costs plus a ten percent (10%) administrative charge against the lot. When shown of record, such assessment shall be a lien upon the lot and shall bear interest at the rate established by the Association for unpaid assessments.

8. SPRINKLER SYSTEMS: All Lots within the Properties shall have an underground sprinkler system installed on the Lot by the Owner prior to seeding or sodding the Lot. The Declarant shall have the right to name the designer of the sprinkler system, to assure continuity and compatibility of the individual systems with the overall system of water distribution. Plans for the sprinkler system shall be approved by the Declarant prior to installation in accordance with the "Approval of Plans" section of these Covenants, Conditions and Restrictions.

9. EXTERIOR MAINTENANCE: Each Member of the Association covenants to maintain their Lot and improvements in a neat and attractive manner. The Association may adopt from time to time minimum exterior maintenance standards to establish the minimum acceptable standards for this covenant to maintain.

10. EXTERIOR MAINTENANCE ASSESSMENT: In the event a Member fails to maintain a Lot according to the maintenance standards, the Association may, upon ten (10) days' written notice to the Member, maintain the Lot and the exterior of any improvements and shall have the right to enter upon any

Lot, at reasonable times, to perform such maintenance. The written notice shall specify the required maintenance and the time in which it must be completed. The actual cost of the maintenance, plus a ten percent (10%) administrative fee, shall be paid by the Member within ten (10) days of billing. Upon failure of the Member to remit payment, the cost of maintenance and administrative fees shall be specifically assessed against the Lot, shall bear interest at the rate provided for unpaid assessments and, when shown of record, shall be a lien upon the Lot.

11. MAINTENANCE OF LANDSCAPE SCREENS: The Owner of each Lot within the Properties upon which a landscape screen is installed, whether composed of structural or live plant material, as required by the city of Lincoln, Nebraska, shall be deemed to covenant to maintain the screen. Upon failure to comply with this requirement, the Association may contract for the services reasonably necessary to maintain the screen and to bring the Lot into compliance with the design standards of the city of Lincoln, Nebraska. The actual cost of such services, plus a ten percent (10%) administrative charge, may be assessed against the Lot by the Association. When shown of record, such assessment shall be a lien upon the Lot and shall bear interest at the rate established by the Association for unpaid assessments.

12. NUISANCE: No noxious or offensive activity shall be conducted or permitted upon any Lot within the Properties, nor anything which is or may become an annoyance or nuisance to neighbors or which endangers the health or unreasonably disturbs the quiet of the occupants of the adjoining Lots.

13. CONVEYANCE OF COMMON: The Declarant shall convey its interest, if any, in the Common Area to the Association, free from liens, prior to the date on which the Declarant's Class "B" membership in the Association is converted to Class "A" membership. Upon acceptance of the deed to the Common Area, the Association shall assume the obligations of the Declarant and shall comply with all of the requirements of Kensington Office Park Addition regarding continuous and permanent maintenance of the Common Areas and Improvements.

14. CONTROL OF GENERAL COMMON AREA BY ASSOCIATION: The Common Area shall be subject to the control and management of the Association through its Board of Directors. The Association shall have the right from time to time to establish, revoke, modify and enforce reasonable rules and regulations with respect to all or any part of the Common Area.

15. MAINTENANCE OF COMMON AREA: The Association covenants and shall be responsible for, and each Member of the Association, by the acceptance of a deed by which the interest requisite for membership is acquired, shall be deemed to covenant to maintain the Common Area, which covenants by the Members shall be satisfied by the payment of annual and special assessments for the Maintenance, administration and improvements of the Common Area. The covenant to maintain the Common Area shall include insuring the Common Area against public liability and property damage, including, at the sole option of the Association, the addition of the Owner of any Lot upon which a portion of the Common Area may be located as an additional insured. Such insurance shall be in commercially reasonable amounts. Annual and special assessments shall be based upon the Assessment Units allocated to the Lots within the Properties as provided for elsewhere herein. Each assessment shall be the personal obligation of the Member who is, or was, the Owner of the Lot assessed at the time of the assessment. If not paid when due, assessments shall bear interest at the rate of eighteen percent (18%) per annum and, when shown of record, shall be a lien upon the Lot.

16. COSTS OF ADMINISTRATION, MAINTENANCE OR IMPROVEMENT OF COMMON AREA: All costs of administration, maintenance or improvement of the Common Area shall mean the total cost and expense incurred by the Association in operating, maintaining, repairing, and replacing any facility, utility, and improvement within the Common Area. Such costs may include, without limitation, the cost of maintaining and resurfacing roads, parking areas, gardening and landscaping, underground sprinkler system, retaining walls, line painting, lighting, maintenance of sanitary control, snow removal, ice, drainage, rubbish

and other refuge, public liability and property damage insurance premiums, repairs, reserves for capital replacements, depreciation on equipment and machinery used in such maintenance, cost of postage, photocopies, telephone and fax charges, or other expenses and personnel required to provide such services and management, together with a reasonable charge for overhead not to exceed ten percent (10%) of the foregoing, or amounts paid to independent contractors for any or all of such services. The Association shall not have authority to incur costs for the initial Improvements to the Common Areas. This provision cannot be amended except by unanimous vote of all the Members.

The Association shall keep accurate records of the costs associated with the administration, maintenance and improvement of the Common Areas for the purpose of making assessments as provided by these Covenants, Conditions and Restrictions. Any Member shall have a right, at its own cost, to audit the Common Area expenses.

17. ASSESSMENTS. The Board of Directors of the Association shall fix the annual assessments. The Members shall pay assessments to the Association as billed. Each Member's assessment shall be determined on an annual basis for each fiscal year, prorating fractional years and changes in Assessment Units which may occur by issuance of occupancy certificates. An estimate of the Association's cost for administration, maintenance and improvement of the Common Area shall be made annually and each Member shall pay one-fourth of the estimated assessment per quarter in advance within thirty (30) days of the date of the statement which shall be the due date. The By-Laws of the Association shall detail more specifically the assessment procedure.

18. MEMBERSHIP IN ASSOCIATION - VOTING RIGHTS: Every Owner of a Lot shall be a Member of the Association; membership shall be appurtenant to and may not be separated from ownership of a Lot.

The Association shall have two (2) classes of voting Members as follows:

Class "A". Class "A" Members shall be all Owners with the exception of Declarant, and shall be entitled to one (1) vote for each Assessment Unit allocated to each Lot owned. When more than one (1) person holds an interest in a given Lot, all such persons shall be Members and the vote for such Lot shall be exercised as they may determine among themselves; however, the number of votes for any Lot owned by Class "A" Members shall never exceed the number of Assessment Units allowed to that Lot.

Class "B". The Class "B" Member shall be the Declarant, who shall be entitled to three (3) votes for each Assessment Unit allocated to each Lot owned. The Class "B" membership shall cease and be converted to Class "A" membership when the total votes outstanding in the Class "A" membership equal the total votes outstanding in the Class "B" membership.

19. ALLOCATION OF ASSESSMENT UNITS: Assessment Units are allocated to the Lots within the Properties as follows:

- (a) Any Lot that has not obtained a certificate of occupancy from the city of Lincoln, Nebraska shall be allocated one (1) Assessment Unit per one hundred (100) square feet of building area permitted for the Lot as designated on the site plan for the Use Permit.
- (b) Upon issuance of a certificate of occupancy by the city of Lincoln, Nebraska, for any completed improvements, the Lot shall be allocated three (3) Assessments Units per one hundred (100) square feet of building area.

The Assessment Units referred to above shall not be cumulative.

20. LIEN OF ASSESSMENTS: The lien of any annual or special assessment shall, until shown of record, be subordinate to the lien of any Mortgage placed upon the Lot against which the assessment is levied.

21. EASEMENTS: Every Owner of a Lot shall have a non-exclusive right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to such Lot, subject to the following rights of the Association.

- (a) The right to suspend the voting rights of any Owner for periods during which assessments against his Lot remain unpaid.
- (b) The right to dedicate or transfer all or any part of the Common Area to any municipality, public agency, authority or utility for such purposes and subject to such conditions as may be agreed upon by the Members. No such dedication or transfer shall be effective unless an instrument executed by two-thirds of each class of Members agreeing to such dedication or transfer has been duly recorded.

Easements for installation and maintenance of utilities and drainage facilities are shown on the recorded subdivision map. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with, or change the direction of flow of drainage facilities in the easements. The easement area of each Lot and all improvements therein shall be continuously maintained by the Owner of such Lot, except for improvements or maintenance of which a public authority or utility company is responsible.

No building or other structure of any kind shall be built, erected or maintained on any such easement, reservation, or right-of-way, and such easements, reservations and rights-of-way shall at all times be open and accessible to public and quasi-public utility corporations, their employees and contractors, and shall also be open and accessible to Declarant, its successors and assigns, all of whom shall have the right and privilege of doing whatever may be necessary in, on, under and above such locations to carry out any of the purposes for which such easements, reservations and rights-of-way are reserved.

The Association, through its duly authorized employees and contractors, shall have the right after reasonable notice to the Owner thereof, to enter upon any such Lot at any reasonable hour on any day to perform such maintenance as may be authorized herein.

22. USE PERMIT OR FINAL PLAT AMENDMENTS: Declarant shall have the right at any time to amend the Use Permit in which the Properties and the Common Areas may be located. Members, other than the Declarant, may not amend the Use Permit without the prior written consent of the Declarant. Members of the Association covenant not to object to any amendment of the Use Permit provided the amendment does not change the approved use for their Lot or the vehicular ingress and egress locations off of South 16th Street or the east/west vehicular driveway in Outlot "A" or the traffic pattern thereon. Declarant shall have the right to alter the Lot configurations in any final plat within the Use Permit if said Lot has not been conveyed to a third party. Upon approval by the city of Lincoln, Nebraska of any amendment to the Use Permit, the amended use, permitted building area or Lot configuration shall govern interpretation of these restrictive covenants.

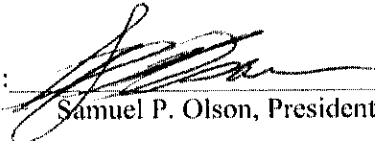
23. AMENDMENTS: These Covenants, Conditions and Restrictions shall run with the land and shall be binding upon and enforceable by the Declarant, the Association, and all persons claiming under the Declarant. These Covenants, Conditions and Restrictions may be terminated or modified, in writing, by the holders of two-thirds of the cumulative total of voting rights established without regard to class of membership at any time. However, any instrument amending, modifying, abrogating or canceling these

protective covenants pertaining to the structure, existence or financing of the Association must be approved by the City of Lincoln, Nebraska City Attorney's Office in writing and recorded before it shall be effective.

24. **ENFORCEMENT:** Declarant, the Association, or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. The City of Lincoln, Nebraska shall have the right to enforce by a proceeding at law or in equity all restrictions, conditions, and covenants regarding the maintenance of the commons and landscape screens. Failure by Declarant, the Association, the City of Lincoln, Nebraska, or by any Owner to enforce any covenant, restriction, condition, easement, reservation, lien or other charge herein contained shall in no event be deemed a waiver of the right to do so thereafter. In the event the Association dissolves, the Lot Owner shall remain jointly and severally liable for the cost of maintenance of the commons and landscape screens.

25. **SEVERABILITY:** Invalidation of any one of these covenants, restrictions, conditions, easements or reservations by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

KENSINGTON CORPORATION,
A Nebraska Corporation

BY: 
Samuel P. Olson, President

APPROVED AS TO FORM:

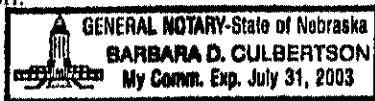
The foregoing Declaration of Covenants, Conditions and Restrictions are hereby approved by the City of Lincoln, City Attorney's Office, for the limited purpose of consenting to the transfer of maintenance responsibilities from the Declarant to the Association.

CITY OF LINCOLN, NEBRASKA

BY: 
Rick Peo, Chief Assistant City Attorney

STATE OF NEBRASKA)
)ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 24th day of April, 2000, by Samuel P. Olson, President of Kensington Corporation, a Nebraska corporation, on behalf of the corporation.



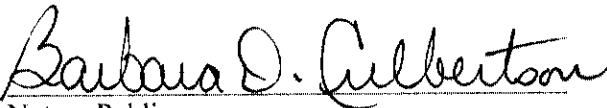

Notary Public

EXHIBIT "A"

Lots Two (2), Three (3), Four (4), Five (5), Six (6), Seven (7) and Eight (8), Block One (1), Lincoln Industrial Park South Addition, Lincoln, Lancaster County, Nebraska.

